
INQ 16-129 Smith

-----Original Message-----

From: Centorino, Joseph (COE)

Sent: Tuesday, May 03, 2016 4:09 PM

To: 'Smith, Jose' <Jose.Smith@citynmb.com>

Cc: Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE)

<perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>

Subject: INQ 16-129 Jose Smith, City Attorney, City of North Miami Beach (Cone of Silence)

Jose,

You have inquired regarding whether a communication between a consultant hired by the City of North Miami Beach to advise the City regarding its water utility system, would be barred under the Cone of Silence (Section 2-11.1(t), Miami-Dade Conflict of Interest and Code of Ethics Ordinance) from communicating privately with the City's Director of the water utility during the time when the Director will be sitting as a member of the evaluation/selection committee that will be formulating a recommendation on an RFQ seeking a private vendor to run the utility.

The City Manager, with the approval of the City Council, hired the consultant in question to provide expertise to the City administration in formulating a plan to improve the functioning of the water utility, which has led to the RFQ to locate a private company to run the facility. You have advised that the Director of the City's water utility would remain in his position as Director following the hiring of one of the firms responding to the RFQ. The Director has also been proposed to serve as a member of the selection/evaluation committee. The consultant to the City has indicated a desire to work and communicate closely with the Director during the RFQ evaluation process.

The City of North Miami Beach has not opted out of or adopted its own Cone of Silence, so the County Cone under Section 2-11.1(t) applies to the City. The County Cone prohibits oral communications with the selection/evaluation committee members by the responding vendors, or their lobbyists or consultants, or by the Manager and his staff, or by the Mayor or Council members or their staffs, or by the City's professional staff. A consultant hired by the City administration to advise the City during the process is in the same or similar position as a member of the Manager's staff or a member of the City's professional staff. Accordingly, it is my opinion that oral communications by the consultant with the Director, during the time when the Cone is in place and the Director is sitting as a member of the selection/evaluation committee, would be a violation of the Cone of Silence. Such communications would be permissible prior to the advertisement of the RFQ and prior to the Cone being in place, but not thereafter until the Manager submits his recommendation to the Council.

Please contact me should you have any further questions.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel

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-----Original Message-----

From: Smith, Jose [mailto:Jose.Smith@citynmb.com]
Sent: Tuesday, May 03, 2016 3:14 PM
To: Centorino, Joseph (COE) <CENTORI@miamidade.gov>
Subject: Cone of Silence

Joe:
Can you please call me when you have a few minutes to discuss a cone issue.
786-282-9211
Thanks.
Jose
[http://webcasts.citynmb.tv/Other/NMB_90.jpg]

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