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**ARDYTH WALKER**  
STAFF GENERAL COUNSEL

VIA ELECTRONIC MAIL AND  
FACSIMILE (305) 500-9391

April 6, 2005

Sanjeev Shah  
Project Manager  
Lea & Elliot  
7200 Corporate Center Drive  
Suite 510  
Miami, FL 33126

**RE: INQUIRY 05-50**

Dear Mr. Shah:

You requested an opinion regarding the application of the Cone of Silence to a presentation at an industry conference. I am providing a response based on the information in your e-mail. The Ethics Commission has not considered this matter. Please contact me if you want a formal opinion from the Ethics Commission.

In your e-mail, you informed me that your firm is currently working as a consultant to the Miami-Dade Aviation Department on the Automated People Mover project. The Aviation Department issued a Request for Proposal on the project in December 2004 and the project is currently subject to the Cone of Silence. The proposals are due on May 25, 2005. Since you are currently serving as Project Manager and the firm is providing support to the Aviation Department, your firm is not submitting a proposal.

Your firm has submitted a paper on the project for publication and presentation to the American Society for Civil Engineers Automated People Mover conference scheduled

in Orlando from May 1-4, 2005. The paper covers the pre-solicitation work including the preliminary planning and engineering work. The paper will be presented at workshop on May 4, 2005. You anticipate that several proposers will attend the conference.

The Conflict of Interest and Code of Ethics ordinance permits you to attend the conference and present information regarding a project covered by the Cone of Silence. Section 2-11.1(t)(1)(b)(i) states that "Notwithstanding any other provision of this Section, the imposition of a Cone of Silence shall not preclude staff from obtaining industry comment or performing market research therefore provided all communication related thereto between a potential vendor, service provider, bidder, lobbyist or consultant and any member of the County's professional staff including, but not limited to the County Manager and his or her staff are in writing or made at a duly noticed public meeting." Accordingly, the Ethics Commission has recognized a duly noticed public meeting exception to the Cone of Silence.

Although the workshop presentation covers pre-solicitation matters, in order to avoid any problems created by questions or discussion regarding the solicitation, the May 4<sup>th</sup> presentation should be noticed as a public meeting. The meeting notice should be provided to all firms who have received the RFP and addendum information. The Aviation Department should also notice the meeting on the County Calendar.

The public meeting exception to the Cone of Silence does not require a tape of the proceedings. However, you may prepare minutes and submit the minutes to the Clerk of the Board.

Finally, as you are aware, the Cone of Silence prohibits discussion of the covered solicitation between staff, selection

committee members and staff at any conference workshop that is not noticed as a public meeting.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 350-0616.

Sincerely Yours,



ARDYTH WALKER  
Staff General Counsel

cc: Robert Meyers, Executive Director

## Walker, Ardyth (COE)

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**From:** Shah, Sanjeev N. [snshah@leaelliott.com]  
**Sent:** Thursday, March 31, 2005 4:42 PM  
**To:** AWalker@miamidade.gov  
**Cc:** AnaMaria Saks (E-mail); Franklin Stirrup (E-mail); Marie Clark-Vincent (E-mail); Deborah Mastin (E-mail)  
**Subject:** Ethics Commission Opinion on Cone of Silence - Technical Paper presentation at American Society of Civil Engineers Conference

Dear Ms. Walker,

It was a pleasure speaking with you on the phone on March 31. As discussed, I am providing you with pertinent information and requesting your opinion on the appropriate course of action.

1. Lea+Elliott, Inc., the firm I work with, is a Consultant to the Miami-Dade Aviation Department and Dade Aviation Consultants on the MIA Mover APM System project. In our role, we have prepared the Request for Proposal Documents, that were advertised in December 2004. The Proposals are due on May 25, 2005. Our role will continue to be of support to the Miami-Dade Aviation Department in the evaluation of the proposals. We are prohibited from submitting a proposal, since we prepared the RFP and are currently supporting the Airport. I, personally, work in the capacity of Project Manager.

2. We had submitted a technical paper, co-authored with Airport staff, for publication and presentation at the upcoming American Society of Civil Engineers Automated People Mover (APM) Conference scheduled in Orlando, FL during May 1 through May 4. The paper was selected and is scheduled for presentation on May 4 in Orlando, between 830 AM and 10 AM. The topic of the paper is the planning and engineering work performed leading to the actual solicitation - and will not address the actual solicitation. Details on the conference can be found at [www.asce.org/conferences/apm05](http://www.asce.org/conferences/apm05)

3. Since we are under the cone of silence, and potential proposers will be present at the Conference, we request your opinion on the appropriate course of action. Specifically, does the meeting and presentation have to be advertised (and where), do we need to tape the presentation or will preparation of minutes and submittal of the minutes together with a copy of the presentation to the Clerk of the Board suffice? Are there any further precautions or actions that are necessary for us to remain in full compliance with the Cone of Silence?

I appreciate your guidance in this matter.

I am copying this request for opinion to the following parties:

Ms. AnaMaria Saks - Aviation Senior Procurement Contracting Officer  
Mr. Franklin Stirrup, III - MDAD Project Manager  
Ms. Marie Clark-Vincent - Aviation Contracts Manager, and  
Ms. Deborah Mastin - Assistant County Attorney, Aviation.

Sincerely,

Sanjeev N. Shah, P.E.  
Lea+Elliott, Inc.  
7200 Corporate Center Drive, Suite 510  
Miami, FL 33126  
(305) 500-9390

hp officejet 7130  
printer/fax/scanner/copier

Fax-History Report for  
Commission On Ethics  
(305)373-3791  
Apr 06 2005 12:01pm

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**Last Transaction**

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| Apr 6       | 11:59am     | Fax Sent    | 3055009391            | 1:18            | 4            | OK            |

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