

Walker, Ardyth (COE)

From: Silva, Rita (DPM)
Sent: Thursday, January 29, 2004 11:55 AM
To: Walker, Ardyth (COE)
Cc: Roundtree, Amos (DPM); Simmons Jr., Fred (DPM)
Subject: Lobbyist A.O./Cone of Silence

INQ 04-08

Ardyth,

Thank you for taking the time to discuss with me some of the issues the Contracting Officers face with respect to enforcing the lobbyist registration. Selena and I will work on the language to request an opinion on the pending issue and will present it to our Director for approval, prior to sending it to you. This is one of those gray areas that Robert was talking about and it would be helpful to have a written opinion to go on.

Also, please send the language from the Cone of Silence which allows verbal communication during any noticed meeting. As mentioned before, it is clear that publicly noticed committee meetings, negotiation meetings and pre-proposal conferences are exempted from the cone, but I have not been able to locate the language which indicates any meeting.

Thanks again. These in-depth discussions have been very helpful.

Rita A. Silva
Sr. Procurement Contracting Officer
Department of Procurement Management
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Memo

To: Rita Silva
Senior Procurement Contracting Officer
Department of Procurement Management

From: Ardyth Walker
Staff General Counsel

Re: Cone of Silence

Date: February 2, 2004

I received your e-mail regarding the duly noticed public meeting exception to the Cone of Silence. The Cone of Silence permits oral communication between all members of the County's professional staff, including, but not limited to, the County Manager and his or her staff and vendors or suppliers, during a duly noticed public meeting at all stages of the procurement process. The Cone of Silence permits oral communication to solicit industry comment and conduct market research; during prebid-conferences; during selection committee meetings; during contract negotiations and during presentations to the Board of County Commissioners. Accordingly, the Ethics Commission has recognized a duly noticed public meeting exception to 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."

This provision of the Code authorizes publicly noticed meetings between all members of the County's professional staff and potential vendors and others to collect industry comment and information regarding a particular solicitation covered

by the Cone of Silence. For example, this exception permits meetings to discuss the feasibility of amending a solicitation to include additional or related services or to discuss the difficulty in obtaining bids at a particular price or other problem areas related to a particular solicitation. However, all oral communication must take place at a duly noticed public meeting.

Moreover, Section 2-11.1(t)(1)(c) permits oral communication at pre-bid conferences, oral presentation before selection committees, contract negotiations during any duly noticed public meeting and public presentations made to the Board of County Commissioners during any duly noticed public hearing.

Under these provisions, employees of the procurement staff may meet in duly noticed public meetings with vendors or other members of the County's professional staff to resolve issues that may arise during the selection process.

Please contact me at 350-0616 if you have additional questions.

Cc: Theodore Lucas
Miriam Singer
Amos Roundtree
Fred Simmons, Jr.