

OFFICE OF THE INDEPENDENT ADVOCATE  
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST  
REPORT OF INVESTIGATION

K #: 08-047 Larisa Aploks

Date Opened: May 14, 2008

Date Closed:

Name of investigator: Arthur D. Skinner  
.....

**Allegation:**

This investigation was predicated upon the receipt of information From Department of Public Works Buyer Gerald Williams. Williams reported that Administrative Officer 2 Larisa Aploks may have violated the Cone of Silence. When she negotiated a reduced price for speed cushion's on a RFQ that had not been awarded.

Section 2-11.1 of the Code of Miami-Dade County, the County's Conflict of Interest and Code of Ethics Ordinance. (t) *Cone of Silence*.1. Contracts for the provision of goods and service other than audit and independent private sector inspector general (IPSIG) contracts. (a) "Cone of Silence" is hereby defined to mean a prohibition on: (i) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and the County's professional staff including, but not limited to, the County Manager and his or her staff; (ii) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff; (iii) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and any member of the selection committee therefore; (iv) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member

of the selection committee therefore; (v) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners and their respective staffs; and (vi) any communication regarding a particular RFP, RFQ or bid between any member of the County's professional staff and any member of the selection committee therefore. The County Manager and the Chairperson of the selection committee may communicate about a particular selection committee recommendation, but only after the committee has submitted an award recommendation to the Manager and provided that should any change occur in the committee recommendation, the content of the communication and of the corresponding change shall be described in writing and filed by the Manager with the Clerk of the Board and be included in any recommendation memorandum submitted by the Manager to the Board of County Commissioners. Notwithstanding the foregoing, the Cone of Silence shall not apply to (i) competitive processes for the award of CDBG, HOME, SHIP and Surtax funds administered by the Miami-Dade County Office of Community and Economic Development and the community-based organization (CBO) competitive grant processes administered by the Park and Recreation, Library, Water and Sewer, and Solid Waste Departments, Cultural Affairs and Tourist Development Councils and the Department of Environmental Resources Management; (ii) communications with the County Attorney and his or her staff; (iii) communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees of the Management and Technical Assistance Unit of the Department of Business Development regarding small business and/or minority business programs the Community Business Enterprise and Equitable Distribution Programs; (iv) communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees responsible for administering disadvantaged business enterprise programs in County departments receiving federal funds, provided the communications are limited strictly to matters of programmatic process or procedure; (v)

duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time that the County Manager makes his or her written recommendation; (vi) any emergency procurement of goods or services pursuant to Administrative Order 3-2; (vii) communications regarding a particular RFP, RFQ or bid between any person and the Vendor Information Center staff, the procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document; and (viii) communications regarding a particular RFP, RFQ or bid between the procurement agent or contracting officer, or their designated secretarial/ clerical staff responsible for administering the procurement process for such RFP, RFQ or bid and a member of the selection committee therefore, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document. (b) *Procedure.* (i) A Cone of Silence shall be imposed upon each RFP, RFQ and bid after the advertisement of said RFP, RFQ or bid. At the time of imposition of the Cone of Silence, the County Manager and his or her designee shall provide for public notice of the Cone of Silence. The County Manager shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance. Notwithstanding any other provision of this section, the imposition of a Cone of Silence on a particular RFP, RFQ or bid shall not preclude staff from obtaining industry comment or performing market research therefore, provided all communications 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 are made at a duly noticed public meeting. (ii) The Cone of Silence shall terminate at the time the Manager makes his or her written recommendation to the County Commission; provided, however, that if the Commission refers the Manager's recommendation back

to the Manager or staff for further review, the Cone of Silence shall be reimposed until such time as the Manager makes a subsequent written recommendation. The foregoing notwithstanding, for contracts and purchases which the County Manager has the delegated authority to award under Sec. 2-8.1(b) of this Code, the Cone of Silence shall terminate: (i) at the time the award recommendation letter is issued and filed with the Clerk of the Board for such contracts and purchases involving the expenditure of over one hundred thousand dollars (\$100,000); (ii) at the time the written award recommendation is posted in accordance with Section III of A.O. 3-21 for such contracts or purchases involving the expenditure of over \$25,000 up to \$100,000; or (iii) at the time the award recommendation is issued in accordance with Section IV of A.O. 3-21 for contracts and purchases involving the expenditure of \$25,000 or less. (c) *Exceptions.* The provisions of this ordinance shall not apply to oral communications at prebid conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meetings, public presentations made to the Board of County Commissioners during any duly noticed public meeting or communications in writing at any time with any County employee, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP, RFQ or bid documents. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to any person upon request. 2. *Audit and IPSIG contracts.* (a) "Cone of Silence" is hereby defined to mean a prohibition on: (a) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff; and (b) any oral communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and

his or her staff. Notwithstanding the foregoing, the Cone of Silence shall not apply to communications with the County Attorney and his or her staff. (b) Except as provided in Subsections 2(c) and 2(d) hereof, a Cone of Silence shall be imposed upon each RFP, RFQ and bid for audit and IPSIG services after the advertisement of said RFP, RFQ or bid. At the time of the imposition of the Cone of Silence, the County Manager or his or her designee shall provide for the public notice of the Cone of Silence. The Cone of Silence shall terminate when the County Manager executes a particular audit or IPSIG contract. (c) Nothing contained herein shall prohibit any bidder or proposer: (i) from making public presentations at duly noticed pre-bid conferences or before duly noticed selection committee meetings; (ii) from engaging in contract negotiations during any duly noticed public meeting; or (iii) from communicating in writing with any County employee or official for purposes of seeking clarification or additional information from the County or responding to the County's request for clarification or additional information, subject to the provisions of the applicable RFP, RFQ or bid documents. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to the general public upon request. (d) Nothing contained herein shall prohibit any lobbyist, bidder, proposer or other person or entity from publicly addressing the Board of County Commissioners during any duly noticed public meeting regarding action on any audit or IPSIG contract. The County Manager shall include in any public solicitation for auditing or IPSIG services a statement disclosing the requirements of this ordinance. 3. *Penalties*. In addition to the penalties provided in Subsections (s) and (bb) hereof, violation of this Subsection (t) by a particular bidder or proposer shall render any RFP award, RFQ award or bid award to said bidder or proposer voidable. Any person who violates a provision of this ordinance shall be prohibited from serving on a Miami-Dade competitive selection committee. In addition to any other penalty provided by law, violation of any provision of this ordinance by a Miami-Dade County employee shall

subject said employee to disciplinary action up to and including dismissal. Additionally, any person who has personal knowledge of a violation of this ordinance shall report such violation to the State Attorney and/or may file a complaint with the Ethics Commission.

**Investigation:**

On June 17, 2008, Investigator's Art Skinner, and Breno Penichet interviewed Department of Public Works Buyer Gerald Williams in the Commission on Ethics office. Williams was advised the purpose of the interview, and gave the following information:

Mr. Williams stated that he thought the word to separate violations of the Cone of Silence by Larisa Aploks or one of the staff in her Division.

The first Cone of Silence violation was on the original RFQ for the speed bumps. On the original RFQ. There were three bids all over \$10,000 each. The low bidder was a company called; Traffic Logix, Inc. three Harriet Lane Spring Valley, NY 10977. Larisa Aploks or one of her staff contacted Traffic Logix by telephone and negotiated a different product for under \$5,000. Since this was a different product called a speed cushion, and in under \$5,000. The process the water needed approval from the Department Procurement Management. A new RFQ was issued under the control of the Public Works Department.

The second Cone of Silence violation occurred on the second RFQ for the speed cushions. Mr. Williams stated that Larisa Aploks received a telephone call from one of the other vendors requesting additional information on the RFQ.

On July 9, 2008, Investigator's Art Skinner, and Breno Penichet interviewed Traffic Engineering Division Chief Mohammad Hasan and Traffic Engineering Administrative Officer Larisa Aploks in Hasan's office located on the 15th floor of the 111 Building. They gave the following information:

Hason stated that The Director Esther Calas had rejected the original bids on the speed bumps, because they were too expensive (all the bids were over \$10,000). The

engineers in Hasan's department had attended a product seminar where they'd seen a product called a "speed table." Two of the department engineers, Jeff Cohen, and Joan Shen contacted Traffic Logix the company that manufactures the "speed table." Hasan stated that this is a specialty product not available from other companies. Traffic Logix stated they could supply the County with a rubber speed table for approximately \$5,800. The bid specifications were sent to the Public Works Department Purchasing. A second RFQ was issued by Mr. Gerard Williams. Hasan canceled the RFQ, because it did not include Traffic Logix. A third RFQ is to be issued on July 10, 2008 that includes traffic Logix.

On July 10, 2008, Investigator Art Skinner interviewed Department Public Works Director Esther Calas by telephone. Calas was advised the purpose of the interview and gave the following information:

Calas advised that the reason for the rejection of the RFQ for the speed bump, was because of a Cone of Silence violation by Larissa Aploks. Dallas was surprised to hear that all her subordinates were saying that the reason for the rejection of the RFQ was because of the high cost of the product. Calas stated that she did not personally handle the RFQ, one of her Deputy Directors Orky Rodriguez was working with that matter. Calas said that Rodriguez was in a meeting at the present time, and she would have her call the COE office when she got out of the meeting.

On July 10, 2008, Investigator Art Skinner interviewed Mr. Mark Gregory of Traffic Logix Inc. by telephone 518-744-8568. Mr. Gregory was advised the purpose of the call gave the following information:

Gregory stated that he was unaware that his company had submitted a bid for speed humps. Gregory said that he had seen a recent RFQ from the Public Works Department, but did not know if the company had submitted a bid. Gregory stated that the product offered by his company was a sole source product not made by any other

company. Gregory stated he was unable to recall any telephone conversations between himself County staff.

On July 18, 2008, Investigator Arthur Skinner interviewed Assistant Department Public Works Director Orky Rodriguez by telephone, 305-375-2733. Rodriguez was advised of the purpose the telephone call and gave the following information:

Rodriguez stated that she had thought that the engineers from the Traffic Engineering Department had met with the PWD Director Esther Calas, who agreed to throw out the RFQ, because it was too expensive. Rodriguez said she thought the authority to dismiss bids had been delegated to the individual department heads. Rodriguez stated that this authority was not in writing.

On July 25, 2008, Investigator Art Skinner interviewed, Department of Public Works Traffic Engineer Jeff Cohen by telephone. Cohen stated that he did not meet with Department of public Works Director Esther Calas about the speed cushion RFQ. Cohen stated that it was Department of Public Works Traffic Engineer Joan Shen that met with Calas. Cohen stated that it was after the meeting between Shen and Calas, when they contacted Traffic Logix to discuss a more cost-effective solution for installing a speed bump.

On August 12, 2008, Investigator's Breno Penichet, Art Skinner, and Advocate Michael Murawski interviewed Department of Public Works Traffic Engineer Joan Shen in the Commission on Ethics Office at 19 West Flagler Street, Miami, FL 33130. Shen was advised of the purpose of the interview, and gave the following information:

Shen was not sure of the date, but she remembered having a meeting with the Department of Public Works Director Esther Calas about the speed cushion RFQ. Calas told Shen at the cost of the speed cushion was too much, and instructed Shen to research the matter can come up with a better more cost-effective solution.



**CONCLUSION:**

The Director of the Public Works Department did not like the high cost of the RFQ for the “speed humps.” The Director, subsequently rejected the RFQ, and directed Traffic Engineer Joan Shen to research the matter in obtaining cheaper more cost-effective product. There was no violation of the Miami Dade County Code of Ethics, because the Director of the Department of Public Works rejected the RFQ after deciding the product cost was too high.