

Sec. 18-74. - Cone of silence.

- (a) The requirements of subsection 2-11.1(t) ("Cone of Silence Ordinances") of the Code of Miami-Dade County, Florida, as amended, shall not be applicable to the city.
- (b) Cone of silence. The cone of silence shall be applicable only to contracts for the provision of goods and services and public works or improvements for amounts greater than \$200,000.00; provided, however, that the cone of silence shall not be applicable to the city attorney's office nor to the office of the independent auditor general.
- (c) "Cone of silence" is defined to mean a prohibition on:
  - (1) Any communication regarding a particular request for proposals ("RFP"), request for qualifications ("RFQ"), request for letters of interest ("RFLI"), invitation for bids ("IFB") or any other advertised solicitation between a potential proposer, offeror, respondent, bidder, lobbyist, or consultant and the city's professional staff including, but not limited to, the city manager and his or her staff;
  - (2) Any communication regarding a particular RFP, RFQ, RFLI, IFB or any other advertised solicitation between the mayor, city commissioners or their respective staffs and any member of the city's professional staff including, but not limited to, the city manager and his or her staff;
  - (3) Any communication regarding a particular RFP, RFQ, RFLI, IFB or any other advertised solicitation between a potential proposer, offeror, respondent, bidder, lobbyist, or consultant and any member of the selection/evaluation committee therefor;
  - (4) Any communication regarding a particular RFP, RFQ, RFLI, IFB or any other advertised solicitation between the mayor, city commissioners or their respective staffs and any member of the selection/evaluation committee therefor; and
  - (5) Any communication regarding a particular RFP, RFQ, RFLI, IFB or any other advertised solicitation between a potential proposer, offeror, respondent, bidder, lobbyist, or consultant and the mayor, city commissioners, and their respective staffs; and
  - (6) Any communication regarding a particular RFP, RFQ, RFLI, IFB or any other advertised solicitation between any member of the city's professional staff, including but not limited to the city manager and his or her staff, and any member of the selection/evaluation committee therefor. The city manager and the chairperson of the selection/evaluation committee may communicate about a particular selection/evaluation committee's recommendation but only after the committee has submitted its written recommendation to the city 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 city manager with the city clerk and be included in any recommendation memorandum submitted by the city manager to the city commission.

Notwithstanding the foregoing, the Cone of Silence shall not apply to:

- a. Competitive processes for the award of CDBG, HOME, SHIP, HOPWA, and ESG (emergency shelter grants), Funds issued and administered by the city department of community development, and Law Enforcement Trust Fund (LETF) grants administered by the city police department;

Communications between a potential proposer, offeror, respondent, bidder, consultant or lobbyist and city purchasing staff regarding minority/women business and local vendor outreach programs;

- c. Duly noticed pre-bid/proposal conferences and site inspections;
- d. Duly noticed site visits to determine the competency of bidders/proposers regarding a particular solicitation during the time period between the opening of bids/receipt of proposals and the time the city manager makes his or her written recommendation to the city commission;
- e. Emergency procurements;
- f. Communications with the city attorney and his or her staff;
- g. Communications regarding a particular RFP, RFQ, RFLI, IFB or any other advertised solicitation between a potential proposer, offeror, respondent, bidder, lobbyist or consultant and the chief procurement officer, its staff, or any city purchasing agent, or its staff, responsible for administering the procurement process for such solicitation, prior to bid opening date or receipt of proposals, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation;
- h. Communications regarding a particular RFP, RFQ, RFLI, IFB or any other advertised solicitation between the chief procurement officer, its staff, or any city purchasing agent, or its staff responsible for administering the procurement process for such solicitation and a member of the corresponding selection/evaluation committee, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation;
- i. Sole source procurements;
- j. Bid waivers;
- k. Oral presentations before selection/evaluation committees and communications occurring during duly noticed meetings of selection/evaluation committees;
- l. Competitive negotiations;
- m. Public presentations made to the city commission and communications occurring during any duly noticed public meeting;
- n. Communications in writing or by e-mail at any time with any city employee, official, mayor, or member of the city commission unless specifically prohibited by the applicable RFP, RFQ, RFLI, IFB or other advertised solicitation. The city shall file a copy of any written communications with the city clerk;
- o. Communications in connection with the collection of industry comments or the performance of market research regarding a particular RFP, RFQ, RFLI, IFB or any other advertised solicitation by the chief procurement officer or its staff;
- p. Contract negotiations.
- q. On-line procurements pursuant to section 18-114.
- r. The downtown development authority, the department of off-street parking, the Liberty City Community Revitalization Trust, the Civilian Investigative Panel, and the Miami Sports and Exhibition Authority.

- s. Any portion of meetings that are exempted by and held fully in accordance with the provisions of F.S. § 286.0113.
- (d) Procedure.
- (1) Imposition. A cone of silence shall be imposed upon each RFP, RFQ, RFLI, IFB or any other advertised solicitation when the solicitation is advertised in a newspaper of general circulation. At the time of imposition of the cone of silence, the city manager or his or her designee shall provide for public notice of the cone of silence. The city manager or his or her designee shall issue a notice thereof to the affected department(s), the city clerk, each commissioner and to the mayor and shall include in any advertised solicitation a statement disclosing that the solicitation is subject to the cone of silence.
- (2) Termination. Except as otherwise provided herein, the cone of silence shall terminate at the time the city manager's approval of the award or the city manager's written recommendation to the city commission, as may be applicable, is received by the city clerk, or at such time that bids or proposals are rejected by the city commission or the city manager; provided, however, that if the city commission refers the recommendation back to the city manager for further review, the cone of silence shall be reimposed until such time as the city manager's subsequent written recommendation is received by the city clerk.
- (e) Penalties. Violation of the cone of silence by a particular bidder or proposer shall render the award to said bidder or proposer voidable by the city commission. Any person who violates a provision of this ordinance shall be prohibited from serving on a city competitive selection/evaluation committee unless such appointment is approved by a 4/5 vote of the city commission. A violation of this section by a particular bidder, proposer, offeror, respondent, lobbyist or consultant shall subject said bidder, proposer, offeror, respondent, lobbyist or consultant to potential debarment pursuant to this Code.

In addition to any other penalty provided by law, violation of any provision of this article by a city employee shall subject said employee to disciplinary action up to and including dismissal.

(Ord. No. 12271, § 2, 8-22-02; Ord. No. 13439, § 2, 3-13-14)

Sec. 18-176.2. - Cone of silence; exceptions.

The cone of silence shall be as set forth in section 18-74, except that, in the case of unified development projects or other matters governed by this article, the cone of silence shall be applicable only to contracts for amounts in excess of \$500,000.00.

(Ord. No. 12271, § 3, 8-22-02)