



## MEMORANDUM

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**TO:** Department Directors

**DATE:** February 8, 2002

**FROM:** Theodore G. Lucas, Director  
Department Procurement  
Management

**SUBJECT:** Summary of Cone of Silence,  
as Amended, Governing the  
Procurement of Goods and  
Services other than Audit and  
IPSIG Contracts

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On January 29, 2002, the Board approved Ordinance No. 02-3, amending Section 2-11.1(t) of the Miami-Dade County Code, and also approved Resolution No. R-62-02 amending Administrative Order 3-27 to explain and implement all Cone of Silence provisions. The amended Code and Administrative Order governing the Cone take effect on Friday, February 8, 2002.

The Cone of Silence prohibits certain oral communications regarding a particular RFP, RFQ or bid during the period the Cone is in effect. Written communications, copy to the Clerk of the Board, are permitted at all times. Please study AO 3-27, as amended, for a complete and thorough description of the Cone. A copy of AO 3-27 is attached for easy reference. This memorandum is offered only as a summary of the key features of the amended Cone.

### **PROHIBITIONS:**

Any oral communication regarding a particular RFP, RFQ or bid is prohibited between:

- a potential vendor, service provider, bidder, lobbyist or consultant **and** the County's professional staff. The professional staff includes, but is not limited to, the County Manager and his or her staff
- a potential vendor, service provider, bidder, lobbyist or consultant **and** the Mayor, County Commissioners, or their respective staffs
- 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
- a potential vendor, service provider, bidder, lobbyist or consultant **and** any member of the respective selection committee
- the Mayor, County Commissioners, or their respective staffs **and** any member of the respective selection committee
- any member of the County's professional staff **and** any member of the respective selection committee

**EXCEPTIONS TO THE CONE OF SILENCE:**

Unless specifically provided in the applicable RFP, RFQ or bid document, the Cone of Silence does not apply to the following:

- communications regarding a particular RFP, RFQ or bid between any person **and** the County's 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
- 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 respective selection committee, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document
- communications between the County Manager **and** the Chairperson of the Selection Committee about a particular selection committee recommendation, 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
- 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 (DBD) regarding small and/or minority business programs, the Community Business Enterprise and Equitable Distribution Programs
- 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 communication is limited strictly to matters of programmatic process or procedure
- communications with the Office of the County Attorney and his or her staff
- emergency procurements of goods and services pursuant to Administrative Orders 3-2 and 3-16
- oral communications at pre-bid conferences
- oral presentations before publicly noticed selection committee meetings
- contract negotiations during any duly noticed public meeting

- duly noticed site visits to determine competency of bidders during the period between bid opening and issuance of the County Manager's written recommendation
- public presentations before the Board of County Commissioners during any duly noticed public meeting
- competitive processes for the award of CDBG, HOME, SHIP and Surtax Funds administered by the Miami-Dade County Office of Community and Economic Development
- 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, copy to the Clerk of the Board

### **COMMENCEMENT AND TERMINATION OF THE CONE OF SILENCE:**

The Cone of Silence commences after advertisement of the RFP, RFQ or bid solicitation.

#### **WHEN BCC IS THE AWARDING AUTHORITY:**

The Cone of Silence terminates at the time when the County Manager issues a written recommendation to the Board of County Commissioners. If the BCC refers the County Manager's recommendation back for further review, the Cone of Silence shall be reinstated until such time as the County Manager issues a subsequent recommendation.

#### **WHEN AWARD IS WITHIN THE COUNTY MANAGER'S DELEGATED AUTHORITY:**

The Cone of Silence terminates at the time the issuing department issues its written recommendation to the Manager. If the County Manager refers the procuring department's recommendation back for further review, the Cone of Silence shall be reinstated until such time as the Manager issues a recommendation for award pending the bid protest period.

### **CONE OF SILENCE REPORTING:**

#### **ISSUING DEPARTMENT RESPONSIBILITIES:**

- Notify the Department of Business Development (DBD) at the time of imposition of the Cone of Silence
- Provide to DBD the project number, project title/description, the name and phone number of the procurement agent or contracting officer responsible for the procurement process of the RFP, RFQ or bid solicitation
- Provide any information required by DBD for public notice of the Cone of Silence

**DBD RESPONSIBILITIES:**

- Weekly public notice of the Cone of Silence on the County's website and the Vendor Information Center
- Provide written and/or electronic notice to the Mayor, each County Commissioner, the County Manager, the Clerk of the Board and the affected departments

**WRITTEN COMMUNICATIONS UNDER THE CONE OF SILENCE:**

When the Cone of Silence is in effect, any communication shall be in writing, unless one of the exceptions apply. All potential vendors, service providers, bidders, lobbyists and consultants shall file a copy of any correspondence concerning a particular RFP, RFQ or bid with the Clerk of the Board. County staff shall, in turn, file a copy of any response with the Clerk of the Board.

Written communications may be in the form of e-mail, with a copy to the Clerk of the Board at [CLERKBCC@MIAMIDADE.GOV](mailto:CLERKBCC@MIAMIDADE.GOV).

**EXCEPTIONAL ORAL COMMUNICATIONS:**

One of the exceptions allows a member of the County's Vendor Information Center staff, or the procurement agent or contracting officer responsible for the particular RFP, RFQ or bid, to communicate orally with any person, **but only if** the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document.

**RULES OF THUMB:**

Questions of process or procedure generally consist of "*who*" "*what*" "*where*" and "*when*." A "*why*" or "*how*" question will usually not be within the scope of the exception, unless a reply is possible merely by citing a particular page or section of the solicitation document.

An answer or response that requires more than one sentence (referring, for example, to a particular page or section of the solicitation document) will usually not be within the scope of the exception.

**IF NOT WITHIN THE SCOPE OF THE ORAL EXCEPTION**

If an oral inquiry calls for an answer or response that is not within the scope of the exception, kindly request that the question be presented in writing, via e-mail if convenient, copy to the Clerk of the Board, and advise that a response will, in turn, be given in writing.

Any information that changes, adds to or clarifies the terms, provisions or requirements of the solicitation document shall, as always, be conveyed equally to all competitors in a solicitation addendum.

Department Directors

February 8, 2002

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Attachment (Administrative Order 3-27)

cc: Honorable Alex Penelas, Mayor  
Honorable Chairperson and Members  
Board of County Commissioners  
Robert A. Ginsburg, County Attorney  
Steve Shiver, County Manager  
Assistant County Managers  
Assistants to the County Manager  
Kay Sullivan, Director, Clerk of the Board  
Procurement Liaisons