

# MEMORANDUM

Agenda Item No. 4(C)

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**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** December 2, 2014

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Ordinance amending Conflict of Interest and Code of Ethics Ordinance; amending Section 2-11.1 (t) of the Code related to Cone of Silence; amending exception to Cone of Silence for vendor presentations at selection committee meetings

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Esteban L. Bovo, Jr. and Co-Sponsor Commissioner Audrey M. Edmonson.

  
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R. A. Cuevas, Jr.  
County Attorney

RAC/cp



# MEMORANDUM

(Revised)

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Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 4(C)  
12-2-14

ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE; AMENDING SECTION 2-11.1 (t) OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA RELATED TO CONE OF SILENCE; AMENDING EXCEPTION TO CONE OF SILENCE FOR VENDOR PRESENTATIONS AT SELECTION COMMITTEE MEETINGS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, in 2011 the Florida Legislature adopted CS/HB 7223 which amended Florida's Sunshine Laws to exempt competitive contract negotiation meetings and vendor presentations during selection committee meetings from the public meeting requirement; and

**WHEREAS**, on October 3, 2014, this Board adopted an Ordinance which similarly exempted negotiation meetings from the County's Cone of Silence but did not exempt vendor presentations during selection committee meetings from the Cone of Silence; and

**WHEREAS**, this Board finds that exempting vendor presentations at selection committee meetings in the County from meeting in the public when such meetings are recorded as set forth in the state law exception would benefit the procurement process in the County by placing proposers on equal footing in presentations and not allowing competitors to view the presentation of the prior proposer before presenting to the County at a later date; and

**WHEREAS**, Miami-Dade County's Cone of Silence requires that selection committee meetings be "duly noticed as a public meeting"; and

**WHEREAS**, the Board of County Commissioners, consistent with the 2011 change in State Law and policy, desires to remove this prohibition from the Cone of Silence subject to recording the vendor presentations at selection committee meetings to better comply with the

public policy of the state and improve the level of solicitations in the County,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 2-11.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Section 2-11.1. 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.

\* \* \*

c) Exceptions

(i) The provisions of this ordinance shall not apply to oral communications at pre-bid conferences, oral presentations ~~[[before]]~~ >> at recorded<<selection>>committee meetings and<<[[committees duly noticed as a public meeting,]] recorded contract negotiations and contract negotiation strategy sessions in compliance with the exemption in Florida Statutes Section 286.0113, 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.

<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

\* \* \*

2. Audit and IPSIG Contracts.

\* \* \*

(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]]~~ >>recorded<< selection committee meetings; (ii) from engaging in recorded contract negotiations in compliance with the exemption in Florida Statutes Section 286.0113; 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. Any recordings made pursuant to this section shall be made available, as a public record, upon the conclusion of the selection committee or negotiation meetings notwithstanding the elapsed time from bid or proposal opening. 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.

**Section 2.** If any section, subsection, sentence, cause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such validity.

**Section 3.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word ordinance may be changed to "section", "article" or other appropriate word.

**Section 4.** This ordinance shall become effective 10 days after the date of enactment unless vetoed by the Mayor, and if vetoed shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:



Oren Rosenthal

Prime Sponsor: Commissioner Esteban L. Bovo, Jr.  
Co-Sponsor: Commissioner Audrey M. Edmonson