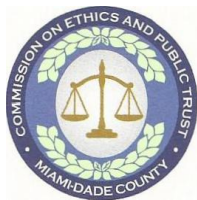


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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April 30, 2025

Eston “Dusty” Melton III
Gryphon Partners, Inc.
P.O. Box 331871
Miami, FL 33233
Delivered via e-mail to: dustymelton3@gmail.com

RE: INQ 2025-40, Section 2-11.1(t), Cone of Silence.

Dear Mr. Melton:

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and seeking guidance regarding the application of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”) to your communications with employees of the County’s independent constitutional officers.

Facts

You advised that you are a registered lobbyist in Miami-Dade County. Records regarding your registration as a lobbyist with the County indicate that you are, and have been, registered as a lobbyist representing numerous principals on a variety of issues. You specified that, among your clientele, you lobby on behalf of entities that provide employee benefit services via a contract with Miami-Dade County. You noted that employees of the County’s independent constitutional offices are eligible to receive benefits under these benefit services contracts that your clients have with the County.

In November 2018, the citizens of Florida amended Article VIII, Section 1(d) of the Florida Constitution to provide that the electors of each County must elect a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court. As a result, as of January 7, 2025, County employees of the police, elections, tax collector, property appraiser, and finance departments became employees of the now independent constitutional offices.¹

¹ See *How will these changes impact our employees*, EMPLOYEE INFORMATION, <https://secure.miamidade.gov/employee/constitutional-offices/employee-information.page> (last visited Apr. 28, 2025).

Issue

Whether the Cone of Silence applies to limit communications between yourself and an employee of one of the County's independent constitutional offices during the pendency of a County competitive solicitation regarding employee benefit services.

Analysis

The County Ethics Code contains a provision known as the Cone of Silence that restricts communications between specified parties during a competitive solicitation. *See* County Ethics Code § 2-11.1(t). The Cone of Silence is intended to insulate the competitive procurement process from private lobbying and political influence. *See* INQ 19-95. Specifically, the Cone of Silence restricts communications about a particular competitive solicitation between “a potential vendor, service provider, bidder, lobbyist, or consultant” on the one hand, and, on the other hand, three groups of people: 1) “the County’s professional staff including, but not limited to, the County Mayor and his or her staff,” 2) “County Commissioners and their respective staffs,” and 3) “any member of the selection committee.” *See* County Ethics Code § 2-11.1(t)1(a)(i), (iii), (v); *see also* INQ 20-25 (the Cone of Silence restricts communications between and among bidders, proposers, and lobbyists and *specified* County officers and employees).

As to scope, a member of a County selection committee is considered a County “official” subject to the Cone of Silence, as well as all other local ordinances pertaining to public procurement. *See* RQO 13-11. Furthermore, the Cone of Silence extends to joint development partners or entities that provide technical or financial support to a County project because the partners function as an extension of County staff for the joint development project. *See* RQO 08-08.

However, American Federation of State, County & Municipal Employees (“AFSCME”) unit members who were not selection committee members or otherwise involved in a County group medical insurance competitive solicitation were not covered by the Cone of Silence and, therefore, could communicate with potential vendors. *See* INQ 13-121. Similarly, police officers who were field testing body cameras could ask technical questions to a potential County vendor without violating the Cone of Silence that was in effect at the time regarding the purchase of the equipment because the officers engaged in the field testing were not part of the County’s professional staff and were not otherwise involved in the procurement process. *See* INQ 15-251.

Here, generally speaking, employees of the County’s independent constitutional offices – meaning the Miami-Dade Sheriff’s Office, the Miami-Dade Tax Collector, the Miami-Dade Property Appraiser, the Miami-Dade Supervisor of Elections, and the Miami-Dade Clerk of the Court and Comptroller – are not members of staff of the County Mayor or County Commissioners, nor are they members of the County’s professional staff. *See* County Ethics Code § 2-11.1(t)1(a)(i), (v). As such, employees of the County’s independent constitutional offices would not, categorically, be subject to the Cone of Silence. *See* INQ 15-251; INQ 13-121. However, insofar as an employee of one of the County’s independent constitutional offices either: a) serves on a County selection committee, b) functions as an extension of County staff pursuant to a joint venture between the County and the independent constitutional office, or c) otherwise has a role regarding a pending County procurement matter, then that employee will be covered under the Cone of Silence. *See* County Ethics Code § 2-11.1(t)1(a)(iii); RQO 13-11; RQO 08-08.

Opinion

Based on the facts presented here and discussed above, the Cone of Silence does not categorically apply to all employees of the County's independent constitutional offices. Accordingly, so long as the employee of a County independent constitutional office with whom you wish to communicate about a pending County solicitation involving employee benefit services is not himself or herself involved in the pending County solicitation and has no role in relation to any decision that will be made regarding said pending County solicitation, then the Cone of Silence would not prohibit you from communicating with him or her regarding the pending County solicitation. *See* RQO 13-11; RQO 08-08; INQ 15-251; INQ 13-121

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

Other conflicts or restrictions may apply based on directives from the independent constitutional offices or under state law. Questions regarding possible conflicts or restrictions based on directives from the independent constitutional offices should be directed to those respective offices. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

Sincerely,



Nolen Andrew Bunker
Staff Attorney
Miami-Dade Commission on Ethics and Public Trust

CC: All COE Legal Staff

INQs are informal opinions provided by the legal staff after review and approval by the Executive Director and/or General Counsel. INQs deal with opinions previously addressed in public session by the Miami-Dade Commission on Ethics and Public Trust or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Ethics Commission when the subject matter is of great public importance or where there is insufficient precedent. While this is an informal opinion, covered parties that act contrary to this opinion may be subject to investigation and a formal Complaint filed with the Ethics Commission.