



1       (1)     Affected Person means any person, and that person's support staff,  
2       appointed, hired, designated, or authorized to evaluate, rank, recommend,  
3       or select a Vendor or a Vendor's response to a Competitive Solicitation or  
4       to make an award in a Competitive Solicitation process.

5       (1)(2)   *Competitive Solicitation* means a formal process by Broward County  
6       relating to the acquisition of goods or services, which process is intended  
7       to provide an equal and open opportunity to qualified persons and entities  
8       to be selected to provide the goods or services. ~~The term shall also~~  
9       ~~include any process by which Broward County officials or personnel are~~  
10       ~~authorized to negotiate an amendment to a contract that was entered into~~  
11       ~~pursuant to a "Competitive Solicitation," as defined in this subsection,~~  
12       ~~including the actual negotiation and final approval of any such~~  
13       ~~amendment, but only if the contract amendment will be subject to approval~~  
14       ~~by a "Selection Committee" as defined by the Broward County~~  
15       ~~Procurement Code.~~ The term shall not include a competitive process  
16       which seeks to enter into a contract or award money to perform  
17       governmental, quasi-governmental, social, or human services primarily for  
18       charitable, benevolent, humanitarian, or other philanthropic purposes,  
19       such as the award of grants or support assistance to organized nonprofit  
20       entities that promote or assist with the care, education, health, standard of  
21       living, or general welfare of people in the Broward County community, or  
22       that promote or assist community or neighborhood enhancements.

23       (2)(3)   *Cone of Silence* means a period of time during which there is a prohibition  
24       on communication regarding a particular Competitive Solicitation.

Coding:           Words in ~~struck through~~ type are deletions from existing text. Words in  
                  underscored type are additions.

1       (4)    Evaluation or Selection Committee means a group of persons appointed  
2       or designated by the County Administrator or the Director or head of a  
3       County office, agency, department, or division, or their designee, to  
4       evaluate, rank, select, or make a recommendation regarding a Vendor or  
5       the Vendor's response to the Competitive Solicitation.

6       (3)(5)    Vendor means a person or entity that has entered into or that lobbies to  
7       enter into a contract ~~or contract amendment~~ with Broward County, or that  
8       seeks an award from Broward County to provide goods, perform a service,  
9       render an opinion or advice, or make a recommendation related to a  
10      Competitive Solicitation for compensation or other consideration.

11      (4)(6)    Vendor's Representative means an owner, individual, employee, partner,  
12      officer, or member of the board of directors of a Vendor, or a consultant,  
13      lobbyist, or actual or potential subcontractor or subconsultant who acts at  
14      the behest of a Vendor in communicating regarding a Competitive  
15      Solicitation.

16      (b)    Prohibited communication. Except as set forth in subsection (e), a Cone  
17 of Silence shall be in effect during the course of a Competitive Solicitation as provided  
18 in subsection (c) between:

19      (1)    Any person or entity, including a Vendor or Vendor's Representative, that  
20      seeks a contract, ~~contract amendment~~, award, recommendation, or  
21      approval related to a Competitive Solicitation or that is subject to being  
22      evaluated or having its response evaluated in connection with a  
23      Competitive Solicitation, ~~including a Vendor or Vendor's Representative~~,  
24      and

Coding:       Words in ~~struck through~~ type are deletions from existing text. Words in  
                  underscored type are additions.

1 (2) Any County Commissioner, ~~or the Commissioner's staff, the County~~  
2 Administrator, Deputy County Administrator, Assistant County  
3 Administrator, ~~and Assistants to the County Administrator, and their~~  
4 respective support staff, ~~or any person or group of persons appointed or~~  
5 ~~designated by the County Commission or the director or head of a County~~  
6 ~~office, agency, department or division, or their designee, to evaluate,~~  
7 ~~select, negotiate, or make a recommendation to the County Commission~~  
8 ~~or other person or group of persons authorized to make or approve an~~  
9 ~~evaluation, recommendation, ranking, contract amendment, or that may~~  
10 ~~make an award in the Competitive Solicitation process~~ member of the  
11 Evaluation or Selection Committee appointed for the competitive  
12 solicitation, or Affected Person as defined in subsection (a)(1).

13 (c) *Effective dates.* A Cone of Silence shall begin and shall end for  
14 Competitive Solicitations within the scope of this Ordinance as follows:

15 (1) For any County Commissioner or the Commissioner's staff, A a Cone of  
16 Silence shall be in effect during a Competitive Solicitation beginning upon  
17 the first meeting of the Evaluation Committee (for a Requests for  
18 Proposals - RFPs) or Selection Committee short listing (for a Request for  
19 Letters of Interest - RLIs) or at the time of the opening of submissions in  
20 response to Invitations for Bids. ~~For amendments to contracts, a Cone of~~  
21 ~~Silence shall begin when direction is given by the Board or other~~  
22 ~~authorized person to establish or convene a committee, or when an~~  
23 ~~individual is designated by the Board or other authorized person to~~  
24 ~~negotiate an amendment to a contract. Notice shall be given as required~~

Coding: Words in ~~struck through~~ type are deletions from existing text. Words in  
underscored type are additions.

1 by ~~Subsection (d) of this Section.~~ For the County Administrator, Deputy  
2 County Administrator, Assistant County Administrator, Assistants to the  
3 County Administrator, their respective support staff, any member of an  
4 Evaluation or Selection Committee appointed for the competitive  
5 solicitation, or Affected Person as defined in subsection (a)(1), a Cone of  
6 Silence shall be in effect during a Competitive Solicitation upon the  
7 approval of the Selection Committee for a Request for Letters of Interest,  
8 upon the approval of the Evaluation Committee for a Request for  
9 Proposals, or at the time of advertisement for Invitations for Bids.

10 (2) The Cone of Silence shall terminate at the time the Board of County  
11 Commissioners or other authorized person makes final award or gives  
12 final approval of a contract ~~or contract amendment~~, rejects all bids or  
13 responses to the Competitive Solicitation, or takes other action which ends  
14 the Competitive Solicitation.

15 . . .

16 (e) *Permitted communication.*

17 . . .

18 (3) The Cone of Silence shall not apply to communications with the County  
19 Attorney and his or her office personnel, the County Auditor and his or her  
20 office personnel, or with other County personnel, provided that such  
21 person ~~with whom the communication occurs has not been appointed or~~  
22 ~~designated to evaluate, rank, select, negotiate, or make a~~  
23 ~~recommendation regarding a Vendor or the Vendor's response to the~~  
24 ~~Competitive Solicitation~~ is not a member of the Evaluation or Selection

Coding: Words in ~~struck through~~ type are deletions from existing text. Words in  
underscored type are additions.

1 Committee appointed for the competitive solicitation or an Affected Person  
2 as defined in subsection (a)(1).

3 (4) Nothing contained in this section shall prohibit any Vendor or Vendor's  
4 Representative:

5 a. From making public presentations at pre-bid conferences or at a  
6 selection ~~or negotiation~~ meeting related to the Competitive  
7 Solicitation;

8 . . .

9 (5) The Director of Purchasing or designee shall accept written  
10 communications from a Vendors or Vendor's Representatives during the  
11 time a Cone of Silence is applicable to a Competitive Solicitation. Such  
12 writing, including any response thereto, shall be provided to the person or  
13 the members of the applicable committee appointed or designated to  
14 recommend a Vendor for award ~~or to negotiate a contract or contract~~  
15 ~~amendment~~. The writing shall also be attached to the Board agenda item  
16 for the award or for approval of the contract ~~or contract amendment~~ under  
17 the applicable Competitive Solicitation.

18 (f) *Violations.*

19 (1) A complaint alleging a violation of this ordinance may be filed with the  
20 County's Office of Intergovernmental Affairs and Professional Standards.  
21 In each such instance, an investigation shall be performed and the results  
22 of each investigation, including a determination of violation, if any, shall  
23 be set forth in a written report. If there is a determination of violation, a  
24

Coding: Words in ~~struck through~~ type are deletions from existing text. Words in  
underscored type are additions.

1 fine shall be imposed against the Vendor in the maximum amount  
2 provided in Subsection 8½-16(f)(34) of the County Code of Ordinances.

3 . . .

4 (3) A person or the Vendor who is determined by the Office of  
5 Intergovernmental Affairs and Professional Standards to have violated this  
6 Ordinance may appeal such determination within the time and in the  
7 manner provided in Section 21.120 of the Broward County Administrative  
8 Code. If the determination is appealed and a final decision is rendered by  
9 a hearing officer, the decision of the hearing officer shall be the final  
10 determination. If no appeal is timely filed or if no final determination is  
11 made by a hearing officer, the determination of the Office of  
12 Intergovernmental Affairs and Professional Standards shall be final.

13 . . .

14 Section 2. SEVERABILITY.

15 If any portion of this Ordinance is determined by any Court to be invalid, the  
16 invalid portion shall be stricken, and such striking shall not affect the validity of the  
17 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion  
18 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),  
19 or circumstance(s), such determination shall not affect the applicability hereof to any  
20 other individual, group, entity, property, or circumstance.

21 Section 3. INCLUSION IN CODE.

22 It is the intention of the Board of County Commissioners that the provisions of  
23 this Ordinance shall become and be made a part of the Broward County Code; and that  
24 the sections of this Ordinance may be renumbered or relettered and the word

Coding: Words in ~~struck through~~ type are deletions from existing text. Words in  
underscored type are additions.

1 "ordinance" may be changed to "section," "article," or such other appropriate word or  
2 phrase in order to accomplish such intentions.

3 Section 4. EFFECTIVE DATE.

4 This Ordinance shall become effective as provided by law.

5  
6 ENACTED March 8, 2011

7 FILED WITH THE DEPARTMENT OF STATE March 10, 2011

8 EFFECTIVE March 10, 2011

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23 GMM:dp  
03/09/11  
Cone of Silence.Ord.doc  
24 #10-428

Coding: Words in ~~struck through~~ type are deletions from existing text. Words in underscored type are additions.