



## CITY OF CORAL GABLES EMPLOYEE PROCUREMENT ETHICS

### **Application.**

This information shall be applicable to all city personnel and shall constitute the minimum standards of ethical conduct and behavior.

### **Sec. 2-1023. – Ethics**

Any attempt by city employees to realize personal gain by conduct inconsistent with proper discharge of their duties is a breach of public trust. Any effort to influence any public employee to breach the standards of ethical conduct set forth in this division is also a breach of ethical standards. The provisions of city ordinances, county ordinances, and state statutes shall be strictly enforced to preserve the public trust.

### **Sec. 2-1024. - Prohibition on transacting business with the city.**

No commissioner, appointed official, member of an advisory board or committee, member of a quasi-judicial board or committee, or employee shall enter into any contract or transact any business in which that person or a member of the immediate family has a financial interest, direct or indirect with the board or committee of the City of Coral Gables on which that person serves, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. Willful violations of this subsection shall constitute malfeasance in office and shall affect forfeiture of office or position. Nothing in this subsection shall prohibit or make illegal:

(i) the payment of taxes, special assessments or fees for services provided by the city government; or (ii) the purchase of bonds, anticipation notes or other securities that may be issued by the city through underwriters or directly from time to time. This provision shall not apply to boards and committees which have been exempted by the city commission from the requirement of the city's ethic code.

(1) *Waiver of prohibition.* The requirements of this subsection may be waived for a particular transaction only by four affirmative votes of the city commission after public hearing upon finding that:

- a. An open-to-all sealed competitive proposal has been submitted by the offeror;
- b. The proposal has been submitted by a person or firm offering services within the scope of the practice of architecture, professional engineering, or registered land surveying, as defined by the laws of the State of Florida and pursuant to the provisions of the Consultants' Competitive Negotiation Act, and when the proposal has been submitted by an offeror defined above;
- c. The property or services to be involved in the proposed transaction are unique and the city cannot avail itself of such property or services without entering a transaction which would violate this subsection but for waiver of its requirements; or
- d. The property or services to be involved in the proposed transaction are being offered to the city at a cost of no more than 80 percent of fair market value based on a certified appraisal paid for by the offeror; and

e. The proposed transaction will be in the best interest of the city. Such findings shall be spread on the minutes of the commission. This subsection shall be applicable 56 only to prospective transactions, and the city commission may in no case ratify a transaction entered in violation of this subsection.

(2) *Provisions cumulative.* This section shall be taken to be cumulative and shall not be construed to amend or repeal any other law pertaining to the same subject matter.

**Sec. 2-1025. - Further prohibition on transacting business with the city.**

(a) No commissioner, appointed official, member of an advisory board or committee, member of a quasi-judicial board or committee, or employee shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which that person or any member of the immediate family has a controlling financial interest, direct or indirect, with the city board or committee on which they serve, or with any person or agency acting for the city board or committee, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. Waiver of this section may only be obtained by following the provisions of section 2-1024.

(b) Additionally, no commission member shall vote on or participate in any way in any matter presented to the city commission if that person has any of the following relationships with any persons or entities which would be or might be directly or indirectly affected by any action of the city commission:

(i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor, or creditor, if in any instance the transaction or matter would affect the commission member in a manner distinct from the manner in which it would affect the public generally. Any commission member who has any of the specified relationships or who would or might, directly or indirectly, realize a profit by the action of the city commission shall not vote on or participate in any way in the matter.

**Sec. 2-1026. - Compulsory disclosure by employees of firms doing business with the city.**

Should any commissioner, appointed official, member of an advisory board or committee, member of a quasi-judicial board or committee, or employee be employed by a corporation, firm, partnership or business entity in which that person or the immediate family does not have a controlling financial interest, and should the corporation, firm, partnership or business entity have substantial business commitments to or from the city or any city agency, or be subject to direct regulation by the city or a city agency, then the person shall file a sworn statement disclosing such employment and interest with the clerk of the city within 15 days after the person has actual or constructive notice of the relationship.

**Sec. 2-1027. - Cone of silence; contracts for the provision of goods and services.**

The requirements of section 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 of Coral Gables.

(1) *Purpose and intent.* It is the intent of this article to prevent city commissioners, potential vendors, bidders, offerors or service providers from communicating with city department heads, their staff or selection and evaluation committee

(2) members during the period of time in which the cone of silence is imposed on the request for proposals (RFP), request for qualifications (RFQ), or invitations for bids (IFB).

(2) *Cone of silence* is defined to mean a prohibition on:

- a. Any communication regarding a particular request for proposals (RFP), request for qualifications (RFQ), invitation for bids (IFB) or any other advertised solicitation between a potential offeror, vendor, service provider, bidder, lobbyist, or consultant and city department heads, their staff, selection committee or evaluation committee members;
- b. Any communication regarding a particular request for proposals (RFP), request for qualifications (RFQ), invitation for bids (IFB) or any other advertised solicitation between the city commissioners and city department heads, the city departments' staff, selection committee or evaluation committee members.

(3) Applicability.

- a. The cone of silence shall be applicable only to contracts for the provision of supplies, services and construction for amounts greater than \$25,000.00.
- b. The cone of silence shall not apply to:
  1. Informal bids as defined in the procurement code;
  2. Emergency purchases of supplies, services or construction;
  3. Duly noticed pre-bid or pre-proposal conferences;
  4. Duly noticed site visits;
  5. Sole source procurements;
  6. Bid waivers;
  7. Oral presentations during duly noticed meetings;
  8. Competitive negotiations;
  9. Public presentations made to the city commission during any duly noticed public meeting;
  10. Contract negotiations and electronic commerce;
  11. Inquiries by the city commissioners or third parties to the city manager or assistant city managers to determine responsibility or responsiveness of bidders/offerors regarding a particular solicitation, or with regard to the process;
  12. Written communications with the procurement officer or staff responsible for administering the procurement process for a particular solicitation, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation;
  13. Communications with the city attorney, city manager or procurement officer;
  14. Communications between a city commissioner, the city manager, assistant city managers, the city clerk and the city attorney;
  15. Communications between a city commissioner, the city manager, assistant city managers, the city clerk, the city attorney and potential offerors, vendors, service providers, lobbyists or consultants.

**(4) Procedure.**

a. *Imposition.* A cone of silence shall be imposed upon each request for proposals (RFP), request for qualifications (RFQ), invitation for bids (IFB) and any other solicitation when advertised. At the time of imposition of the cone of silence, the city manager shall provide public notice of the cone of silence and shall advise the affected departments in writing. The affected departments include, but are not limited to, selection committee members, user departments, department heads, city attorney, city manager, assistant city managers, and the city commission.

b. *Termination.* Except as otherwise provided herein, the cone of silence shall terminate at the time of 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 commission refers the city manager's recommendation back to the city manager or staff for further review, the cone of silence shall be re-imposed until such time as the city manager's subsequent written recommendation is received by the city clerk.

(5) *Penalties.* Violation of the cone of silence by a particular bidder or offeror shall render any award to said person voidable by the city commission. In addition to any other penalty provided by law, violation of any provision of this division by a city employee shall subject said employee to disciplinary action up to and including dismissal. Any person who violates a provision of this division shall be prohibited from serving on a city competitive selection or evaluation committee unless such appointment is approved by a four-fifths vote of the city commission. A violation of this section by a particular bidder, offeror, lobbyist or consultant shall subject such person to potential debarment pursuant to the provisions of this chapter.

**Sec. 2-1028. - Use of confidential information.**

It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.