

Substitute Bill No. 1 for

BILL NO. 263, 2019

ORDINANCE NO. 27,561, 2019

Introduced by Councilmember Trakas

**AN ORDINANCE**

AMENDING CHAPTER 107, TITLE I SLCRO 1974 AS AMENDED, "PURCHASING," BY ADDING AND ENACTING TWO NEW SECTIONS PERTAINING TO ST. LOUIS COUNTY'S CONE OF SILENCE POLICY.

BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 107, Title I SLCRO 1974 as amended, "Purchasing," is amended by adding and enacting two new sections, which shall read as follows:

**107.400 Definitions.** - The following terms, as used in Section 107.401, shall have the meanings ascribed to them, thus:

Cone of Silence means the period of time during which there is a prohibition on communication regarding a particular solicitation.

County Staff means County employees and officials, including elected and appointed officials and merit and non-merit employees.

Designated Point of Contact means the individual(s) designated in the solicitation document as the point of contact for communications regarding such solicitation.

Evaluation Committee means a group of persons appointed or designated to evaluate, rank, select, or make a recommendation regarding a Vendor and/or the Vendor's response to the solicitation.

Using agency means any department, agency, commission, board, bureau or other unit using supplies or procuring contractual services.

Vendor means a person or entity that participates in a solicitation process under Chapter 107 SLCRO or other applicable County ordinance to provide supplies or services to the County.

Vendor's representative means an owner, individual, employee, partner, officer, or member of the board of directors of a Vendor, or a consultant, lobbyist, or actual or potential subcontractor or subconsultant who acts at the behest of a Vendor in communicating regarding a solicitation.

**107.401 Application of Cone of Silence.** - 1. Subsequent to the posting of a Request for Proposals (RFP), Request for Qualifications (RFQ), Invitation for Bids (IFB), or any other solicitation method issued by the County, there shall be no communication between a Vendor or Vendor's Representative and County Staff regarding that solicitation and/or its related processes outside of the communication defined in the solicitation and the exceptions specified by this section. This requirement shall terminate at the time a contract resulting from the solicitation is executed or when all bids or proposals to the solicitation are rejected by the County.

2. This ordinance shall not be interpreted as prohibiting the following communications:

- (a) Written communication between a Vendor or Vendor's Representative and the County's Procurement Division regarding the solicitation.
- (b) Written communication between a Vendor or Vendor's Representative and the Designated Point of Contact regarding the solicitation.
- (c) Written communication between members of the public who are not Vendors or a Vendor's Representative, and County staff.
- (d) Written communications regarding a Council agenda item with any County Staff, unless specifically prohibited or limited by the applicable competitive solicitation. However, any such written communication must be filed by the communicator with the County Clerk. Any employee or officer in the Office of the County Council, including but not limited to the aides of individual Councilmembers and any Councilmember, receiving or

making any such communication also must immediately file it with the County Clerk. In addition, the County Clerk shall include all written communication as part of the Council agenda item when publishing information related to the agenda.

- (e) Oral communications between the Designated Point of Contact, or his or her designee(s), and Vendor or Vendor's Representative at pre-bid and pre-proposal conferences or during any official interview/meeting to review a proposal and/or statement of qualifications.
- (f) Oral presentations before Evaluation Committees.
- (g) Public statements made during public forum at any County Council meeting, subject to the discretion and limitation by the Council.
- (h) Contract negotiations with County Staff following the award recommendation from a competitive solicitation.
- (i) Purchases exempt from the competitive process pursuant to Section 107.133 SLCRO, Section 107.170 SLCRO, and Section 107.200 SLCRO.
- (j) Oral or written communications in response to communication from the Director of Minority Business Development and Compliance, the Contract Compliance Manager, or Contract and Workforce Compliance Specialists as defined in Section 107.071 SLCRO.

3. The Using Agency shall notify the Director of Procurement at the time of imposition of the Cone of Silence. The Director of Procurement shall provide written notice to the affected departments, the County Executive, each County Council member, and the County Clerk. The Using Agency shall include in any solicitation for supplies or services a statement disclosing the requirements of the Cone of Silence ordinance. Failure to supply this notice shall not relieve any Vendor, Vendor's representative or County Staff from any obligation under this Ordinance.

4. The following provisions shall apply generally to this section:

- (a) All County Staff shall be made aware of the requirements and prohibitions of the Cone of Silence.

- (b) The Using Agency shall ensure that all solicitations include provisions describing the requirements and prohibitions of the Cone of Silence, including how a Vendor or Vendor's Representative may communicate with County Staff, or a reference to this Ordinance.
- (c) This section shall not be interpreted as prohibiting County staff from communicating with each other regarding a competitive solicitation.
- (d) Violation of this ordinance by a Vendor or Vendor's Representative shall result in designation by the Director of Procurement of the bid, proposal, or statement of qualifications as non-responsive.
- (e) Violation of this ordinance by a St. Louis County employee may subject said employee to disciplinary action up to and including dismissal from County service.

ADOPTED: October 8, 2019 ERNEST TRAKAS  
 PRESIDING OFFICER, COUNTY COUNCIL

SIGNED: October 10, 2019 SAM PAGE  
 COUNTY EXECUTIVE

ATTEST: DIANN L. VALENTI  
 ACTING ADMINISTRATIVE DIRECTOR

APPROVED AS TO LEGAL FORM:

BETH ORWICK  
 COUNTY COUNSELOR