

### (1) Communications with Vendors/Respondents

Communications of any kind between the Council and Vendors/Respondents regarding the ITN, including communications regarding process participation or interest in responding, are strictly prohibited.<sup>8</sup> Communications between the Council and Vendors/Respondents regarding any matters unrelated to the JEA ITN Solicitation are permissible. However, Council should consider appearances of impropriety when engaging in any permissible communications with Vendors/Respondents.

### (2) Communications on the merits of the ITN terms

Communications between Council and members of the public, on social media, in news interviews or other public venues and forums regarding the merits of the JEA ITN Solicitation terms are strictly prohibited. Communications regarding JEA, JEA strategic alternatives, or JEA's future *in general* are permissible so long as such discussions do not lead to discussions regarding the merits of ITN. This would also apply to legislation filed by Council. Legislation filed by Council regarding JEA, JEA strategic alternatives and JEA's future *in general* is permissible so long as Council and Council committee discussions do not lead to discussions regarding the merits of the ITN. The same applies during the budget process.

Procurement risks associated with engaging in prohibited communications during the Cone of Silence Period are covered in the previously referenced August 27, 2019 memorandum. Those risks include the potential for Vendors and Respondents to be disqualified from participating in the procurement process which in turn could reduce competition, perpetuate misinformation during the process, and counteract time, money and resources expended by JEA, Vendors/Respondents and others, in undertaking JEA's decision to explore strategic alternatives for JEA's future.

## III. Conclusion

As described above, there are essentially two (2) main ITN-related communication restrictions during the Cone of Silence Period: (1) communications with vendors or respondents to the ITN, and (2) communications regarding the merits of the ITN terms. All other policy-related discussion points with respect to the JEA are permissible. As always, please do not hesitate to contact me with any questions or concerns whatsoever.

---

<sup>8</sup> As potential decision-makers to the JEA ITN Solicitation, the Council and Mayor will have the power to approve or reject the JEA Board's contract award during the procurement process. The JEA Board's *Ex Parte* Communications Policy prohibits communications between a bidder and JEA, its members, employees, agents, and representatives. Given the Council's authority in the JEA Charter to approve or reject the JEA Board's contract award, the Council in this limited procurement instance is acting as a representative and principal decision-maker of the JEA.