

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA

MHM CORRECTIONAL SERVICES, INC.,

CASE NO. 2009 CA 2105

Plaintiff(s),

vs.

STATE OF FLORIDA, DEPARTMENT OF
CORRECTIONS,

Defendant(s),
_____ /

ORDER AFTER IN CAMERA INSPECTION

This cause came before the Court on June 10, 2009 for an expedited hearing on Plaintiff MHM Correctional Services, Inc.'s Amended Complaint for Enforcement of Chapter 119, Florida Statutes against Defendant State of Florida, Department of Corrections. The request for public records was received on May 5, 2009.

MHM was the unsuccessful bidder on R.F.P. from the DOC for certain services. The parties are currently litigating this bid process in the administrative arena in which a final hearing has been scheduled to commence on Friday June 12, 2009.

At the time of the hearing, Defendant had complied substantially with the pending Chapter 119 request. However, Plaintiff¹ asserts that Defendant wrongfully redacted certain portions of an e-mail stream from April 9 and 10, 2009 regarding the bid process. Defendant asserts that this document is exempt from Section 119 disclosure requirements as it is protected work product or privileged communications.

¹ Plaintiff concedes that its notice of intent to protest the contract award was filed and served on April 24, 2009 and the work product or attorney-client privilege docs apply to all documents/communications of this nature after that date.

The Court has conducted an *in camera* inspection of the document containing the e-mail stream and has determined that it is not exempt under the provisions of Chapter 119. It does not appear that any of the communications in the stream were made in contemplation of litigation, which is required for the exemption. (See also F.S. § 90.502, 2008)

This document which has been marked Exhibit 1 by the Court will be maintained under seal by the Office of the Clerk for a period of five (5) days to permit prohibition or other appellate relief by the Defendant, Florida Department of Corrections. Accordingly, it is

ORDERED AND ADJUDGED that the Clerk of Circuit Court in and for Leon County shall maintain under seal Plaintiff's Exhibit 1 until Tuesday, June 16, 2009 at 9:00 a.m. unless stayed by order of the First District Court of Appeals.

DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida on this 10th day of June, 2009.


P. KEVIN DAVEY
Circuit Judge

Copies furnished to:

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