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To:	Ethics; Ethics; Dan Krassner; David Smith
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FYI, a City Ethics blog post today that deals with Sen. Abruzzo's request for an audit of the Palm Beach County ethics commission.

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Appearance Problems Surrounding a Request to Audit a County EC

Appearances are very important in government ethics. A situation that has arisen with respect to a proposed state audit of the Palm Beach County ethics commission has created serious appearance problems.

According to an April 2 article in the Palm Beach ***Post***, state senator Joseph Abruzzo requested an audit of the Palm Beach County EC. He described the audit as a benefit to the EC:

> "It is a good thing to audit government agencies, especially those that look over others. The commission should welcome the audit with open transparency as it adds credibility to the entire process. I am a strong supporter of our inspector general and ethics oversight in Palm Beach County. It is critical that proper training and procedures are in place. The audit will help disclose how the commission operates."

By itself, this would make the audit appear like a good thing for everybody. Unfortunately, if one looks further, the appearance changes.

A visit to the state auditing office's website shows that it almost never audits local agencies. It looked at some water management advisory committees back in 2007, and in 2003 it audited a number of school districts' financial management practices. But that's about it. The state leaves local auditing to local auditors.

So one wonders why the senator did not mention how unusual his request was. A letter to the senator from Integrity Florida, dated April 5, raises a possible answer to this question:

> "We understand that your request for the review of Palm Beach County's Ethics Commission came less than a week after your legislative assistant, Philip Massa, failed to get the Ethics Commission's executive director job."

In other words, there is a question whether the senator misused his office to retaliate for a slight to his aide.

According to another article in the Palm Beach ***Post***, Sen. Abruzzo had this to say in response to the same observation made by a member of the EC:

> "That is one of the most irresponsible comments I have ever heard."

The EC member said that he welcomed the audit and would embrace recommendations that improve the office. "But that is not what this is about," he said. "And you all know it."

According to the article, "Abruzzo said he is considering introducing a bill that would 'ensure compliance and proper training for ethics boards.' The lawmaker said he plans to meet with the ethics commission after the state's legislative session ends to discuss the legislation."

I don't know what he means by "compliance," but proper training is a good thing, something that most EC members do not get. But if his concern is about ECs in general, why not audit the whole lot of them? Why, knowing that your aide has applied for an EC job, would you risk making it look like you had a vendetta with this one particular EC?

Why would any government official act and speak in a way to allow a reporter to write, as Andrew Marra did yesterday in a Palm Beach ***Post*** editorial? "State Sen. Joseph Abruzzo, D-Wellington, is a man who believes in coincidences. At least, he expects Palm Beach County residents to believe in them." Marra called the audit request "a bizarre, nearly unprecedented move that smacks of retribution and political intimidation." And he said that the senator's request "seems of a piece with the organized resistance from many public officials to the implementation since 2009 of the ethics commission and the countywide Office of Inspector General."

Abruzzo may, as he says, be completely innocent. But the appearance is one of petty retribution at best, and at worst, part of a concerted effort to undermine the EC.

A Lobbying Arm

There is another problem that concerns me even more. The senator who called for the audit works for the law firm Weiss, Handler & Cornwell. This firm is closely related to a separate legal entity, All Florida Solutions, which is a lobbyist for the city of Boca Raton, whose officials are under the jurisdiction of the Palm Beach County EC. Boca Raton has tried to prevent paying for the county's inspector general and has failed to establish required reporting policies relating to possible misconduct.

This is where it's time to acknowledge that another local government audit, of the Delray Beach Community
Redevelopment Agency, has been requested. According to an April 4 article in the ***BixPac Review***, it was requested by a different state senator, but "pushed" by

Abruzzo.

According to the mayor of Delray Beach, Abruzzo's law firm is the city's lobbyist. This suggests a serious conflict, which would require that Abruzzo have nothing to do with the matter.

Abruzzo defended himself against the idea that he has a conflict "with a lengthy statement, noting that the firm he works for is legally separate from the city's lobbying firm, which he identified as All Florida Solutions. According to the Florida Secretary of State's Office, the registered agent for All Florida Solutions is Henry Handler, a founding partner of Weiss, Handler and Cornwell."

Google "All Florida Solutions" and you will find nothing but a corporationwiki page saying that the Handler of Weiss, Handler is the firm's director and president. Otherwise, it has no apparent existence, except on paper in the secretary of state's office. Even the Delray Beach mayor considers the law firm, not the lobbying arm, to be his city's lobbyist.

This difference between law (the creation of a separate lobbying arm) and appearance (the senator's boss runs the lobbying firm and no one differentiates between the two) suggests the need for a different sort of audit. Only a lawyer would believe that a legal differentiation of entities matters when it come to government ethics. This legal approach to government ethics is far more dangerous to a government ethics program than whatever concerns the senator might have about the Palm Beach County EC. Perhaps an audit needs to be done to establish best practices for officials dealing responsibly with conflicts, which would include a focus on appearance and reality instead of legal niceties.

There is another coincidence in Delray Beach. According to a ***Sun-Sentinel*** article on April 4, the criticism of the redevelopment agency started immediately after a municipal election in March. The criticism did not come from the senator, but it still makes the audit request look like political retaliation. That's not what audits should be for. It is important to request an audit when it does not appear to be tied to any event that makes the request seem like it's in an individual's personal or political interest. Otherwise, the audit system will look like a political tool rather than a benefit to the public.

The EC's Role

The final appearance problem involves the EC itself. Whatever the appearance problems surrounding the audit request, it is not appropriate for EC members to question the motives behind such a request or to make it look like they oppose an audit of their agency. This makes it look like they have something to hide. This is the impression one gets from reading some of the comments to yesterday's ***Post*** editorial, for example:

> When any Government agency complains about being named as a target in an audit, it makes me worried.
>
> Palm Beach County is tagged as "Corruption County" from both FORBES and TIME magazines. So, what is all the balking at oversight of the oversighters?

An EC should leave accusations to good government groups like Integrity Florida.

Conclusion

If Sen. Abruzzo is serious about improving how local ethics commissions are managed, he should change his audit request to one that covers all local ethics commissions. This will also make his bill, presumably to be based on the results, that much more valuable. But since it will cost the state a great deal of money, the senator should make it clear exactly what his concerns are.

The same thing goes for the Delray Beach redevelopment agency. It is my understanding that many of these agencies have been involved in questionable practices. It is wrong to pick one out. If there's a problem, do a study of the whole bunch, and from this try to develop best practices. Don't act in a way that appears to the public like a political vendetta.