



# Palm Beach County Commission on Ethics

**Commissioners**

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

**Executive Director**

Alan S. Johnson

January 10, 2011

Bill Johnson, Director  
Palm Beach County Emergency Management  
Department of Public Safety  
20 South Military Trail  
West Palm Beach, FL 33415-3130

RE: RQO 10-032  
Reimbursement of Travel Expenses

Dear Director Johnson:

The Palm Beach County Commission on Ethics has considered your request for an advisory opinion, and rendered its opinion at a public meeting on January 6, 2011.

YOU ASKED in your email dated October 22, 2010, whether the Palm Beach County Emergency Management Department (EMD) employees should consider the reimbursement of travel expenses by a state governmental entity as a gift? You also requested that the opinion cover acceptance of future travel expenses from other governmental, as well as non-governmental entities, and gave several examples of past reimbursement occurring prior to the adoption of the Palm Beach County Code of Ethics. Additional information was provided in a telephone conversation with you on October 29, 2010.

IN SUM, since your questions are general in nature and involve future speculative facts and circumstances based upon past events, the Commission cannot opine other than to offer general guidelines under the Code.

- So long as the travel is on behalf of the county and in the performance of your official duties, reimbursement of travel expenses by "other governmental entities or by organizations of which the county is a member" may be accepted "if the travel is related to that membership." These reimbursements are not considered gifts under the Palm Beach County Code of Ethics.
- You may not accept, directly or indirectly, payment of travel expenses by a "county contractor, vendor, service provider, bidder or proposer" that is not a governmental entity or organization of which the county is a member unless the prohibition is specifically waived by the Board of County Commissioners (BCC). Therefore, you may not accept reimbursement from WebEOC, a county vendor, without a waiver.
- Notwithstanding any waiver by the Board of County Commissioners, you may not accept a reimbursement in excess of \$100.00 from a lobbyist, principal or employer of a lobbyist unless the reimbursement is for travel expenses directly related to the performance of your official duties in conducting official business.

2633 Vista Parkway, West Palm Beach, FL 33411 561.233.0724 FAX: 561.233.0735

**Hotline: 877.766.5920 E-mail: [ethics@palmbeachcountyethics.com](mailto:ethics@palmbeachcountyethics.com)**

**Website: [palmbeachcountyethics.com](http://palmbeachcountyethics.com)**



# Palm Beach County Commission on Ethics

## Commissioners

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

## Executive Director

Alan S. Johnson

THE FACTS as we understand them are as follows:

In the past, EMD personnel have been reimbursed for travel expenses by the Federal Emergency Management Agency (FEMA) and the Florida Division of Emergency Management (FDEM) for training and other official functions. Both FEMA and FDEM are governmental entities. The travel to be reimbursed or paid by these entities is EMD business related.

Likewise, in the past, EMD personnel have been reimbursed for travel expenses by "Volunteer Florida" for a conference related to their official duties. Volunteer Florida is a non-profit, non-governmental agency. The travel paid for by Volunteer Florida is EMD business related. Volunteer Florida is a non-profit organization funded in part by the State of Florida and *has provided services to Palm Beach County* during hurricane and other emergencies in the past. You further identified Volunteer Florida as a "coalition" of various volunteer groups that also provide emergency services, and stated that the county is not a member of Volunteer Florida.

In addition, EMD personnel have been reimbursed for travel expenses in the past by WebEOC. WebEOC is a private, for-profit business, and is a vendor of Palm Beach County.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

**§ 2-443(e) *Accepting Travel Expenses.***

No official or employee shall accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals *from any county contractor, vendor, service provider, bidder or proposer.* The board of county commissioners may waive the requirements of this subsection by a majority vote of the board. The provisions of this subsection do not apply to travel expenses paid by other governmental entities or by organizations of which the county is a member if the travel is related to that membership. (Emphasis added)

This section does not apply another governmental entity, or organization of which the county is a member and the expenses are related to the membership. Therefore, the FEMA and FDEM functions are excluded from the prohibition against accepting travel expenses.

Volunteer Florida is not a governmental entity and the county is not a member of the organization. In addition, based on the facts you have provided, it would appear that Volunteer Florida is a service provider to the county. The prohibition therefore applies and may be waived by the Board of County Commissioners (BCC).

WebEOC is a private vendor doing business with the county, therefore the prohibition applies. You may not accept, directly or indirectly, any reimbursement for travel expenses without a waiver. In addition, any reimbursement must be connected to the performance of your official duties or it would be considered a gift and potentially violate lobbyist gift limitations (see below).



# Palm Beach County Commission on Ethics

## Commissioners

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

## Executive Director

Alan S. Johnson

---

### § 2-444 Gift Law

§2-444(a) No county commissioner or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100.00) from any person or business entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist.

§2-444(d) **Gift Reports.** Any official or employee who receives a gift in excess of one hundred dollars (\$100.00) shall report that gift.

§2-444 (e) For the purposes of this section, "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. Food and beverages consumed at a single setting or a meal shall be considered a single gift, and the values of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

§ 2-444(e)(1) **Exceptions.** The provisions of subsection (e) shall not apply to:

- e. Gifts solicited by county employees on behalf of the county in performance of their official duties for the sole use by the county in conducting official business.

As previously indicated, any reimbursement that is not specifically related to the performance of your "...official duties for use solely by the county in conducting its official business" would be considered a gift and subject to the code of ethics prohibitions and reporting requirements as follows:

- No reimbursement/gift may be accepted in excess of \$100.00 from a lobbyist, principal or employer of a lobbyist.
- A reimbursement/gift in excess of \$100.00 received from an individual or entity other than a lobbyist, principal or employer of a lobbyist must be reported pursuant to the requirements of sec. 2-444(d)

It is the responsibility of the county official or employee to know, prior to accepting a reimbursement/gift in excess of \$100.00, whether a contractor, bidder, proposer or service provider offering the reimbursement for travel expenses lobbies county government.

Lastly, sec. 2-444(c) prohibits the acceptance of a reimbursement/gift of any value whatsoever because of an employee or official's past, present or future performance of an official public action or legal duty.

IN SUMMARY, based upon the facts and circumstances you submitted, you may be reimbursed for travel expenses "paid by other governmental entities" such as FEMA and FDEM. You may also be reimbursed for travel expenses by organizations where the county is a member and your travel is related to that membership.



# Palm Beach County Commission on Ethics

## **Commissioners**

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

## **Executive Director**

Alan S. Johnson


You may not be reimbursed by any "county contractor, vendor, service provider, bidder or proposer" unless you obtain a waiver from a majority of the BCC. This would apply to WebEOC, a county vendor, and to Volunteer Florida, as your facts indicate that they provide services to the county.

Notwithstanding any waiver, if the reimbursement is from a lobbyist, principal or employer of a lobbyist who lobbies any part of the county government, you may not accept reimbursement in excess of \$100.00 unless the expense was generated by you in your official capacity and for the performance of your official duties for the county. Lastly, if the reimbursement is not from a lobbyist, principal or employer of a lobbyist, is waived or does not involve a "county contractor, vendor, service provider, bidder or proposer" and your participation is not "on behalf of the county in performance of" your official duty, then the reimbursement would constitute a gift and if in excess of \$100.00 must be reported.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquires regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,

  
Alan S. Johnson  
Executive Director

ASJ/gal