



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, *Chair*
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Executive Director

Alan S. Johnson

January 20, 2011

Joan Beno, Manager
Desktop Administration and Training Services
Palm Beach County Information Systems Services
301 North Olive Avenue
West Palm Beach, FL 33401

RE: RQO 11-001
Gift law

Dear Ms. Beno,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows.

YOU ASKED in your email dated January 3, 2011, whether Palm Beach County, and specifically Information Systems Services, can accept a gift of up to \$2,500.00 in free training and support from Microsoft Corporation, given that Microsoft Corporation is a contracted vendor for Palm Beach County.

IN SUM, based on the facts you have submitted, the free training and support services listed are being offered to Palm Beach County and staff as a governmental entity, and not to any individual employee. The services are for use by the county and its staff in the performance of their official duties as county employees. Therefore, these services are not gifts under Section 2-444, *Gift law*, of the Palm Beach County Code of Ethics.

THE FACTS as we understand them are as follows:

Microsoft Corporation (Microsoft) is a vendor for Palm Beach County, which is substantially invested in Microsoft computer operating systems and software. In the normal course of their business, Microsoft has offered up to \$2,500.00 in free training and support for their existing software entitled, "Architectural Design Readiness & Support." This training and support service is offered to Palm Beach County Information Systems Services as a governmental customer in order to "demonstrate and enhance the benefits of Microsoft products" already purchased and used by the county. These services are offered free of charge to Palm Beach County for employee use in their official duties for the county, and not to any particular individual employee.



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

The Palm Beach County Code of Ethics Section 2-444(e), *Gift law*, states in relevant part:

- (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, promise, or in any other form, without adequate and lawful consideration. (Emphasis added)

However, Section 2-444 (e) (1), states as follows:

- (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 use solely by the county in conducting official business.* (Emphasis added)

IN SUMMARY, based on the information you have provided, the services offered in this case are not gifts under the code of ethics, because they are offered to the county for use by county employees in the performance of official duties as county employees, and not to individual employees. As such, they are not considered to be gifts under the code of ethics.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquiries 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/meb