



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, *Chair*
Manuel Farach, *Vice Chair*
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Executive Director

Alan S. Johnson

March 25, 2011

Paul Murphy, System Integrator
Information Systems Services
301 N. Olive Ave., 8th Floor
West Palm Beach, FL 33411

Re: RQO 11-011

Dear Mr. Murphy,

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.

On March 15, 2011 your supervisor, Chuck Lemon, contacted Commission on Ethics staff to request an advisory opinion and asked whether you may attend the Independent Oracle Users Group Conference (Oracle Conference) as an instructor. In a follow up email on March 22, 2011, Mr. Lemon provided your online registration reflecting your status as an instructor. After reviewing the information submitted by Mr. Lemon, commission staff contacted you directly, and in your email dated March 23, 2011, you requested an advisory opinion providing additional information about the conference and your role with county Information Systems Services (ISS). The conference will take place on April 10 through April 14 in Orlando, Florida and the county would cover the cost of travel, lodging and per diem. While attendance for all speakers is complementary, the registration fee for conference attendees is \$1,750.00.

IN SUM, based on the facts you have submitted, where a county employee attends an educational conference as an instructor, in his official capacity and in the performance of his official duties, the absence or waiver of a registration fee in this context is not an improper reimbursement of travel expenses, notwithstanding the fact that the conference sponsor is a county vendor. Under the code of ethics this is not a gift, because as an instructor the registration fee is adequate consideration for your work and preparation in advance of the conference. Moreover, even under a gift analysis, a registration fee is not considered a gift where the employee attends on behalf of the county in performance of his official duties.

The FACTS as we understand them are as follows:

You are a systems integrator for the county Information Systems Service department. You, along with other members of ISS, collaborated with the county engineering department and developed an innovative software application that allows electronic review and comment on plans submitted by utilities and developers requiring modifications to county roads. This application, called ePermits, is used in conjunction with an Oracle software program entitled AutoVue. The county would like to market this application to other entities. You were the principal designer of ePermits, wrote the majority of the code for the application and assist in the training process.

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Based upon this innovative use of the AutoVue software, Oracle contacted ISS and requested that you speak at the conference and share the ISS team's innovation with other developers. All instructors attend the conference at no charge. The county would be responsible for all travel, lodging, per diem and other costs. You will conduct two hour-long sessions; "Capitalize on Information to Drive Business Process Innovation with AutoVue" and "Enterprise Visualization SIG." These sessions will showcase the county's use of this emerging technology, discuss the benefits of ePermitting and the integration of Geographic Information Systems (GIS) within ePermits and how it can be used to prevent conflicts between different types of permits within the same geographic area.

As an instructor at a conference with over 5,000 projected attendees, you and ISS have the opportunity to market the county application to other organizations and local governments. It is intended that this process be licensed to these entities for a fee benefiting Palm Beach County. Moreover, you would have the opportunity to see other examples of how the AutoVue product is used as well as collaborating with other users from both the private and public sectors.

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

Section 2-443(e) *Accepting Travel Expenses* states as follows:

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 provides, bidder or proposer.

While Oracle is a county vendor, this section of the Palm Beach County Code of Ethics does not prohibit you from speaking at the conference. As a general rule, county employees are prohibited from accepting travel expenses from vendors, including registration fees. In this instance, Palm Beach County is directly paying all expenses related to your travel, lodging and per diem. Since there is no registration fee applicable to conference instructors, there is no improper reimbursement within the context of sec. 2-443(e)

Section 2-444 (a) of the gift law prohibits county employees from accepting gifts valued at over one hundred dollars from a business entity that employs lobbyists. It reads:

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) from any person or business entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist.

Section 2-444(e) defines a gift as:



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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.

Assuming that the fee waiver is of economic value, the value of your time in the preparation and presentation of these lectures would be an off-set consideration for that waiver. Even if this was not adequate and lawful consideration, an exception to the gift law applies to circumstances where a county employee is accepting a benefit, not on his own behalf, but on behalf of the county.

The following exception may be found in Sec. 20444(e)(i)e.:

- (1) Exceptions. The provision 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;

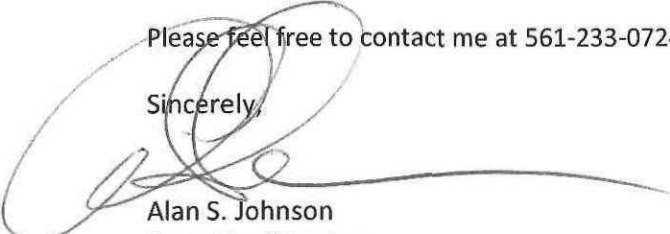
A search of the county lobbyist database revealed that Oracle America, Inc. employs lobbyists who lobby Palm Beach County government. Employees cannot accept any gift in excess of one hundred dollars from a lobbyist or principal or employer of a lobbyist. Notwithstanding, there are some exceptions to this prohibition. In this case, the absence or waiver of the \$1,750.00 registration fee, even if it were found to be a personal benefit to you, is for use in your capacity as a county employee on behalf of the county, as part of your official duties in conducting official business. As a systems integrator who will be marketing a process to economically benefit Palm Beach County, the Oracle conference is directly related to your work on behalf of the county.

IN SUMMARY, based on the facts and circumstances submitted, you may attend the April 10th Oracle conference as an instructor without paying a registration fee, provided all other travel expenses are paid directly by the county and not through reimbursement by a county vendor.

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/mcr/gal