



# Palm Beach County Commission on Ethics

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Alan S. Johnson

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September 20, 2011

Chief Mark Hall  
Palm Springs Police Department  
230 Cypress Lane  
Palm Springs, Florida 33461

Re: RQO 11-063  
Gift Law

Dear Chief Hall,

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 of July 29, 2011, whether your department may solicit and accept donations from a Village vendor in order to refurbish a newly acquired armored vehicle.

IN SUM, since the solicitations are made and donations are used on behalf of the village of Palm Springs Police Department (PSPD) for use solely by the department in conducting its official business, they are not considered to be gifts under the code of ethics. Therefore, Code of Ethics gift regulations pertaining to vendors do not apply.

THE FACTS as we understand them are as follows:

You are the Chief of Police for the Village of Palm Springs (the Village). Recently, the department purchased a 1993 armored vehicle from Brink's Incorporated (Brink's), a nationwide private security firm, for \$10 dollars. Brink's makes these used vehicles available to law enforcement nationwide through this corporate program. Brink's is not a vendor of Palm Springs, nor does the company lobby the Village. The Village's new vehicle needs to be rehabilitated and reconditioned and the PSPD has solicited donations for this purpose from a Village vendor, Republic Services of Florida (Republic). Republic contracts with the Village to provide trash removal services and currently is in its fourth year of a seven-year contract with the municipality.

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

Section 2-444(g)(1)e. specifically exempts gifts solicited or accepted by municipal employees on behalf of the municipality "in performance of their official duties for use solely by the county or municipality for a public purpose." Since the solicitations are made by you as a village employee, on behalf of the

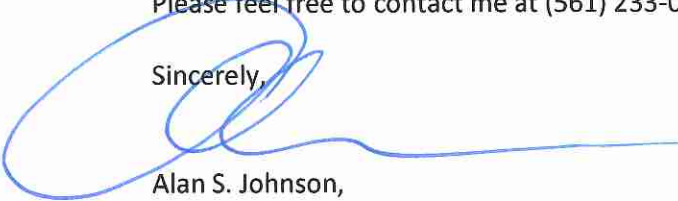
Village for use solely by the PSPD, and the solicited donations will be used to recondition the armored vehicle for public use, they are not gifts as defined by the Code of Ethics.<sup>1</sup> Similarly, the difference in fair market value of the Brink's truck in excess of \$10 would not be considered a gift to the Village from Brink's. Alternatively, any solicited gift not used *solely by the municipality for a public purpose* would be considered a gift and subject to the regulations and requirements of the code. The solicitation or acceptance of funds, while not a gift in this context, must not be based upon a quid pro quo, special privilege, or treatment given, that would constitute a misuse of office.<sup>2</sup>

IN SUMMARY, you are not prohibited from soliciting and accepting donations for the PSPD from vendors of the Village so long as you are doing so in your official capacity for use solely by the Village for a public purpose.

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 should you have any further questions in this matter.

Sincerely,



Alan S. Johnson,  
Executive Director

ASJ/mr/gal

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<sup>1</sup> RQO 10-027 (county department soliciting donations for an awning constructed over a county swimming pool), RQO 10-040 (county department soliciting donations for use in county drowning prevention program)

<sup>2</sup> Section 2-443(a)(b)