



Palm Beach County Commission on Ethics

Commissioners

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Executive Director

Alan S. Johnson

September 26, 2011

Karen T. Marcus, Commissioner
Palm Beach County Governmental Center
301 N. Olive Ave
West Palm Beach, FL 33401

Re: RQO 11-087
Charitable Solicitation

Dear Commissioner Marcus,

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 submission dated September 13, whether you may submit a letter of support on behalf of a non-profit organization seeking grant funding in your capacity as County Commissioner.

IN SUM, you are not prohibited from soliciting grant funding using your official title as County Commissioner on behalf of the Florida Public Health Institute and Jupiter Community Health Services, Inc., so long as you are not an officer or director of the non-profit recipient and any grant monies received from a vendor, lobbyist or principal or employer of a lobbyist of Palm Beach County are recorded in accordance with the transparency requirements of the Code of Ethics.

THE FACTS as we understand them are as follows:

You are a County Commissioner representing District 1, an area that may be generally classified as North Palm Beach County. The Town of Jupiter, a municipality within your district, has asked you to sign a letter of support for a grant proposal to establish a primary care clinic to address the needs of medically underserved populations in Jupiter and the North County area. The Florida Public Health Institute (FPHI), a 501(c)3 non-profit entity designed to improve health care systems, will be seeking the grant and the funds would be managed by Jupiter Community Health Services (JCHS). JCHS is a separate 501(c)3 organization established by the FPHI and Jupiter Medical Center (JMS). Your letter of support would be potentially submitted to three foundations, the Quantum Foundation (Quantum), Palm Healthcare Foundation (PHF) and Allegany Franciscan Ministries (AFM). PHF is a vendor of the County; Quantum and AFM are not, nor do they employ lobbyists who lobby Palm Beach County. You are not an officer or director of any entities involved in the grant proposal.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the revised Palm Beach County Commission on Ethics Ordinance and Code of Ethics, which took effect on June 1, 2011:

Sec. 2-444 Gift Law

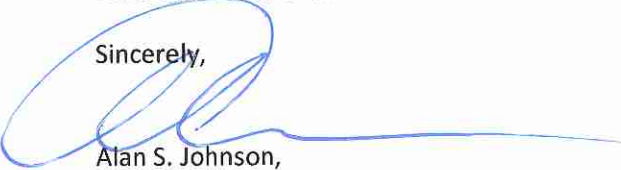
Sections 2-444 (a)(1) prohibits county elected officials and employees, or any other person or business entity on his or her behalf, from soliciting or accepting a gift greater than \$100 in the aggregate for the calendar year from a vendor, lobbyist, principal or employer of a lobbyist who lobbies the county. According to §2-444(h)1 of the revised Code of Ethics¹, public officials may solicit donations, or as in this scenario, grant dollars, provided a detailed log is maintained of *all donations* in excess of \$100 from vendors, lobbyists, principals and employers of lobbyists of that official's governmental entity, and the log is submitted within 30 days of the solicitation to the Commission on Ethics. Accordingly, you would need to provide a record of the grant dollars provided by Palm Healthcare, the only participating organization that is a vendor of Palm Beach County. Insofar as the gift law is concerned, because you are not an officer or director of JCHS or FPFI, you are not prohibited from using your official title in soliciting or accepting donations on behalf of either entity.²

IN SUMMARY, based on the facts and circumstances submitted, you are not prohibited from submitting a letter of support in your official capacity as a Palm Beach County Commissioner for the North County healthcare grant application. Should any of the grant funds be awarded to FPFI and JCHS, a log will need to be submitted of any grant money solicited or received from PHF, a vendor of the county, in accordance with the transparency requirements of 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/mr/gal

¹ The code revision was intended to allow members of the community, who are also elected officials, advisory board members, or municipal or county employees to solicit on behalf of religious, civic or other charitable organizations while maintaining appropriate transparency.

² RQO 11-029 (An official or employee may not use their official position in soliciting on behalf of charitable entities that they serve *as an officer or director*; to do so would *per se* constitute using one's official position to specially financially benefit the charity they serve in violation of §2-443(a)(7))