



Palm Beach County Commission on Ethics

Commissioners

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Executive Director

Alan S. Johnson

April 6, 2012

Mr. Brian H. Berke
100 Australian Ave., Suite 200
West Palm Beach, FL 33406

Re: RQO 12-011
Accepting Travel and Related Expenses

Dear Mr. Berke,

The Palm Beach County Commission on Ethics has considered your request for an advisory opinion, and rendered its opinion at a public meeting on April 5, 2012.

YOU ASKED in your email of February 17, 2012, whether you are permitted to attend a professional development conference and receive travel and related expense reimbursement. You have stated in your email attendance is for educational purposes and will be in your official capacity, and has been reviewed and approved by your supervisor.

IN SUM, you are not prohibited from attending a professional development conference in your official capacity so long as for County purposes and your trip has been approved by your supervisor. Additionally, there is no requirement that you obtain a waiver from the BCC for travel expenses that are not given, directly or indirectly, by a county contractor, vendor, service provider, bidder or proposer. Lastly, registration fees and other related costs associated with educational or governmental conferences or seminars and travel expenses are not subject to gift reporting requirements if your attendance is for governmental purposes and related to your duties and responsibilities as a county employee and your trip has been approved by your supervisor.

THE FACTS as we understand them are as follows:

You are a Manager of Employee Safety and Loss Control for Palm Beach County. You and several members of your staff are members of the American Society of Safety Engineers (ASSE), and your memberships are paid for by the County.

According to its website, ASSE represents more than 34,000 safety, health and environmental professionals... Through outreach, advocacy, standards development and education, ASSE takes the lead in providing expertise and insight on occupational safety, health and environmental issues and practices.

In order to increase member participation in meetings, the local chapter of the ASSE is offering a \$1,550 stipend for a current member to attend the ASSE's national professional development conference in Denver, Colorado, June 3-6th. In order for a member to be eligible for this stipend, they must participate in at least three Gold Coast Chapter Meetings between October 2011 and May 2012. The recipient will be chosen by a random drawing from a list of all interested, qualified members during the chapter's May meeting and the recipient must accept or decline the grant offer within one week. In order to receive the stipend, the recipient must provide the chapter with evidence of participation in the conference and submit a copy of all travel receipts for reimbursement.

If you receive the stipend, you would be attending this educational conference in your official capacity as Manager of Employee Safety and Loss Control for Palm Beach County for governmental purposes related to your duties and responsibilities as a county employee.

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

Hotline: 877.766.5920 E-mail: ethics@palmbeachcountyethics.com

Website: palmbeachcountyethics.com

ASSE is listed as a "registered vendor" on the county vendor list. However, the County Finance Department confirmed through "special payables" that the only reason ASSE is so listed is due to the fact that the county paid for employee memberships, i.e., anyone to whom the County delivers a check or money is considered a "vendor" for County purposes whether or not the "vendor" actually sells goods or services to the County. While ASSE may be a "vendor" for accounting purposes, it is not considered a "vendor" under the Code. Therefore, ASSE is not considered a vendor for goods or services.

THE LEGAL BASIS for this opinion may be found in the travel reimbursement and gift law sections of the Code of Ethics:

Section 2-443(f) Accepting travel expenses, prohibits reimbursement of travel expenses from *any county or municipal contractor, vendor, service provider, bidder or proposer* of your government employer. This prohibition may be waived by the Board of County Commissioner. However, the definition of vendor includes any person or entity who offers to sell or sells goods or services, or sells or leases real or personal property. ASSE receives membership fees from the county for county employees who are members of the society. It has no other relationship with Palm Beach County which would constitute that of a vendor. Therefore, the prohibition and limitation imposed by this section does not apply.

In addition, if your attendance is in your official capacity, approved by your supervisor, related to your official duties and for educational or governmental purposes, reimbursement in excess of \$100 is not considered a gift as defined by §2-444(g) of the gift law and therefore does not need to be reported.¹


While attending the seminar, you may not otherwise accept a gift in excess of \$100, from a vendor, lobbyist, principal or employer of a lobbyist who lobbies, sells or leases to the County.² Lastly, you may not accept anything of value in exchange for the past, present or future *official action taken or legal duty performed*.³

IN SUMMARY, based upon the facts and circumstances you have submitted, you are not prohibited from attending the ASSE's annual professional development conference, and receiving travel reimbursement from ASSE as this entity is not considered a vendor as defined by the code. This opinion applies solely to expenses, reimbursements and stipends you have received in your official capacity.

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/gal

¹ §2-444(g)(1)h. Registration fees and other related costs associated with educational or governmental conferences or seminars and travel expenses either properly waived or inapplicable pursuant to section 2-443(f), provided that the attendance is for governmental purposes, and attendance is related to their duties and responsibilities as an official or employee of the county or municipality

² RQO 11-047, 2-444(a)(1)

³ §2-444(e)