

# Palm Beach County Commission on Ethics

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March 15, 2012

Ms. Liz Moritis, 911 Operator  
201 West Palmetto Park Road  
Boca Raton, FL 33432

Re: RQO 12-020  
Gift Law

Dear Ms. Moritis,

Your request for advisory opinion from the Palm Beach County Commission on Ethics (COE) has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in an email dated March 6, 2012 whether you could solicit local restaurants for donations providing lunch and dinner to 911 operators in recognition of National Telecommunicator week.

IN SUM, public employees, or any person or entity on their behalf, are prohibited from soliciting a gift of any value from a vendor, lobbyist, principal or employer or a lobbyist who sells, leases or lobbies their public employer, if the solicitation is for their own personal benefit, the benefit of their relatives or household members or the benefit of another employee.

This prohibition does not extend to soliciting or accepting donations from persons and entities who are not vendors, lobbyists, or principals or employees who sell lease or lobby their public employer, as long as there is no *quid pro quo* or other benefit given for the past, present or future performance an official act or legal duty.

If the value of an individual meal received by an employee exceeds \$100 it is a reportable gift unless specifically exempted under the code.

THE FACTS as we understand them are as follows:

You are employed by the City of Boca Raton as a 911 Telecommunicator. National Telecommunicator Week (NTW) is from April 8-14<sup>th</sup>, 2012 and honors 911 operators across the country. You would like to solicit area restaurants for donations in order to provide special lunches and dinners for your co-workers. Telecommunicators work either day or evening shifts and you intend to provide a meal for each day of the week. Examples of restaurants you intend to solicit are Publix, Cheesecake Factory, TooJays, Rotellis, Panera Bread and Mississippi Sweets.

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

Section 2-444(c) states as follows:

No county commissioner, member of a local governing body, mayor or chief executive officer when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit a gift of any value from any person or business entity that the recipient knows is a vendor, lobbyist or any principal or employer of a lobbyist where the gift is for the personal benefit of the

official or employee, another official or employee, or any relative or household member of the official or employee. (emphasis added)

As an employee of the City you may not solicit anything of value from a vendor or lobbyist of the City if that solicitation is for the benefit of any City employee. Accordingly, solicitation of donations for employee meals from vendors or lobbyists who vend, lease or lobby the City is prohibited.<sup>1</sup> Solicitation of residents or any other person or entity that is not a vendor or lobbyist of the city is not prohibited, provided there is no *quid pro quo* or other benefit given for the past, present or future performance an official act or legal duty in exchange for the gift.

THE RATIONALE for limiting solicitation of donations from lobbyists and vendors by public employees and officials is grounded in the desire to avoid the appearance of obtaining a financial benefit through one's official position. As for gifts that do not involve lobbyists or vendors, general reporting requirements and other limitations serve to increase transparency and remove the appearance that donations are made to influence official decisions or improperly obtain access to public employees or officials.

Section 2-444(g) defines a gift as "*the transfer of anything of economic value*" and §2-444(f) requires employees to complete an annual gift disclosure report if the value of the gift exceeds \$100, unless one of several exceptions apply. The ethics commission has previously addressed valuation issues and has determined that for purposes of valuation, Florida Statute §112.3148 is applicable to these situations<sup>2</sup>. In addressing valuation of gifts, Florida Statute §112.3148(7) states:

(f) Food and beverages which are not consumed at a single sitting or meal and which are provided on the same calendar day shall be considered a single gift, and the total value of all food and beverages provided on that date shall be considered the value of the gift. Food and beverage consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

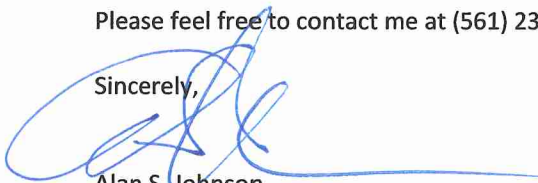
Accordingly, if the value of a gift of food and beverage received from non-vendor donors exceeds \$100/day, City employees must report the meal on their annual gift reporting form.

IN SUMMARY, employees are prohibited from soliciting donations from vendors, lobbyists, principals or employers of lobbyists of the City if the solicited donations will personally benefit themselves, a relative or household member or a fellow employee. Solicitation of donations from residents or other persons or entities who are not vendors or lobbyists of the City is not prohibited, provided there is no official *quid pro quo* offered in exchange for the donation. Gifts of a value in excess of \$100 must be reported as required 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 should you have any further questions in this matter.

Sincerely,



Alan S. Johnson,  
Executive Director

ASJ/mcr/gal

<sup>1</sup> See RQO 11-079, RQO 11-080, RQO11-121, 12-009.

<sup>2</sup> RQO 10-005, RQO 10-024, RQO 11-017, RQO 11-022, §2-444(f) Gift reports.