



Honesty - Integrity - Character

Palm Beach County Commission on Ethics

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August 12, 2025

Kristina Maricic, Administrative Services Manager
City of Delray Beach Police Department
300 W. Atlantic Ave.
Delray Beach, FL 33444

Re: RQO 25-008
Accepting donations; Conflict of interest

Dear Ms. Maricic,

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

QUESTION:

Does the Palm Beach County Code of Ethics (Code) prohibit the City of Delray Beach Police Department (DBPD) from accepting donations for its National Night Out event when the donations may come from vendors or lobbyists of the City of Delray Beach (City)?¹

BRIEF ANSWER:

The DBPD may accept donations for this event from a vendor, lobbyist, or principal or employer of a lobbyist of the City if the donations fall under an applicable gift exception. Here, it appears that the donations will qualify because they will be used solely for a public purpose. Thus, no violation will occur as long as the following conditions are met:

1. City Administration or the City Commission declares the event has a public purpose;
2. The donations are accepted on behalf of the City and used solely for a public purpose; and
3. There is no quid pro quo or other special consideration given to donors in exchange for a donation.

FACTS:

The DBPD annually puts on an event called National Night Out (NNO). NNO is sponsored in part by the National Association of Town Watch (NATW), a registered non-profit organization. NATW is dedicated to enhancing local communities through an established

¹ Your original request to the COE also inquired about the DBPD's annual holiday toy drive and the collection of items and/or funds for unsheltered individuals. The analysis used in this opinion would also apply to both of those scenarios.

network of law enforcement agencies, neighborhood watch groups, civic groups, as well as state and regional crime prevention associations and local volunteers.

NNO is an annual community-building campaign that promotes police-community partnerships and neighborhood camaraderie to make neighborhoods safer as well as to enhance the relationship between the community and law enforcement. Millions of police departments take part in NNO events across the country. Individual neighborhoods host block parties, festivals, parades, cookouts and various other community events with safety demonstrations, seminars, youth events, visits from emergency personnel, and exhibits.

The DBPD's NNO event lasts approximately three hours and is held in the evening, usually at the beginning of October. Several local businesses and organizations have expressed an interest in donating food, school supplies, or funding for the event, and at least one of the businesses is a vendor of the City. Any monetary donations would typically be used to purchase supplies that would be used during the event itself.

ANSWER:

Under the Code, public officials and employees are not prohibited from soliciting or accepting gifts or donations from persons or entities that are not vendors, lobbyists, or principals or employers of lobbyists who lobby, sell, or lease to their public employer. However, for transparency purposes, the acceptance of such gifts may need to be reported on a gift form.² Conversely, the Code prohibits public officials and employees from soliciting or accepting any gift of more than \$100, annually in the aggregate, from a vendor, lobbyist, or principal or employer of a lobbyist who lobbies, sells, or leases to their public employer, unless an exception applies.³ The rationale behind limiting gifts solicited from prohibited sources (vendors, lobbyists, or principals or employers of lobbyists of a public entity) is grounded in the desire to avoid the appearance that these gifts are made to obtain access or gain the goodwill of public employees or officials. Therefore, soliciting or accepting any donations with a value exceeding \$100 from any City vendor, lobbyist who lobbies the City, or principal or employer of such a lobbyist would be prohibited unless an exception applies.

Section 2-444(g)(5) specifically exempts gifts that are solicited or accepted by public employees or officials, in performance of their official duties, on behalf of their public employer for use solely by their public employer for a public purpose from the definition of a gift.⁴ When officials or employees solicit or accept gifts for a public purpose, they do not need to report those gifts on a gift form, and the \$100 limit on gifts from prohibited sources does not apply. The COE has previously opined that whether an event is a government function which constitutes a public purpose must be determined by the administration or by the governing body of the county or municipality as applicable.⁵ Based upon the facts provided, because DBPD employees will be accepting the

² Sec. 2-444(f)

³ Sec. 2-444(a)(1)

⁴ Sec. 2-444(g)(5)

⁵ RQO 19-013; RQO 18-007; RQO 11-063; RQO 11-021

donations for NNO in the performance of their official duties as police department staff, the exception in Sec. 2-444(g)(5) would apply to this situation as long as NNO is determined to have a public purpose.⁶ Therefore, before any donations are solicited or accepted, the City Administration or the City Commission must make a determination that the NNO event is for a public purpose. If it is determined to have a public purpose and the corresponding donations are used solely for that public purpose, then they are not gifts as defined by the Code. Thus, DBPD staff would not be prohibited from soliciting and accepting donations over \$100 from any person or entity, including vendors, lobbyists, or principals or employers of lobbyists who lobby, sell, or lease to the City, as long as the donations are accepted directly into government accounts.⁷

However, if neither the City Administration nor the City Commission determines that NNO serves a public purpose, then DBPD staff would be prohibited from soliciting or accepting donations over \$100, in the aggregate, from any City vendors, lobbyists who lobby the City, or principals or employers of such lobbyists. Additionally, any donations exceeding \$100 from persons or entities that are not vendors, lobbyists, or principals or employers of lobbyists of the City would be acceptable but must be reported on a gift form.

Further, as a reminder, the Code prohibits any person or entity from offering or giving any gift to any public official or employee, and likewise prohibits any public official or employee from accepting a gift from any person or entity, in exchange for the past, present, or future performance or non-performance of any public action or legal duty.⁸ Therefore, the acceptance of a donation for the NNO event must not be based upon any quid pro quo or special privilege or treatment given to the donor in exchange for such a donation, as that would constitute a misuse of office.

LEGAL BASIS:

The legal basis for this opinion is found in Sec. 2-442, 2-444(a)(1), Sec. 2-444(e), and Sec. 2-444(g)(5) of the Code:

Sec. 2-442. Definitions

Gift shall refer to the 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.

Sec. 2-444. Gift law

(a) (1) No county commissioner, member of a local governing body, mayor or chief executive 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 or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100) in the aggregate for the calendar year from any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor,

⁶ This same rationale applies to the other two situations referenced in the opinion.

⁷ RQO 11-084 (donations from vendors solicited by public officials or employees must be deposited into public accounts)

⁸ Sec. 2-444(e)

lobbyist or any principal or employer of a lobbyist who lobbies, sells or leases to the county or municipality as applicable.

- (e) No person or entity shall offer, give, or agree to give an official or employee a gift, and no official or employee shall accept or agree to accept a gift from a person or entity, because of:
 - (1) An official public action taken or to be taken, or which could be taken;
 - (2) A legal duty performed or to be performed or which could be performed; or
 - (3) A legal duty violated or to be violated, or which could be violated by any official or employee.
- (g) Exceptions. The provisions of subsection (g) shall not apply to:
 - (5) Gifts solicited or accepted by county or municipal officials or employees as applicable on behalf of the county or municipality in performance of their official duties for use solely by the county or municipality for a public purpose.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted but assume they are true for purposes of this advisory opinion. This opinion is not applicable to any conflict under state law, or with any relevant provision within the rules of The Florida Bar. Inquiries regarding possible conflicts under state law or bar rules should be directed to the State of Florida Commission on Ethics or The Florida Bar.

Please feel free to contact me at 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Christie Kelley,
Executive Director

RG/gl