



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<b><u>-0-</u></b>	<b><u>-0-</u></b>	_____	_____	_____
<b>No. ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____


Is Item Included In Current Budget? Yes \_\_\_\_\_ No X  
 Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_  
 Object \_\_\_\_\_ Reporting Category \_\_\_\_\_

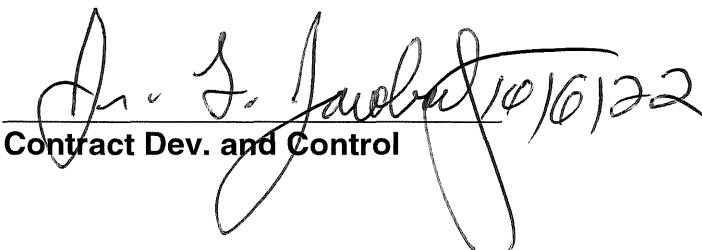
**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

C. Departmental Fiscal Review: 


**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

 10/5/22  
 OFMB JA 10/5  
 ESW 10/5/22

 10/6/22  
 Contract Dev. and Control

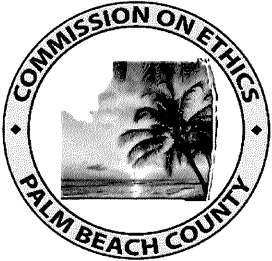
**B. Legal Sufficiency:**

  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

# Attachment 1



*Honesty - Integrity - Character*

## Palm Beach County Commission on Ethics

### **Commissioners**

Rodney G. Romano, Chair  
Michael H. Kugler, Vice Chair  
Peter L. Cruise  
Michael S. Kridel  
Danielle A. Sherriff

### **Executive Director**

Christie E. Kelley

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August 1, 2022

Mr. John Jamason, Deputy Director  
Palm Beach County Public Affairs  
301 N. Olive Ave.  
West Palm Beach, FL 33401

Re: RQO 22-016  
Gift law

Dear Mr. Jamason,

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 Palm Beach County employees from soliciting or accepting sponsorship donations for Palm Beach County Day events?

### **BRIEF ANSWER:**

The Code's gift regulations pertaining to vendors, lobbyists, or principals or employers of lobbyists does not apply when solicitations are made and donations are accepted on behalf of the county for use solely by the county for a public purpose. No violation will occur as long as the following conditions are met:

1. County administration or the board of county commissioners declares the events have a public purpose;
2. The donations are accepted on behalf of the county 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:**

You are the Deputy Director of the Public Affairs Department for Palm Beach County. Each year, in conjunction with the Intergovernmental Affairs Department, the Public Affairs Department coordinates Palm Beach County Day, which is a lobbying event that takes place in Tallahassee during the opening week of the Florida Legislative Session. The event's goal is to provide opportunities for Palm Beach County's commissioners, government leaders, and business leaders to meet both formally and informally with state legislators in an effort to promote Palm Beach County's legislative agenda and to gain additional state funding for Palm Beach County priorities.

Before 2011, Palm Beach County Day had been a sponsorship-driven event. Potential sponsors were contacted and offered opportunities to receive benefits such as signage at the events, listings on printed materials, room reservation preference, and a limited number of tickets to the events in exchange for sponsorship dollars that funded Palm Beach County Day activities. In the subsequent years, Palm Beach County Day reduced its footprint in Tallahassee and became a much smaller event funded through ticket prices alone. The loss of sponsorship dollars necessitated the elimination of the Wednesday Night Reception, which was Palm Beach County Day's largest and most popular event. The Wednesday Night Reception took place on the Capitol grounds and was free and open to the public in accordance with state law. The last Reception was held in 2011, at a cost of just over \$25,000.

The Public Affairs Department believes the time has come to return to a bigger presence in Tallahassee in order to promote Palm Beach County's agenda with more impact. Public Affairs would like to solicit sponsorships for Palm Beach County Day in an effort to increase the county's visibility and impact on lawmakers in Tallahassee during Palm Beach County Day. Public Affairs would also like to re-instate the Wednesday Night Reception at Palm Beach County Day, and funding from sponsorships would be required for the reception to be possible. If such sponsorships are not prohibited, Public Affairs staff will be soliciting potential sponsors by sending proposals to past sponsors and advertising the sponsorship opportunities in their newsletter.

**ANSWER:**

The Code does not prohibit public officials and employees from accepting gifts or donations from persons or entities who are not county vendors or lobbyists or principals or employers of a lobbyist who lobbies their public employer but may require reporting of such gifts for transparency purposes. Conversely, the Code prohibits public employees from soliciting or accepting any gift in excess of \$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. Therefore, soliciting or accepting any sponsorship donations with a value exceeding \$100 from any county vendor or any lobbyist or principal or employer of a lobbyist who lobbies the county would be prohibited unless an exception applies.

The rationale behind limiting gifts solicited by 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 good will of public employees or officials. 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 the public employer for a public purpose from the definition of a gift.<sup>1</sup> 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.<sup>2</sup> Public employees who solicit or accept gifts that meet the public purpose exception do not need to report those gifts on a gift form. Further, as a reminder, the Code also prohibits any person or entity from offering or giving any gift to any public official or employee, and prohibits any public official or employee from accepting a gift from any person or entity, in return for any public action or legal duty as a quid pro quo for the gift.<sup>3</sup>

Based upon the facts provided, because county employees will be soliciting and accepting the sponsorship donations in the performance of their official duties as Public Affairs staff, the exception in Sec. 2-444(g)(5) would apply to this situation as long as Palm Beach County Day events are determined to have a public purpose. Therefore, before any sponsorship donations are solicited or accepted, County Administration or the Palm Beach County Board of County Commissioners must make a determination that Palm Beach County Day events are for a public purpose. If the events are determined to have a public purpose and the sponsorship donations are used solely for that public purpose, then they are not gifts as defined by the Code. Public Affairs staff would not be prohibited from soliciting and accepting sponsorship donations over \$100 from any person or entity, including county vendors or lobbyists or principals or employers of lobbyists who lobby the county as long as the donations are accepted directly into government accounts.<sup>4</sup> Although the solicitation or acceptance of funds is not a gift in this context, it 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.

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<sup>1</sup> §2-444(g)(5)

<sup>2</sup> RQO 19-013; RQO 18-007; RQO 11-063; RQO 11-021

<sup>3</sup> §2-444(e)

<sup>4</sup> RQO 11-084 (donations from vendors solicited by public officials or employees must be deposited into public accounts)

**LEGAL BASIS:**

The legal basis for this opinion is found in §2-444(a)(1), §2-444(e), and §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, 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 assumes they are true for purposes of this advisory opinion. This opinion 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 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Christie E. Kelley  
Executive Director

CEK/gal