Purpose of Review: There are 14 categories of opinions issued by the Palm Beach County Commission on Ethics. Not all the opinions in each category are summarized in this project. Rather, the review selected opinions that the researcher felt provided guidance and direction to officials, employees, advisory board members, vendors and lobbyists.

RQO-11-032, June 24, 2011: (Tourism/Business Exemption) The opinion discusses the role of an external non-profit organization funded in part from the County. In this case, the Film Commission inquired as to whether they could distribute tickets to a gala event to employees and officials of a public agency. The second part of the inquiry relates to the ability of the non-profit organization to fund-raise for a special event. Findings: The COE found that the non-profit agency (Film Commission) could distribute the tickets to the gala to employees and officials of a public agency provided that it was clear that if the value of the ticket(s) provided was in excess of $100, the gift must be reported by the official or employee. Also, the Commission advised the non-profit agency that care must be taken to assure that there was no quid pro quo in the offer and acceptance of the tickets. With respect to the fundraising question, insofar as the fact the non-profit agency is not subject to the Code, as they are not considered a vendor of the public agency, there is no fundraising limitation. However, if a public agency employee or officer is on the board of directors of the non-profit, there are specific prohibitions against the particular employee of officer engaging in fundraising. The opinion is significant to non-profits having a relationship with public agencies as it sets the basis for offering tickets, admission or other like benefits to officials or employees of public agencies.

RQO-11-047, September 6, 2011: (Reportable Gifts) This opinion discusses an inquiry from a public agency employee desiring to attend a professional training conference in their professional capacity. In this instance, the employee won a door prize at the conference. Findings: The provider of the door prize was not a direct vendor of the public agency the employee works for. However, the provider of the door prize was listed among the vendors in a state-purchasing contract that the employing agency uses. Acceptance of the door prize was ok. Because the value of the door prize exceeded $100, it was reportable. The second issue addressed in this opinion involves participation by the employee in a reception sponsored at the conference by a vendor of the public agency that the employee works for. The employee and his family attended the event. The stated value of participation in the reception by the employee and family was $200. Findings: The COE found that the employee must reimburse the vendor $100.
RQO 11-063, September 20, 2011: (Public Purpose Exception) The opinion discusses an inquiry from a law enforcement employee of a public agency regarding the permissibility to solicit funds from the vendors of the public agency. The purpose of the funding solicitation was to defray the cost of refurbishing a public safety vehicle that has been acquired from another company (armored vehicle). Findings: Because the solicitations were made and donations received used on behalf of the public agency for a public purpose, the funds were not considered gifts and the solicitation was allowable.

RQO 11-103, December 1, 2011: (Holiday Gifts) The opinion discusses a number of scenarios related to holiday gifts as follows:

1. May employees of the public agency exchange holiday gifts?
2. May employees accept shared food items such as fruit baskets, candy or baked goods?
3. May employees accept individual holiday gifts, which are placed in a pool to be randomly raffled at the end of the holiday season?
4. May employees accept holiday gifts of cash as a general expression of appreciation where such gifts are not tied to a specific task or service?
   (Context – sanitation workers)

Findings: Gifts in a value in excess of $100, in the aggregate for the calendar year, may not be accepted by employees from vendors, lobbyists, principals or employers of lobbyists who lobby, sell or lease to the public agency. Gifts of any value are prohibited if given for the past, present or future performance of a public act or legal duty. The COE found that depending on facts and circumstances, a general holiday gift, not tied to a public act or duty is not prohibited under the Code. A blind raffle of donated gifts and conducted by the public agency is not prohibited, provided that the donor is not a vendor or lobbyist of the public agency and there is no quid pro quo or other special consideration given to the donor in exchange for the donated gifts. A public employee or official may not solicit anything of value from a vendor or lobbyist where the gift is for his or her personal benefit or the benefit of another official or employee, or any relative or household member of the official or employee. Any gifts that were received by an official or employee, not otherwise prohibited or exempted by the Code, in excess of $100 must be reported by the official or employee as a gift. The COE provided guidance on how to calculate the value of the gift by dividing the value of the gift by the number of employees sharing the gift. With respect to the gift raffle, the COE suggested that the public agency continue with its procedure to have employees who receive individual gifts from the community be required to forward the gifts to the chief administrative or executive officer to be included in a raffle at the end of the holiday season. No gift in excess of $100 given by a vendor or lobbyist, valued in excess of $100 in the aggregate for the calendar year, may be accepted by an employee and placed in the raffle. Finally, with respect to unsolicited holiday gifts to sanitation workers not connected to a specific official action, but rather, given as a general expression of appreciation, were not prohibited. However, no gifts in excess of $100, in the aggregate for the calendar...
year, may be accepted from a vendor or lobbyist of the public agency. All gifts received are subject to gift law requirements of the Code. The opinion is helpful as it defines a process and procedure for handling holiday gifts with a differentiation about “general appreciation” gifts to sanitation workers.

RQO-11-121, March 2, 2012: (Solicitation by Employee for Employee Benefit) This opinion discusses the practice of having a VIP area for officials and employees at a special event. The VIP area is not open to the general public. Findings: Donations solicited by public agency employees from the public agency’s vendors in order to provide employees, officials and their invited guests a VIP area at a special event that is not open or available to the public is prohibited by the Code.

RQO-12-010, March 2, 2012: (Discounts) This opinion was requested by a banking company wishing to offer discounts, fee waivers and other services to employees of public agencies that were also a customer of the banking firm. In addition, the banking company asked if they could offer discounted services to employees of public agencies where the banking company was not a vendor for a public agency. Finding: The COE found that in the case where the banking company was a vendor of a public agency, the banking company was prohibited from offering a personal benefit to officials and employees if the value of the benefit was greater than $100 annually, in the aggregate for the individual employee official or if an benefit is offered as a quid pro quo. In cases where the banking company was not a vendor of a public agency, the banking company would not be prohibited by the gift law under the exception for publically advertised offers made to the general public.

RQO-12-014, April 6, 2012: (Vendor Sponsored Conferences) This opinion was in response to a question from an employee of a public agency as to whether employees are permitted to attend a tuition-free educational seminar provided by a vendor to the public agency. Findings: Employees are not prohibited from attending a tuition-free educational seminar offered by a vendor of the public agency in their official capacity as employees. However, employees may not accept anything else of an annual aggregate value in excess of $100 from the vendor. The definition of gift in this case does not include registration fees and other related costs associated with educational or governmental conferences or seminars where attendance is for a governmental purpose and attendance is related to an employee’s duties and responsibilities as an employee of the public agency. While at such a seminar an employee may not accept a gift from the vendor as sponsor of the seminar, including food and beverage, if the annual aggregate value of these items exceeds $100. Finally, employees attending such a seminar may not accept anything of value in exchange for and “official action taken” or “legal duty performed.”

RQO-12-017, April 6, 2012: (Scholarships) A university wished to offer discounted tuition or scholarships to employees of a public agency. Findings: The COE determined that the university was not a vendor of the public agency and that employees were not prohibited from accepting a tuition discount or scholarship provided there was no quid pro quo, special treatments or privileges given to the
university or its agents in exchange for offering the tuition discount or scholarships. The COE determined the university was not a vendor of the public agency because the benefit of the university’s offer went to employees or their relatives in their personal capacity.

**RQO-12-020, March 15, 2012:** (Solicitation by Employee for Employee Benefits) An employee of a public agency inquired about the ability of employees to solicit local restaurants for donations to defray the cost of a recognition dinner for the employees of a department in the public agency. *Findings:* If the restaurants are vendors, lobbyists, principal or employer of a lobbyist who sells, leases or lobbies the public agency, the solicitation is prohibited. The solicitation prohibition does not extend to restaurants that were not vendors, lobbyists, principal or employer of a lobbyist who sells, leases or lobbies the public agency. The solicitation was deemed allowable by the COE provided there is no *quid pro quo* or other benefit given for the past, present or future performance of an official act or legal duty. If the value of an individual meal received by an employee exceeds $100, it is a reportable gift. *Editor note:* Local administrative regulations may limit or not allow such solicitation.

**RQO-12-034, July 16, 2012:** (Gift Exceptions) This opinion addressed how travel rewards such as hotel points were to be handled in conjunction with official travel by employees and officials of public agencies. In cases where travel or lodging was paid for using a personal credit card and reimbursed, may the employee or official keep the travel rewards and if so, are these considered gifts that are subject to reporting? *Findings:* Because travel rewards are also offered to the general public per advertised offers, there is no prohibition against a public employee or official receiving and retaining the travel rewards provided that the employee or official does not incur higher cost travel or take longer itineraries in order to collect higher travel rewards. The rewards are not classified as gifts.

**RQO-12-060, August 13, 2012:** (Employee/Volunteer Gifts) A public agency inquired about its ability to give holiday gifts to employees and volunteers. *Findings:* Because the provider of the gift is the public agency itself and not a vendor, lobbyist, etc. the gifts are exempt based on the rationale that the public purpose of the gifts was decided by elected officials at a public meeting. *Editor note:* This can include specific discussion of the gift program at a meeting or inclusion of an identifiable appropriation in the annual public agency budget.

**RQO-12-064, October 5, 2012:** (Public Purpose) An elected official of a public agency inquired about receiving gifts that were not accepted personally. The proposed disposition of the gifts was to pass them along to a charitable organization or a department of the public agency. *Findings:* Transferring the gift to another entity does not alter the fact that the official is the original recipient of the gift. In cases where the source of the gift is a vendor, lobbyists, principal or employer of a lobbyist who sells, leases or lobbies the public agency and the value of the gift is in excess of $100, annually in the aggregate, the gift is prohibited. For gifts received from these sources under the value limitation, they may be passed along to a
charitable organization, etc. but a log of the transaction must be maintained and submitted in accord with the Ethics Code. The COE found a distinction with gifts that were to be transferred to a public agency department for public purpose, this can be done even if the donor was a vendor, lobbyists, principal or employer of a lobbyist who sells, leases or lobbies the public agency. A log of such transfer is still required. In all cases, no gift may be solicited or accepted as a quid pro quo for official action, special consideration or in exchange for the past, present or future performance of an official act or legal duty.

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KB: February 2013