
INQ 16-01 Haber

From: Centorino, Joseph (COE)

Sent: Monday, January 04, 2016 10:56 AM

To: 'Haber, Matthew S.'

Cc: Mendez, Victoria; Min, Barnaby; Wysong, George K.; Perez, Martha D. (COE); Morera, Odalys; Diaz-Greco, Gilma M. (COE)

Subject: INQ 16-01 Matthew Haber, Assistant City Attorney, City of Miami (Travel expenses, Gifts)

Mr. Haber:

You have inquired regarding the effect of the waiver of the prohibition on payment of travel expenses from local vendors for local elected officials or public employees on the prohibition under Section 112.3148, Florida Statutes, prohibiting reporting individuals from accepting gifts in excess of \$100 from vendors.

Please be advised that, inasmuch as this agency has no authority to issue binding opinions of the provisions of Chapter 112, any advice I may provide reflecting on the state statute you reference is advisory and for general guidance only. A definitive opinion regarding the interpretation of Section 112.3148 would have to be obtained from the Florida Commission on Ethics.

Per Section 112.3126, Florida Statutes, County or other local ordinances may impose more stringent ethical requirements than those provided under state law, but may not impose more lenient standards than those required under state law. Therefore, the waiver provision under Section 2-11.1(w) would not serve to waive any prohibition under Section 112.3148 regarding acceptance of gifts by reporting individuals or procurement employees (RIPE's) under that section. Those employees who do not fit under the RIPE definition would, of course, be bound only by local ordinance for whom the waiver would be effective. I would note that Section 112.3148(4) has an exception for gifts "accepted on behalf of a governmental entity or charitable organization" if the recipient does not "maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift." I suggest that you consult with the Florida Commission on Ethics regarding the applicability of this exception to whatever circumstances are involved in the issue about which you have inquired.

City of Miami Code, which exempts from the general prohibition on acceptance of gifts from vendors such gifts as are "given for the use and benefit of the city," may be satisfied if there is a sufficient basis on which to conclude that there is a government purpose and benefit for the travel and that it is appropriate to the position of the official or employee involved, provided that the waiver required under Section 2-11.1(w) of the County ordinance is also obtained. This exemption, however, appears to be broader than the exemption in Section 112.3148(4).

Please call me should there be a need for further discussion of this issue.

Sincerely,
Joe Centorino

Joseph M. Centorino
Executive Director and General Counsel

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From: Haber, Matthew S. [<mailto:MSHaber@miamigov.com>]
Sent: Thursday, December 31, 2015 10:26 AM
To: Centorino, Joseph (COE) <CENTORI@miamidade.gov>
Cc: Mendez, Victoria <VMendez@miamigov.com>; Min, Barnaby <bmin@miamigov.com>; Wyson, George K. <GKWyson@miamigov.com>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Morera, Odalys <OMorera@miamigov.com>
Subject: Florida and County Ethics Rules

Good morning Mr. Centorino,

Section 2-11.1(w) of the County Code authorizes a waiver of the prohibition on accepting travel from vendors for local elected officials (among others).

How does this provision interact with section 112.3148, Fla. Stat., prohibiting reporting individuals from accepting gifts in excess of \$100 from vendors?

I'd appreciate any guidance that you can provide.

Thank you and Happy New Year,



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