

Diaz-Greco, Gilma M. (COE)

From: Centorino, Joseph (COE)
Sent: Monday, November 25, 2013 2:56 PM
To: 'Robert Meyers'
Cc: Diaz-Greco, Gilma M. (COE)
Subject: INQ - Robert Meyers, Attorney, Weiss Serota & Helfman

Robert:

You have inquired concerning whether elected municipal officials may solicit residents of the municipality to donate to a Holiday Gift Fund which would be used to distribute funds to municipal employees. Based upon the limited information provided, it is my opinion that this is not a practice that is permissible under the Miami-Dade Conflict of Interest and Code of Ethics Ordinance.

Section 2-11.1(e)(3) of the Ordinance prohibits municipal officials or employees from soliciting any gift. However, in Section 2-11.1(2)(f), gifts solicited by elected officials on behalf of the municipality in performance of their official duties for use solely by the municipality in conducting its official business are excepted from the gift ordinance. The issue you present is whether the solicitation of monetary gifts that would be provided directly to municipal employees would fall within this exception.

While it would be permissible to solicit funds for public purposes connected to a municipality, I do not find that the solicitation of funds for the sole and express purpose of providing extra remuneration to municipal employees is covered by this exception. Even when I have opined that solicitations for public causes are permissible, I have done so with a cautionary note that such solicitations need to be conducted carefully and without any appearance or suggestion that they are solicited either in exchange for some official action or for anyone's private benefit. Solicitations of funds for an express public purpose, such as the renovation of a park or other public area, or the provision of certain specified public services by public employees would likely fall within the exception. I can conceive of some situations where solicitations of funds to be deposited into the public treasury for discretionary use by public officials, which uses might include salaries or other personnel expenses for municipal employees could also be permissible. However, solicitations for funds that would be earmarked for and directly benefit the private interests of municipal employees does not, in my opinion, provide the necessary nexus to an identifiable public benefit that should exist to qualify under the exception in Section 2-11.1(2)(f)..

Please contact me if you would like to further discuss this matter.

Sincerely,
Joe Centorino

From: Robert Meyers [<mailto:RMeyers@wsh-law.com>]
Sent: Friday, November 22, 2013 2:56 PM
To: Centorino, Joseph (COE)
Subject: Question

Hi Joe:

We have been asked to consult with you regarding the practice of sending solicitations to residents of a municipality inviting them to donate to a Holiday Gift Fund. The proceeds will be collected by the municipality and be distributed to the municipality's employees. We would like your thoughts on this practice at your earliest convenience and would appreciate a written response.

Please let me know if you need additional information.

Thanks,

Robert Meyers

[Robert Meyers](#)

**WEISS SEROTA HELFMAN
PASTORIZA COLE & BONISKE**

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