
From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, April 03, 2014 12:55 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: INQ 14-71 - Victoria Mendez, Miami City Attorney (honoraria and related expenses)

INQ 14-71

-----Original Message-----

From: Centorino, Joseph (COE)
Sent: Tuesday, April 01, 2014 4:53 PM
To: 'Mendez, Victoria'; Ramos, Miriam S. (COE); Murawski, Michael P. (COE)
Cc: Min, Barnaby; Wysong, George; Diaz-Greco, Gilma M. (COE)
Subject: INQ - Victoria Mendez, Miami City Attorney (honoraria and related expenses)

Victoria,

I apologize for not getting back to you sooner on this, although this area is anything but clear or simple. I would suggest that anyone who is contemplating accepting such a payment or honorarium request an opinion from us because the answer would likely depend on the exact nature of the person's job, the circumstances of the event, and the relationship of the providing entity to the city.

The County Code, which is all that we can enforce or definitively opine on does not specifically address honoraria. I would say that an honorarium type of payment, i.e., a payment made for a single speech or event (rather than payment for expenses, which is not an honorarium), is not considered a gift because it is not given without consideration. If it is only a one-time event and not something that is done repeatedly, it is not outside employment either. However, the County Code provision that should give one pause is Section 2-11.1(k)(1), which would prohibit the manager, department heads or employees from receiving any compensation for his or her services as an officer or employee of the city. If a particular event was very closely connected to that persons official duties or job responsibilities, then that person should not accept the honorarium at all. It would be more appropriate for the sponsoring entity to pay the honorarium directly to the city in consideration of the time contributed by its employee.

Expenses provided to the official or event are not considered part of the honorarium. If the expenses are paid directly to the city they are not a gift either. However, if the expenses are paid or reimbursed to the employee for an out-of-state trip, then the expenses should be reported by the official or employee as a gift over \$100.

State law directly deals with honoraria, which are not treated as gifts under Section 112.312(12)(b)3. The rules for honoraria and expenses related to honoraria are covered in the provisions of Section 112.3149, which apply only to "reporting individuals" and "procurement employees," not to all public employees generally. Importantly, there is a complete ban on acceptance of honoraria from city vendors, lobbyists, or political committees. Expenses related to the honorarium, such as travel, lodging, meals, etc., are reportable on a special form that needs to be filed annually with the state financial disclosure form. Regular city employees do not appear to be covered by this provision, but I would generally advise any public employee to disclose such items as gifts pursuant to the County Ethics Code. A city employee should also be cognizant of the City of Miami Code Section 2-613, restricting gifts from vendors, as well as Section 2-11.1(w) prohibiting acceptance of travel expenses from municipal contractors or vendors.

If we can be of further assistance in answering any particular question related to this issue, please let me know,

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust
305-579-2594

-----Original Message-----

From: Mendez, Victoria [<mailto:VMendez@miamigov.com>]
Sent: Wednesday, March 19, 2014 5:50 PM
To: Centorino, Joseph (COE); Ramos, Miriam S. (COE); Murawski, Michael P. (COE)
Cc: Min, Barnaby; Wysong, George
Subject: Honorarium or official capacity question

Can a city manager or city employee speak at a conference in his official capacity and not need to report it? Or is it considered an honorarium (the payment of meals, travel and lodging) and no reporting needs to be done? Or is it a gift that requires reporting? I believe it may be an official capacity concept or an honorarium.

The Question has to do with an employee or manager speaking as a Panel Member at a conference. It is a conference related to finance and operation.

Bond Buyer Magazine wants to pay for a trip and hotel stay for the manager to travel to Baltimore and be a panelist at one of the sessions on municipal financial recovery.

What are the parameters to that? Gift to report, honorarium not requiring reporting or official capacity not requiring reporting? If reporting is required, what if anything would need reporting. Thank you!

Victoria Mendez
City Attorney