



CITY OF HALLANDALE BEACH, FLORIDA
MEMORANDUM

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CITY OF HALLANDALE
CITY MANAGER

DATE: October 10, 2013

TO: Mayor Joy F. Cooper

FROM: V. Lynn Whitfield, City Attorney *VLW*

SUBJECT: Ethics Advisory Opinion on Saudi Arabia Delegation

Pursuant to Section 1-19 Code of Ethics for Elected Officials of the Broward County Code of Ordinances, Paragraph (c) 8. Advisory Opinions, you have requested that the City Attorney's office give an Advisory Ethics Legal Opinion regarding your ability to travel with the United States Conference of Mayor's Delegation to Saudi Arabia at no cost to yourself.

Query: You have asked whether or not you are permitted to accept the United States Conference of Mayor's offer to attend its Mayoral Mission to the Kingdom of Saudi Arabia in December, 2013, where all costs are covered by a third party, and whether or not you have to report the value of the trip as a gift? Additionally, you have asked whether or not your husband can accompany you, again with costs covered by the third party, you have to report the value of his trip as a gift?

Answer: As previously stated, this advisory opinion is being given in compliance with Section 1-19 (c) 8 of the Broward County Code of Ordinances. Based on a reading of Broward County Code of Ordinances Standard of Conduct and Section 112.312, Definitions of the Florida Statutes; Chapter 838 Florida Statutes, Bribery; Chapter 839, Offense by Public Officials and Employees; Title 18 U.S. C. Chapter 63, Mail Fraud and Chapter 26, Personnel, of the Broward County Code of Ordinances; the queries posed is answered as follows: You are permitted to accept the trip, in that the third party is not a lobbyist or contractor with the City of Hallandale Beach. Based on the definition of gifts in the Florida Statutes, the value of your trip would not be considered a gift to you, however, if your husband travels with you and his expenses are covered, the value of his trip would be considered a gift and would need to be reported.

FACTS:

This opinion is based on the following facts which were provided by you: The United States Conference of Mayors has invited you and a guest to travel to the Kingdom of Saudi Arabia for a Mayoral Mission in December, 2013. You will be traveling in your official capacity as the Mayor of the City of Hallandale Beach, and as a member of the Executive Board and Trustee of the U.S. Conference of Mayors. You received this invitation based on your active participation with the Conference. The purpose of the delegation is to share and exchange ideas with the individuals governing in Saudi Arabia for their, and the delegation's professional development.

ANALYSIS:

Paragraph (c) of Section 1-19 Broward County Code of Ordinances Standard of Conduct clearly states that the provisions of the Broward Code of Ethics are, in addition to the provisions of the Florida Statutes Chapter 112, Part III, Code of Ethics for Public Officers and Employees, Florida Statutes Chapters 838 and 839; Title 18, Chapter 63 of the United States Code; and Chapter 26, Article V of the Broward County Code of Ordinances, sec. 26-67 et seq. This means that the standards of conduct set forth in Section 1-19 **must** be read in conjunction with the previously stated laws and statutes.

When analyzing whether or not the offer from the U.S. Conference of Mayors can be accepted in light of the Broward County Code of Ethics, we must determine whether or not the offer is a "gift" as defined by law. Although the Broward County Code of Ethics sets a standard for acceptance of gifts, it fails to provide a definition of "gift." It is interesting to note that the only one of the laws or statutes which provides a definition of a "gift" is Section 112.312 of the Florida Statutes. Paragraphs (12) (a) 1-14 sets forth all items which are considered gifts for purpose of ethics in government. Not only does it provide a definition of what is a "gift"; it also gives us guidance on what is not a "gift" Due to the lack of a definition being provided by the Broward County Code of Ethics, we are forced to rely on the one provided in the Florida Statute. Section 112.312 12 (b) 1-8 specifically states that "[Gift] **does not include:**"

For the purposes of your query, we look to number 8 on the list of what is not a gift.

8. Gifts provided directly or indirectly by a state, regional, or national organization which promotes **the exchange of ideas between, or the professional development of, governmental officials or employees,** and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization. Sec. 112.312 (12) (b) (8)

The next question, which needs to be answered, is whether or not the U.S. Conference of Mayors qualifies under this definition. A review of the U.S. Conference of Mayors' website reveals that its membership limited to elected officials who serve as Mayor of their municipality from across the nation. The website states that its purpose is to support

mayors across the nation, to provide mayors with management and leadership tools and to provide a forum where mayors can exchange idea and have **professional development**, and networking opportunities.

Applying the definition from Section 112.312 (b) (8), it is this office's opinion that the U.S. Conference of Mayors qualifies as a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of governmental officials and whose membership is primarily composed of chief elected officials of municipalities.

Now that we have established that the U.S. Conference of Mayors is such an organization, further examination of the definition leads us to the conclusion that any gift received from them, either directly or indirectly to members of the organization or an official of a governmental agency that is a member of the organization, **is deemed not to be a gift for the purposes of ethics in government and financial disclosure required by law.**

Therefore, if you are a member of the U.S. Conference of Mayors, the acceptance of the offer to attend the Mayoral Mission to the Kingdom of Saudi Arabia at no cost to yourself would not be in violation of Section 1-19 (c) (1), in that it is not a gift pursuant to Florida Statute 112.312 (b) (8) and to do so would not be inconsistent with provisions of Florida Statutes Chapter 112, Part III. Furthermore, since it is deemed not to be a gift, there is no reporting requirement.

The second part to your query is whether or not if your husband accompanies you on the trip, and his travel expenses are paid by the third party, this is considered a gift to you and has to be reported?

The second portion of your query is answered in the **affirmative**. The Florida Commission on Ethics has opined that although the regulations do not apply to the accompanying spouse, that the official receives a "reportable" gift when the spouse accompanies the official, and the travel expenses are paid by someone other than the official or spouse. The spouse's travel expenses are viewed as an "indirect" gift to the official. What would be reportable is the costs of transportation, food or beverages, and any entrance fees, admission fees or tickets to events, performances, of facilities.

Thank you for the opportunity to opine on this issue. If you have any further questions on this matter, do not hesitate to contact this office.