

## **Anne Arundel County Ethics Commission**

### **Advisory Opinion**

**99-199**

#### **Issue:**

Whether the Department of Public Works may solicit gifts from county businesses to reward citizens in the county for recycling efforts.

#### **Background:**

The Department of Public Works is interested in initiating a program to reward recycling efforts by awarding prizes to county citizens who participate in some kind of recycling activity. The scheme as envisioned, would be to have department employees hand out "chances" to randomly selected people who bring recycling items to community recycling centers, or place recycling materials at curbside. The "chances" would give the recipients an opportunity to be selected for a significant prize, such as a trip for two, or a large gift certificate. To fund this program, the department would like to solicit "large corporations" to provide the gifts.

#### **Discussion:**

Although on its face, §3-106(a) of the Public Ethics Law prohibits any employee from soliciting any gift, the ethics commission has determined that the prohibition is not in fact, absolute. County employees are permitted, under certain circumstances, to solicit gifts to promote programs that fulfill the county's public purposes, as long as the beneficiaries of the solicitation are members of the public. See, AO-97-165, AO-97-122, and AO-97-41. Both of these factors are present in the program described here.

The guidelines that the commission has previously used for gift solicitations can be summarized as follows:

1. the program must be approved by the county administration, not by an individual department, agency, or board;
2. the solicitations cannot be directed specifically to "controlled donors": people doing business or seeking to do business with the county; people engaged in activities that are regulated or controlled by the county; people that have financial interests that may be affected by the official duties of the department that is soliciting the gift; or people who are lobbyists with respect to matters within the jurisdiction of the department. This restriction does not mean that a controlled donor cannot be solicited under any circumstances. If the solicitation target group happens to include a controlled donor as part of a larger group of related donors, the

solicitation would not necessarily violate the ethics law. However, the department of public works could not target any group that contains a disproportionate number of controlled developers, such as developers, utility contractors or garbage haulers;

3. department employees should not participate in the collection of donations, and should take care not to be informed of the amount of any one donation. The logistics of this arrangement may take some planning, but these efforts will go far toward ensuring that a donor is neither unduly pressured nor rewarded for making a donation. The people responsible for the solicitation, collection and disbursements of the prizes must keep accurate records and receipts;

4. department employees are ineligible to receive prizes; and

5. procedures for awarding "chances" and prizes should be established before the program begins and should be followed without exception.

**Conclusion:**

The ethics commission advises that under the circumstances and restraints set forth in this opinion, the Department of Public Works may solicit funds or gifts from people or entities in order to fund and promote its program to reward citizens who recycle.

Date:

By: the Anne Arundel County Ethics Commission