



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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MEMORANDUM

OPA Ethics Opinion 2024-02

Date: April 17, 2024

FOR PUBLIC RELEASE PURSUANT TO 1 CMC § 8561(j)

FROM: Kate B. Fuller, Legal Counsel
CNMI Office of the Public Auditor

Signature:  Date: 4/17/24

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CNMI Office of the Public Auditor

Signature:  Date: 4/17/2024

Subject: Government Ethics Code Advisory Opinion

The CNMI Office of the Public Auditor (“OPA”) received a request from a government employee for an ethics opinion regarding whether public employees of a government office can solicit contributions from private businesses to support its mission to provide services to a segment of the local community. The government office wanted to source small gifts/donations from local businesses for members of the community and proposed partnering with a not-for-profit organization to make the requests.

Under 1 CMC § 8561(j), OPA is empowered to offer advisory opinions based upon real or hypothetical scenarios with respect to the Commonwealth Government Ethics Code Act (“Ethics Code”). OPA does not offer general opinions about the legality of activities under other sections of the CNMI Code. Thus, this opinion is confined to analyzing the inquiry under the Ethics Code only.

As OPA understands it, the beneficiaries of the small gifts/donations will not be government agents, but instead will be a targeted segment of the community for whom the “gifts” are intended. This scenario avoids violating many Ethics Act provisions, including 1 CMC §§ 8551(a) and (d). To avoid violating 1 CMC § 8551(c)¹ and the appearance of a perceived conflict of interest, the government office proposed that it will work in partnership with a not-for-profit organization in the CNMI to ask for contributions from local businesses. OPA believes that this is a sound strategy for avoiding a perceived conflict of interest. Partnering with a local not-for-profit should help avoid exerting inappropriate pressure and the perception of inappropriate governmental pressure.

To this end, OPA suggests that all solicitations originate from the not-for-profit, whether oral or written. Written solicitations, including solicitations through social media, should appear on the letterhead or

¹The Ethics Act. 1 CMC § 8551(c) prohibits donations by a person, which includes a business, with “an economic interest in a specific Commonwealth business service or regulatory transaction . . . directly or indirectly, to any Commonwealth . . . public employee whose decision or action may substantially affect such transaction . . .” While the law places the burden of avoiding violations of § 8551(c) on the person making the donation, the government should not encourage unwitting ethical breaches.

website of the not-for profit, and should have a limited, if any, reference to the government office or program. Presenting the solicited items to attendees at the government sponsored events by government employees should not violate the Ethics Act.

Finally, OPA recommends that the government office act to implement adequate safeguards to ensure the donations received are properly documented, that any funds received are channeled in a manner consistent with their intended purpose, and that the total amounts of the fundraising efforts are reported to OPA and to the Department of Finance.