# LOBBYING MANUAL

*Information Regarding the*
*City of San Diego*
*Lobbying Ordinance*

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# Introduction

This Lobbying Manual is designed to help lobbyists and prospective lobbyists understand and comply with the City's lobbying laws. Individuals who are paid to communicate with City Officials for the purpose of influencing municipal decisions are responsible for familiarizing themselves with the information in this manual.

This manual is not meant to serve as a substitute for the actual provisions in the City's Lobbying Ordinance (San Diego Municipal Code sections 27.4001, et. seq.).

The City Clerk is the filing official for the City of San Diego and is responsible for accepting and filing lobbying statements. Questions concerning filing procedures and registration fees should be directed to the City Clerk as follows:

(619) 533-4025
cityclerk@sandiego.gov

Other requests for advice and assistance concerning lobbying laws should be directed to the Ethics Commission as follows:

(619) 533-3476
ethicscommission@sandiego.gov

Keep in mind that the Ethics Commission can only provide technical assistance to lobbyists and prospective lobbyists in advance of contemplated action. In other words, the Ethics Commission cannot help you after you have violated the City's lobbying laws, so please be sure to contact our office before you take the action in question.

Finally, please remember that your decision to lobby City Officials carries with it certain responsibilities. In particular, you are required to abide by local laws that regulate lobbying activities, which are explained in detail in this manual. The failure to adhere to these laws could result in a variety of penalties, including but not limited to late fees imposed by the City Clerk, and administrative fines imposed by the Ethics Commission in amounts up to $5,000 per violation.

**LOBBYING FORMS**

The following is a list of lobbying disclosure forms. Each form may be found on the "Lobbyists" page of the Ethics Commission's website and on the "Lobbying" page of the City Clerk's website. Each form will be discussed in greater detail later in this manual.

**Form EC-801**
**Lobbying Firm Registration Form**

This registration form is used by business entities (including individual contract lobbyists) that are paid to engage in lobbying activities on behalf of third parties. "Lobbying Firms" are required to file this form to identify their lobbyists, their clients, the municipal decisions that their clients are seeking to influence, and other relevant information concerning the firms' owners, officers, and lobbyists. See Chapter 3 for assistance filling out this form.

**Form EC-802**
**Organization Lobbyist Registration Form**

This registration form is used by businesses and organizations (including non-profit organizations) that engage in lobbying activities using their own "in-house" employees and officers. Organization Lobbyists are required to file this form to identify the individuals in the organizations authorized to lobby the City, the number of contacts the organizations had with City Officials within the past 60 days, the municipal decisions it sought to influence, and other relevant information concerning the organizations' owners, compensated officers, and lobbyists. See Chapter 4 for assistance filling out this form.

**Form EC-803**
**Lobbying Firm Quarterly Disclosure Report**

This report is filed quarterly by Lobbying Firms to disclose information concerning their clients, their lobbying efforts, and their activity expenses, as well as relevant campaign activities and City contract services performed during the reporting period. Individuals employed by the firm do not file this form. Instead, the firm files one form covering all of the owners, officers, and lobbyists in the firm who engaged in reportable activities during the

reporting period. See Chapter 5 for assistance filling out this form.

**Form EC-804**
**Organization Lobbyist Quarterly Disclosure Report**

This report is filed quarterly by Organization Lobbyists to disclose information concerning their lobbying efforts and activity expenses, as well as relevant campaign activities and City contract services performed during the reporting period. Individuals employed by the organization do not file this form. Instead, the organization files one form covering all of the owners, compensated officers, and lobbyists in the organization who engaged in reportable activities during the reporting period. See Chapter 6 for assistance filling out this form.

**Form EC-805**
**Expenditure Lobbyist Quarterly Disclosure Report**

This report is filed by Expenditure Lobbyists that engaged in indirect lobbying activities during the reporting period. (Note that Expenditure Lobbyists do not file registration forms.) An owner or officer of the Expenditure Lobbyist will complete and file one form identifying each decision the entity sought to influence during the reporting period, the expenditures made, and the outcome sought. See Chapter 7 for assistance filling out this form.

# Chapter 1
## Who Must File

This chapter identifies the types of entities that are required to file lobbying disclosure statements with the City Clerk and disclose information related to lobbying efforts. Note that individual lobbyists have no separate filing requirements; all of their activities should be reported by the entity for which they work.

"Lobbying" means having a direct communication with a "City Official" for the purpose of influencing a municipal decision. If your firm, company, or organization employs one or more individuals to have these kinds of communications, it may be required to register under the City's Lobbying Ordinance.

Not all City employees are "City Officials." If you contact a lower level City employee, it is not "lobbying" and that communication is not subject to the Lobbying Ordinance. In addition, not all decisions are "municipal decisions." Calling a Councilmember to request help filling a pothole on your street is not trying to influence a "municipal decision." See the definitions of "City Official" and "municipal decision" in Chapter 13 for more information.

Generally, when an individual is paid to lobby on behalf of a client, the individual's company becomes a "Lobbying Firm." When an individual is paid to lobby on behalf of his or her employer, that employer may become an "Organization Lobbyist." An entity that lobbies indirectly through public relations and similar methods may become an "Expenditure Lobbyist." This chapter explains the differences between these three different types of lobbying entities.

### LOBBYING FIRMS

If you work for a firm that has clients, and you are paid to contact a City Official in an attempt to influence a municipal decision on behalf of a client, then your firm must register with the City Clerk as a "Lobbying Firm" if it has at least one instance of lobbying a City Official. Put another way, a single paid lobbying communication triggers the registration requirement.

***Example:*** *Jepson & Burke is a consulting firm that specializes in environmental issues. On one occasion, it contacts a City Official for the purpose of influencing an upcoming land use matter on behalf of one of its clients. Because Jepson & Burke is paid to influence a City decision on behalf of a client, it must register with the City Clerk as a "Lobbying Firm."*

Note that in the above example, registration would be required even if the client had not yet paid the firm for lobbying. If the firm is entitled to be paid for lobbying, including an entitlement that is contingent on a particular outcome, then that firm is a "Lobbying Firm."

Attorneys are not exempt from the City's Lobbying Ordinance. See the Ethics Commission's Fact Sheet on Attorneys and the Lobbying Ordinance (included within Appendix 1, and posted on the Commission's website) for additional information.

Firms must register with the City Clerk within 10 calendar days of qualifying as a "Lobbying Firm." See Chapter 3 for information regarding how to complete a Lobbying Firm Registration Form.

Every Lobbying Firm's registration automatically expires on January 5 of the following year. If the firm continues to qualify as a Lobbying Firm, it must renew its registration.

***Example:*** *Draper & Dexter registered as a Lobbying Firm in 2008. In 2009, it continued to have lobbying contacts with City Officials. It must file a new Registration Form with the City Clerk within 10 calendar days of having a paid lobbying contact on or after January 5, 2009.*

An entity that is registered as a Lobbying Firm must file quarterly reports disclosing lobbying contacts the firm made during the quarter. These Quarterly Disclosure Reports are filed with the City Clerk. See Chapter 5 for information regarding how to complete a Lobbying Firm Quarterly Disclosure Report.

### ORGANIZATION LOBBYISTS

If you own or work for a business or organization, including a non-profit or charitable organization, and you lobby on behalf of your business or employer (and not on behalf of outside clients),

then that business or employer may be an "Organization Lobbyist." It will qualify as an "Organization Lobbyist" if its compensated owners, officers, or employees have an aggregate total of 10 or more lobbying contacts with City Officials on behalf of the business or organization within any 60 calendar day period.

***Example:*** *Quality Wireless is a business entity interested in providing cellular telephone service in the City of San Diego. Several of its employees are assigned the task of contacting City Officials to encourage them to support the placement of cellular towers on City property. These employees have a total of 3 meetings with Council staffers, make 6 telephone calls to the Director of Real Estate Assets, and send 1 identical e-mail message to all of the members of the City Council. All of these communications are designed to influence the City's decision on the cellular towers. These contacts take place over the course of several weeks. Because Quality Wireless had 10 lobbying contacts with City Officials within a 60 day period, it must register with the City Clerk as an "Organization Lobbyist."*

For purposes of the contacts rule, parent/subsidiary companies are considered a single entity.

***Example:*** *ABC Development Company is a commercial builder with projects across the country. It creates a subsidiary corporation, Balboa Towers LLC, to oversee a project in San Diego. If an ABC Development employee has 6 lobbying contacts with City Officials, and a Balboa Towers employee has 4 lobbying contacts with City Officials, all within a 60 day period, then the 10-contact threshold has been met. In this situation, the entities must jointly register with the City as an "Organization Lobbyist."*

An Organization Lobbyist can be any type of entity, including a private corporation, a sole-proprietorship, a partnership, a labor organization, a charitable organization, or any other type of non-profit entity. Government agencies, however, are exempt from the Lobbying Ordinance.

See Chapter 8 regarding what is, and is not, a "contact."

Only compensated contacts count toward the 10-contacts registration threshold. In other words, the volunteer members of an organization can have unlimited contacts with City Officials without those contacts counting toward the registration threshold. An organization with no paid officers or employees will never need to register under the Lobbying Ordinance.

Keep in mind that although lobbying contacts by the volunteer members of an entity's board of directors do not count toward the registration threshold, they must still be reported if the entity otherwise meets the registration threshold by having 10 compensated contacts. See Chapter 8 – Contacts by Volunteers for more information regarding volunteers.

Entities must register with the City Clerk within 10 calendar days of qualifying as an "Organization Lobbyist." See Chapter 4 for information regarding how to complete an Organization Lobbyist Registration Form.

Every Organization Lobbyist's registration automatically expires on January 5 of the following year. If the organization continues to qualify as an Organization Lobbyist, it must renew its registration.

***Example:*** *Sky-Net registered as an Organization Lobbyist in 2008. In 2009, its paid owners, officers, and employees continued to lobby City Officials. It must file a new Registration Form with the City Clerk within 10 calendar days of reaching the 10-contacts in 60 days registration threshold.*

An entity that is registered as an Organization Lobbyist must file quarterly reports disclosing lobbying contacts the organization made during the quarter. These Quarterly Disclosure Reports are also filed with the City Clerk. See Chapter 6 for information regarding how to complete an Organization Lobbyist Quarterly Disclosure Report.

## EXPENDITURE LOBBYISTS

An "Expenditure Lobbyist" is defined in the City's Lobbying Ordinance as any person or entity that makes expenditures for public relations, media relations, advertising, public outreach, research, investigations, reports, analyses, studies, or similar activities designed to influence one or more municipal decisions, to the extent that such payments total $5,000 or more within a calendar quarter.

Expenditure Lobbyists are persons and entities that use "indirect" methods of influencing municipal

decisions rather than having direct communications with City Officials. Activities such as holding a private meeting with a City Official, sending a letter or e-mail to a City Official, and talking with a City Official on the telephone do not count toward the $5,000 calendar quarter threshold. Instead, these types of "direct" lobbying efforts are disclosed by Lobbying Firms and Organization Lobbyists.

An Expenditure Lobbyist is the person or entity that is the actual source of the payment, not the intermediaries or vendors who carry out its instructions or orders.

***Example:*** *Simply Sweepers, Inc. pays $5,000 to public relations firm Greene & Verde to garner public support for an upcoming decision to outsource the City's street cleaning services. Simply Sweepers is the Expenditure Lobbyist, not Greene & Verde. (Note that if Greene & Verde is also retained to directly lobby City Officials, it would become a "Lobbying Firm" and would identify Simply Sweepers as a client on its disclosure forms.)*

Expenditure Lobbyists do not file registration forms. They do, however, file Quarterly Disclosure Reports to disclose their indirect lobbying efforts for the quarters in which they meet the $5,000 threshold. An entity that does not meet the $5,000 threshold in a calendar quarter has no obligation to file a Quarterly Disclosure Report even if it filed one for the previous quarter. See Chapter 7 for information regarding how to complete an Expenditure Lobbyist Quarterly Disclosure Report.

## QUESTIONS

**My organization has had 7 contacts in the past 40 days. It will probably reach the 10-contacts threshold within the next 20 days. Should we go ahead and register early?**

That's entirely up to the organization. Early registration is encouraged, as it will give the public more information regarding lobbying in San Diego than it would otherwise have, but it's not required. Note that an organization may register even before it has a single contact if it is so inclined. Keep in mind, however, that once your organization registers, it is obligating itself to file quarterly reports for the rest of the year regardless of how much lobbying it does.

**Are unions and labor organizations exempt from the Lobbying Ordinance?**

No. Although such organizations are not exempt, some of their activities may fall within one of several potentially applicable exemptions. Activities that involve establishing a memorandum of understanding [MOU] between the City and an employee organization (i.e., meet and confer negotiations) or the administration of that MOU are exempt, as are Civil Service Commission proceedings and communications regarding working conditions that relate to the MOU. On the other hand, attempts to influence decisions unrelated to the above exemptions (e.g., how to spend TOT funds), would be subject to the Lobbying Ordinance.

**Are 501(c)(3) non-profit organizations exempt from the Lobbying Ordinance?**

No. Any organization, including a non-profit organization, that pays its officers or employees to have 10 or more lobbying contacts with City Officials within a 60 day period must register as an Organization Lobbyist.

**My lobbying efforts only involve the County and the Port. Do I have to register with the City?**

No. The City's Lobbying Ordinance is limited to "City" decisions, i.e., it applies only to decisions that concern the City of San Diego and its agencies (Centre City Development Corporation; San Diego Convention Center Corporation; San Diego Data Processing Corporation; Southeastern Economic Development Corporation; and the San Diego Housing Commission). So generally, the Lobbying Ordinance will not apply to County or Port matters. There may be instances, however, where the City or a City agency will make a decision regarding a County or Port matter. Contacts you have with "City Officials" concerning such matters will be subject to the Lobbying Ordinance.

# Chapter 2
## Where and When to File Reports

### WHERE TO FILE

All forms and reports discussed in this manual are filed with the City Clerk. Lobbying entities may file their forms and reports by mail or in person. Filings made through the mail should be addressed as follows: San Diego City Clerk, 202 "C" St., 2nd Floor, San Diego, CA 92101.

### WHEN TO FILE REGISTRATION FORMS

**Lobbying Firms** are required to file a Lobbying Firm Registration Form, Form EC-801. This form must be filed within 10 days of qualifying as a "Lobbying Firm."

***Example:*** *Butler & Cooke is a consulting firm that has been retained by a client interested in amending the City's land use laws. On January 5, one of Butler & Cooke's employees has a lobbying contact with a City Official on behalf of that client. Butler & Cooke must file a Form EC-801 by January 15.*

**Organization Lobbyists** are required to file an Organization Lobbyist Registration Form, Form EC-802. This form must be filed within 10 days of qualifying as an "Organization Lobbyist."

***Example:*** *The Pacific Club is an environmental organization seeking to block the City Council's approval of a beachfront development. Its paid employees contact District 2 Council staff members over the telephone to voice their opposition. By February 8, these employees have had 10 lobbying contacts with City Officials. The Pacific Club must file a Form EC-802 by February 18.*

**Note: An entity can be a Lobbying Firm and an Organization Lobbyist if it lobbies on behalf of clients as well as on behalf of itself.**

**Expenditure Lobbyists**
This type of lobbying entity is not required to file a registration form.

### WHEN TO FILE QUARTERLY DISCLOSURE REPORTS

**Lobbying Firms** are required to file a Lobbying Firm Quarterly Disclosure Report, Form EC-803. This form must be filed no later than the last day of the month following the applicable calendar quarter.

***Example:*** *Higgins & Higgins is a Lobbying Firm. It must file its Quarterly Disclosure Report for the January-March reporting period no later than April 30. It will file three more quarterly reports by July 31, October 31, and January 31.*

**Organization Lobbyists** are required to file an Organization Lobbyist Quarterly Disclosure Report, Form EC-804. This form must be filed no later than the last day of the month following the applicable calendar quarter.

***Example:*** *MDFC is an Organization Lobbyist. It must file its Quarterly Disclosure Report for the January-March reporting period no later than April 30. MDFC will also file three more quarterly reports before the last day of the months following the remaining quarters.*

**Expenditure Lobbyists** are required to file an Expenditure Lobbyist Quarterly Disclosure Report, Form EC-805. This form must be filed no later than the last day of the month following any calendar quarter in which the entity reaches the $5,000 expenditure threshold.

***Example:*** *In May, T&AT spends $7,500 for a public relations effort designed to defeat proposed legislation coming before the City Council. As an Expenditure Lobbyist, it must file a Quarterly Disclosure Report for the April-June reporting period no later than July 31. It will not need to file any more quarterly reports unless it continues to engage in expenditure lobbying.*

## OTHER FILING RULES

- If a form or report is sent by first-class mail to the City Clerk, it is considered received on the date of the postmark.
- Deadlines that fall on a Saturday, Sunday, or an official City holiday are extended to the next business day.
- Forms and reports may not be submitted by facsimile transmission.
- Entities that file after a deadline are liable to be fined by the City Clerk in the amount of $10 per day (up to a maximum of $100) until the form or report is received.
- In addition to the above City Clerk late fee, entities that fail to file a timely or complete lobbying form or report may be subject to an administrative fine imposed by the Ethics Commission, up to $5,000 per violation.
- Forms and reports may be filed at any time prior to the deadline so long as they include all required information.
- Forms and reports may be amended by the filer at any time. Forms and reports that are discovered to be incomplete or inaccurate should be amended as soon as possible.
- An unsigned form or report is not considered received by the City Clerk and is subject to the $10 per day fine, even if the report is filed on time.

## AUTHORITY

The following San Diego Municipal Code sections provide authority for the preceding information in this chapter:

27.4007 Registration Required

27.4015 Quarterly Disclosure Report Required

27.4016 Filing Deadline for Quarterly Disclosure Report

# Chapter 3
## Registration Forms for Lobbying Firms

The Lobbying Ordinance requires a Lobbying Firm to submit a registration form that identifies itself, its lobbyists, its clients, the municipal decisions that it is seeking to influence, and other relevant items of information. This chapter provides guidance on how to complete this form. Registration forms must be filed with the City Clerk by a particular due date (See Chapter 2.) Completed Registration Forms will be posted on the City Clerk's website.

Lobbying Firms must use the "Lobbying Firm Registration Form" (Form EC-801) to register. This form is available on the City Clerk's website and through a link on the Ethics Commission's website.

**Note: If there is not enough room to report all relevant information in the appropriate box on a schedule, use the next box on the page or a continuation sheet. Alternatively, print the information on a separate sheet of paper and attach it to the form. Be sure that all attached sheets are clearly identified and referenced on the schedule so that a person reviewing the form will know which attachment pertains to which schedule.**

### COMPLETING THE FORM

#### Cover Sheet - Identification

The Lobbying Ordinance requires the disclosure of the name, address, and telephone number of the Lobbying Firm.

#### Cover Sheet - Schedules

The individual schedules are discussed later in this chapter. Note, however, that on the cover sheet for the Form EC-801, the Lobbying Firm must check either a "Yes" or a "No" box to indicate which parts, if any, of Schedule C must be completed. One box in each row must be checked. If any rows are left blank, you will be required to amend the form.

#### Cover Sheet - Verification

A duly authorized owner or officer of the Lobbying Firm must sign the cover sheet under penalty of perjury.

#### Schedule A – Lobbyist Disclosure

On Form EC-801, a Lobbying Firm must identify on Schedule A the names of each individual in the firm who has lobbied City Officials within the past 30 days, or who is expected to lobby City Officials during the year. Including the name of prospective lobbyists on the registration form enables the firm to identify these individuals without having to amend the form each time another person in the firm starts lobbying the City.

#### Schedule B – Client Disclosure

On Schedule B of Form EC-801, the Lobbying Firm must identify each client for whom the firm has had at least one lobbying contact. A Lobbying Firm is not required to list on Schedule B the clients for whom it has not yet lobbied.

***Example:*** *Burns & Smithers is a Lobbying Firm with 10 clients. It plans to eventually lobby City Officials with regard to 5 of these clients, but to date it has only had direct lobbying communications on behalf of Client 1 and Client 2. On Schedule B, Burns & Smithers must disclose Clients 1 and 2; it need not disclose any of its other clients.*

A Lobbying Firm may prospectively list a client before it has lobbied on that client's behalf. If it lists such a client, however, it may have to disclose information regarding that client on its quarterly statements.

***Example:*** *Burns & Smithers, the Lobbying Firm referenced in the preceding example, decides to disclose Client 1, Client 2, Client 3, Client 4, and Client 5 on Schedule B, even though it hasn't yet lobbied on behalf of the latter three clients. When Burns & Smithers files its quarterly report, it will have to disclose its lobbying activities for all five clients.(Keep in mind that "lobbying activities" includes more than just "lobbying"; see Chapter 5).*

If a Lobbying Firm discloses a client on its Registration Form, it must describe all of the municipal decisions for which it has been retained to lobby the City, even ones where the firm has not yet had a lobbying contact.

***Example:*** *Burns & Smithers represents Client 1 with regard to two municipal decisions, but has only lobbied the City with regard to one of those decisions. Burns & Smithers must identify both municipal decisions on Schedule B.*

### Client Disclosure - Coalitions

If a client is a coalition or membership organization, state the name, address, and telephone number of each individual member of the coalition who has paid, or agreed to pay, at least $1,000 to the Lobbying Firm for lobbying activities performed on behalf of the coalition or organization with regard to a specific municipal decision.

***Example:*** *Bill is a restaurant owner who organized Citizens for a Brighter Future, a coalition that supports a City Ordinance designed to reduce crime in the Gaslamp Quarter by increasing the number of streetlights. Bill convinces a dozen other restaurant owners to join the coalition, and he takes up a collection to hire a lobbyist. Most of the owners contribute between $100 and $500 to retain the lobbyist. Bill's restaurant kicks in $2,500. When the lobbying firm reports its clients, it will disclose that its client is Citizens for a Brighter Future, and will also identify Bill's restaurant, whose payment for the firm's lobbying services exceeded the $1,000 reporting threshold.*

If a coalition member does not meet the $1,000 threshold when the Registration Form is filed, but later makes, or agrees to make, a payment that would cause the member to reach that threshold, the firm must file an amendment to the form to disclose the identity of that member. (See information later in this chapter regarding amendments.)

### Schedule C (Part 1) - Fundraising Disclosure

Lobbying Firms are required to report on Schedule C - Part 1 basic information regarding the campaign fundraising activities of the firm's owners, officers, and lobbyists.

See Chapter 10 for a discussion of what constitutes "Fundraising Activities." Note that the Lobbying Ordinance has been amended to increase the threshold for reporting fundraising activities from $1,000 to $2,000, but only for fundraising that occurs after January 1, 2009.

***Example:*** *Angelica fundraised $1,500 for Candidate McGillicudy in October of 2008. By the time Angelica registers her company as a Lobbying Firm in January of 2009, McGillicudy has been sworn in as a new Councilmember. On her company's Registration Form, Angelica will report the fact that she fundraised for McGillicudy.*

***Example:*** *Gordon fundraised $1,500 for Councilmember McGillicudy in January of 2009 to help retire the Councilmember's campaign debts. Because all of Gordon's fundraising took place after January 1, 2009, and because he did not reach the new $2,000 threshold, he will not need to report his fundraising efforts when he registers his company as a Lobbying Firm in February of 2009.*

The required information is limited to fundraising that took place during the two-year period prior to registering, and applies only to fundraising for a current elected City Official.

***Example:*** *Michael is a partner at a company that is registering as a Lobbying Firm. Michael fundraised for two candidates running for different City Council seats in the election that took place in the preceding November. Candidate Dwight was elected; Candidate Pam lost her race. When the firm discloses fundraising activities, it need only disclose Michael's fundraising for Candidate Dwight. Because Candidate Pam is not an elected officeholder when Michael's firm registers, the firm need not disclose anyone's fundraising for her.*

**Note: Registration Forms require only minimal information regarding fundraising activities. Quarterly Disclosure Reports require greater detail, including information regarding fundraising for all City candidates, not just the ones who are elected. See Chapter 5 for more information regarding Quarterly Disclosure Reports.**

To complete Schedule C – Part 1, identify each owner, officer, and lobbyist in the firm who engaged in "fundraising activities" and met the fundraising threshold for a current elected City Official within the past two years, along with the name of the applicable City Official.

Do not report fundraising for a candidate who lost or withdrew from the election (unless the candidate is still an elected official, e.g. a councilmember who lost a mayoral election but is still a councilmember). Do not report fundraising activities that took place prior to January 1, 2007.

Individual campaign contributions from the firm's owners, officers, and lobbyists are not reportable on a Registration Form. These contributions are, however, reportable on the firm's Quarterly Disclosure Reports; see Chapter 5 for more information.

**Schedule C (Part 2) - Campaign Services Disclosure**

Lobbying Firms are required to report on Schedule C - Part 2 basic information regarding any paid campaign services provided by the firm's owners, officers, and lobbyists to a candidate who is currently an elected City Official.

The required information is limited to paid campaign services provided during the two-year period prior to registering.

***Example:*** *Terry is a lobbyist employed by a company that is registering as a Lobbying Firm. A year ago, he worked as a paid campaign consultant for a candidate who is currently the Mayor. The firm must disclose these services on its Registration Form.*

To complete Schedule C – Part 2, identify each owner, officer, and lobbyist in the firm who received compensation to provide campaign-related services, such as serving as a consultant or treasurer, to a current elected City Official within the past two years, along with the name of the applicable City Official.

Do not report volunteer services provided to a campaign. Do not report services provided to a candidate who lost or withdrew from the election (unless the candidate is still an elected official, e.g. a councilmember who lost a mayoral election but is still a councilmember). Do not report campaign services that were provided prior to January 1, 2007.

**Schedule C (Part 3) - Contract Services Disclosure**

Lobbying Firms are required to report on Schedule C – Part 3 basic information regarding any paid contract services provided to the City by the firm's owners, officers, and lobbyists.

The required information is limited to paid contract services provided during the two-year period prior to registering.

To complete Schedule C – Part 3, identify each owner, officer, and lobbyist in the firm who received compensation to provide services to a City department, agency, or board within the past two years, along with the name of the applicable City department, agency, or board.

Report any type of City contract, including a City employee contract, a City consultant contract, and a City independent contractor contract.

***Example:*** *After working as a council staffer, Ed went to work for a lobbying firm. A year later, he is assigned to lobby City Officials. Ed's firm's Registration Form will identify Ed's previous work for the City.*

***Example:*** *Elena owns a company that is registering as a Lobbying Firm. Elena doesn't do any lobbying herself, but she is working on a number of consulting contracts that the company has with the City's Environmental Services Department. When completing her company's Registration Form, Elena will disclose the fact that she worked for this City department.*

***Example:*** *Kurt works for a Lobbying Firm, and his responsibilities include lobbying the state legislature in Sacramento for the City of San Diego. His firm's Registration Form will disclose the fact that Kurt provided compensated services to the City's Intergovernmental Relations Department.*

Do not report volunteer services, such as serving on a City board, commission, or committee. Do not report any City contract services that were provided prior to January 1, 2007.

**Schedule D – Deleting Clients**

If a Lobbying Firm wants to remove a client because it is no longer performing any lobbying services for that client, it may do so by filing an amendment and completing Schedule D. See additional discussion in following section.

## AMENDING REGISTRATION

If any information on a Registration Form changes, the Lobbying Firm must file an amendment within 10 calendar days. Only new information needs to be disclosed on an amendment; there is no need to re-report the names of lobbyists or clients already identified on the original registration form.

***Example:*** *J&K Inc. is a Lobbying Firm that has identified five clients on an EC-801 Registration Form it filed in March. In June, a new client hires the firm. On June 15, the firm starts lobbying City Officials on behalf of the new client. No later than June 25, J&K must file a new EC-801, check the "Amendment" box on the form, and disclose information regarding the new client on Schedule B.*

If a Lobbying Firm wants to "unregister" a client because it is no longer performing any lobbying services for that client, it must file an amendment and completing Schedule D. On this schedule, all the Lobbying Firm needs to do is identify the name of the former client.

A Lobbying Firm is not required to remove a client if it may perform services for that client later in the year.

**Note: If a Lobbying Firm deletes a client on Schedule D, and then performs lobbying services for that client later in the year, it will have to file another amendment to the Registration Form, and pay another registration fee for re-registering that client.**

When completing Schedule D to delete a client, be sure to check the box on the cover sheet indicating that the firm is filing an Amendment.

**Note: If a Lobbying Firm wants to "unregister" a lobbyist who it is no longer employing to lobby the City, it can file an amendment and write "John Doe (remove)" or "John Doe (delete)" on Schedule B.**

## TERMINATING REGISTRATION

A Lobbying Firm's registration automatically terminates on January 5 of the following calendar year. A firm may, if it wishes, terminate at an earlier time, using the Quarterly Disclosure Report. See Chapter 5 for information regarding using the Quarterly Disclosure Report form to terminate a registration.

## RE-REGISTRATION

As stated in the previous paragraph, each Lobbying Firm's registration automatically terminates on January 5 of the year following registration. If a firm is continuing to lobby City Officials after the termination date, it must re-register by filing another EC-801 form. Such a firm must re-register with the City Clerk within 10 days of re-qualifying as a "Lobbying Firm." In other words, as soon as the firm has one paid lobbying contact following the termination of its previous registration, it has 10 days in which to file a new EC-801.

A firm that is re-registering should complete the Registration Form as if it were starting from scratch, not as if it were amending last year's registration. Thus, a firm that is re-registering does not need to "delete" the names of former lobbyists and clients. Those names were essentially deleted when the firm's previous registration terminated on January 5. Instead, the firm will need to identify on Schedules A and B only the lobbyists and clients it has on the date of its re-registration.

Keep in mind that some re-registration information may duplicate information previously reported. For example, the firm may report identical or similar information regarding

past clients on whose behalf it is continuing to lobby. In addition, because the Lobbying Ordinance requires the disclosure of fundraising activities, campaign services, and City contract services going back two years, information regarding these activities reported on a Registration Form or Quarterly Disclosure Report in the previous year may need to be re-reported on the current year's Registration Form.

**QUESTIONS**

**I did not disclose a client on my Registration Form because I wasn't planning to lobby the City on its behalf. Months later, I now find that I will be lobbying the City for that client. What should I do?**

Your firm must amend its Registration Form within 10 days of making its first lobbying contact on behalf of the new client. Fill out a new Registration Form, check the box on the cover sheet for "amendment," and report the required information regarding this client on Schedule B.

**When I originally registered a client, it was with regard to a land use issue. Now, the client also wants me to lobby on living wage issues. Do I need to file an amendment?**

Yes. Your firm must amend its Registration Form within 10 days of assuming the new duties for this client. Fill out a new Registration Form, check the box on the cover sheet for "amendment," and report the new information regarding this client on Schedule B.

**Do campaign contributions need to be reported on a Registration Form?**

No. Campaign contributions are reported only on the Quarterly Disclosure Report, and only if the contributions were made during the quarter covered by that report. This requirement is different from the "fundraising activities" disclosure, for which relevant information must be reported on the Registration Form <u>and</u> the Quarterly Disclosure Report.

**AUTHORITY**

The following San Diego Municipal Code sections provide authority for the preceding information in this chapter:

| | |
|---|---|
| 27.4009(a) | Contents of Registration Form |
| 27.4012 | Amendments to Registration Form |

# Chapter 4
## Registration Forms for Organization Lobbyists

The Lobbying Ordinance requires each Organization Lobbyist to submit a registration form that identifies itself, the individuals in the organization who are authorized to lobby on behalf of the organization, the municipal decisions that it sought to influence during the 60 days prior to registration, and other relevant items of information. This chapter provides guidance on how to complete this form. Registration Forms must be filed with the City Clerk by a particular due date (See Chapter 2.) Completed Registration Forms will be posted on the City Clerk's website.

Organization Lobbyists must use the "Organization Lobbyist Registration Form" (Form EC-802) to register. This form is available on the City Clerk's website and through a link on the Ethics Commission's website.

**Note: If there is not enough room to report all relevant information in the appropriate box on a schedule, use the next box on the page or a continuation sheet. Alternatively, print the information on a separate sheet of paper and attach it to the form. Be sure that all attached sheets are clearly identified and referenced on the schedule so that a person reviewing the form will know which attachment pertains to which schedule.**

### COMPLETING THE FORM

#### Cover Sheet - Identification

The Lobbying Ordinance requires the disclosure of the name, address, and telephone number of the Organization Lobbyist.

#### Cover Sheet - Schedules

The individual schedules are discussed later in this chapter. Note, however, that on the cover sheet for the Form EC-802, the Organization Lobbyist must check either a "Yes" or a "No" box to indicate which parts, if any, of Schedule C must be completed. One box in each row must be checked. If any rows are left blank, you will be required to amend the form.

#### Cover Sheet - Verification

A duly authorized owner or officer of the Organization Lobbyist must sign the cover sheet under penalty of perjury.

#### Schedule A (Part 1) – Number of Contacts

On Schedule A, Part 1, the Organization Lobbyist must state the number of separate contacts (meetings, telephone calls, letters, e-mails, etc.) that the owners, officers (compensated and uncompensated), and employees of the organization had with City Officials during the preceding 60 calendar days in attempts to influence City decisions.

**Note: If an entity registers prospectively, before having any lobbying contacts (as discussed in Chapter 1), it would put "zero" in this space.**

For information regarding what is, and what is not, a "contact," please see Chapter 8.

Include lobbying contacts made by the uncompensated members of an organization's board of directors. Even though the contacts made by such individuals do not count toward the 10-contacts threshold, these lobbying contacts are still reportable on Schedule A. Do not report the contacts made by other volunteers in the organization.

When calculating the number of contacts, do not include instances where someone from the organization spoke at a public meeting noticed under the Brown Act, such as a meeting of the City Council.

Also do not include any communications that are subject to one of the exceptions identified in the Lobbying Ordinance. See Chapter 8 for additional information.

**Schedule A (Part 2) - Municipal Decisions**

On Schedule A, Part 2, describe each municipal decision that the organization sought to influence during the previous 60 calendar days.

Identify the outcome the organization sought. For example: "passage of the Living Wage Ordinance" or "the adoption of stricter laws and policies designed to reduce storm drain pollution."

**Schedule B (Part 1) – Description of Organization**

On Form EC-802, Organization Lobbyists must describe on Schedule B – Part 1 the nature and purpose of the organization. An entity could state, for example, "cable television provider" or "stopping development in the City's beach areas." The description should be sufficient for the public to be reasonably informed with regard to what kind of entity the Organization Lobbyist is.

**Schedule B (Part 2) - Lobbyist Disclosure**

On Form EC-802, Organization Lobbyists must identify on Schedule B - Part 2 the name of each individual in the organization who is authorized to lobby City Officials on behalf of the organization. Including the name of prospective lobbyists on the registration form will avoid the need for the organization to amend the form each time another person in the organization is authorized to lobby the City.

***Example:*** *TaxRevolt is an Organization Lobbyist with six paid officers and employees. It has authorized all six individuals to lobby City Officials with regard to several issues of interest to the organization. As of the date that it registered, only its Executive Director had a lobbying contact. On Schedule B, Part 2, TaxRevolt will disclose all six individuals because each of them is authorized to lobby the City.*

Except for the volunteer members of an organization's board of directors, do not include the names of any uncompensated persons or other volunteers of the organization who may be communicating with City Officials.

**Schedule C (Part 1) - Fundraising Disclosure**

Organization Lobbyists are required to report on Schedule C - Part 1 basic information regarding the campaign fundraising activities of the organization's owners, compensated officers, and lobbyists.

See Chapter 10 for a discussion of what constitutes "Fundraising Activities." Note that the Lobbying Ordinance has been amended to increase the threshold for reporting fundraising activities from $1,000 to $2,000, but only for fundraising that occurs after January 1, 2009.

***Example:*** *Theresa fundraised $1,500 for Candidate McGillicudy in October of 2008. By the time Theresa registers her company as an Organization Lobbyist in January of 2009, McGillicudy has been sworn in as a new Councilmember. On her company's Registration Form, Theresa will report the fact that she fundraised for McGillicudy.*

***Example:*** *Sam fundraised $1,500 for Councilmember McGillicudy in January of 2009 to help retire the Councilmember's campaign debts. Because all of Sam's fundraising took place after January 1, 2009, and because he did not reach the new $2,000 threshold, he will not need to report his fundraising efforts when he registers his company as an Organization Lobbyist in February of 2009.*

The required information is limited to fundraising that took place during the two-year period prior to registering, and applies only to fundraising for a current elected City Official.

***Example:*** *Michelle is a lobbyist for a company that is registering as an Organization Lobbyist. She fundraised for two candidates running for different City Council seats in the election that took place the preceding November. Candidate Dwight was elected; Candidate Pam lost her race. When disclosing the organization's fundraising activities, the organization needs only disclose Michelle's fundraising for Candidate Dwight. Because Candidate Pam is not an elected officeholder when Michelle's company registers, the company need not disclose anyone's fundraising for her.*

**Note: Registration Forms require only minimal information regarding fundraising activities. Quarterly Disclosure Reports require greater detail, including information regarding fundraising for all City candidates, not just the ones who are elected. See Chapter 6 for more**

**information regarding Quarterly Disclosure Reports.**

To complete Schedule C – Part 1, identify each owner, compensated officer, and lobbyist in the firm who engaged in "fundraising activities" for a current elected City Official within the past two years, along with the name of the applicable City Official.

Fundraising by volunteers of the organization is not required to be disclosed, except in the case of officers (e.g., the volunteer members of an organization's board of directors), and then only if such individuals are also "lobbyists."

Do not report fundraising for a candidate who lost or withdrew from the election (unless the candidate is still an elected official, e.g. a councilmember who lost a mayoral election but is still a councilmember). Do not report fundraising activities that took place prior to January 1, 2007.

Individual campaign contributions from the organization's owners, compensated officers, and lobbyists are not reportable on a Registration Form. These contributions are, however, reportable on the organization's Quarterly Disclosure Report; see Chapter 6 for more information.

**Schedule C (Part 2) - Campaign Services Disclosure**

Organization Lobbyists are required to report on Schedule C - Part 2 basic information regarding any paid campaign services provided by the organization's owners, compensated officers, and lobbyists to a candidate who is currently an elected City Official.

The required information is limited to paid campaign services provided during the two-year period prior to registering.

***Example:*** *Terri is a lobbyist employed by a company that is registering as an Organization Lobbyist. A year ago, she worked as a paid campaign consultant for a candidate who is currently the Mayor. The company must disclose these services on its Registration Form.*

To complete Schedule C – Part 2, identify each owner, compensated officer, and lobbyist in the firm who received compensation to provide campaign-related services, such as serving as a consultant or treasurer, to a current elected City Official within the past two years, along with the name of the applicable City Official.

Campaign-related services provided by volunteers of the organization are not required to be disclosed, except in the case of officers (e.g., the volunteer members of an organization's board of directors), and then only if such individuals are also "lobbyists."

Do not report volunteer services provided to a campaign. Do not report services provided to a candidate who lost or withdrew from the election (unless the candidate is still an elected official, e.g. a councilmember who lost a mayoral election but is still a councilmember). Do not report campaign services that were provided prior to January 1, 2007.

**Schedule C (Part 3) - Contract Services Disclosure**

Organization Lobbyists are required to report on Schedule C – Part 3 basic information regarding any paid contract services provided to the City by the firm's owners, compensated officers, and lobbyists.

The required information is limited to paid contract services provided during the two-year period prior to registering.

***Example:*** *Paula owns a company that is registering as an Organization Lobbyist. Paula doesn't do any lobbying herself, but she does work on a number of consulting contracts that the company has with the City's Environmental Services Department. When completing her company's Registration Form, Paula will disclose the fact that she worked for this City department.*

To complete Schedule C – Part 3, identify each owner, compensated officer, and lobbyist in the firm who received compensation to provide services to a City department, agency, or board within the past two years, along with the name of the applicable City department, agency, or board.

Contract services provided by volunteers of the organization are not required to be disclosed, except in the case of officers (e.g., the volunteer members of an organization's board of directors), and then only if such individuals are also "lobbyists."

Report any type of City contract, including a City employee contract, a City consultant contract, and a City independent contractor contract. Do not report volunteer services, such as serving on a City board, commission, or committee. Do not report any City contract services that were provided prior to January 1, 2007.

## AMENDING REGISTRATION

If any information on a Registration Form changes, the Organization Lobbyist must file an amendment within 10 calendar days. If the organization's nature and purpose changes, or if it adds a new lobbyist, it must file an amendment and report the changes on Schedule B.

Only new information needs to be disclosed on an amendment; there is no need to re-report the names of lobbyists already identified on the original registration form.

***Example:*** *ABC Development is an Organization Lobbyist that disclosed 5 lobbyists on its EC-802 registration form. Later in the year, it hires a new employee to lobby on a City decision. Within 10 days of authorizing the new employee to lobby on its behalf, ABC must file a new EC-802 form, check the "Amendment" box on the form, and identify the new lobbyist on Schedule B.*

**Note: If an Organization Lobbyist wants to delete information from its previously-filed form, it can, for example, file an amendment and write "John Doe (remove)" on Schedule B to delete the name of a former lobbyist employee.**

## TERMINATING REGISTRATION

An Organization Lobbyist's registration automatically terminates on January 5 of the following calendar year. An organization may, if it wishes, terminate at an earlier time, using the Quarterly Disclosure Report. See Chapter 6 for information regarding using the Quarterly Disclosure Report form to terminate a registration.

## RE-REGISTRATION

As stated in the previous paragraph, each Organization Lobbyist's registration automatically terminates on January 5 of the year following registration. If an entity is still engaged in lobbying City Officials after the termination date, it may have to re-register by filing another EC-802 form. As with its initial registration, the entity must determine whether or not it has had 10 compensated lobbying contacts with City Officials within the previous 60 days. Note that in January or February, this could include contacts that took place in November or December of the previous year.

Even if an entity does not meet the 10 contacts threshold in the days immediately following the termination of its previous registration, it should keep in mind that re-registration may be triggered by 10 compensated lobbying contacts during the course of any 60 day period throughout the remainder of the year.

An organization that is re-registering should complete the Registration Form as if it were starting from scratch, not as if it were amending last year's registration. Thus, an entity that is re-registering as an Organization Lobbyist will not need to "delete" the names of its former lobbyists. Those names were essentially deleted when the entity's previous registration terminated on January 5. Instead, the entity will identify on Schedule C – Part 2 only the names of the individuals it is authorizing to lobby on its behalf for the current calendar year.

Keep in mind that some re-registration information may duplicate information previously reported. For example, the entity may report identical or similar information regarding past municipal decisions for which it is continuing to lobby. In addition, because the Lobbying Ordinance requires the disclosure of fundraising activities, campaign services, and City contract services going back two years, information regarding these activities reported on a Registration Form or Quarterly Disclosure

Report in the previous year may need to be re-reported on the current year's Registration Form.

## QUESTIONS

**When identifying my organization's lobbyists on Schedule B, do I have to list everyone in the organization?**

No. The organization needs to identify only the individuals in the organization who are authorized to lobby the City on behalf of the organization. If an employee not identified on Schedule B starts to have lobbying contacts on behalf of the organization, the organization must amend its Registration Form to add that person.

**Do campaign contributions need to be reported on a Registration Form?**

No. Campaign contributions are reported only on the Quarterly Disclosure Report, and only if the contributions were made during the quarter covered by that report. This requirement is different from the "fundraising activities" disclosure, for which relevant information must be reported on the Registration Form and the Quarterly Disclosure Report.

**After our organization filed its Registration Form, we realized that we forgot to identify a City contract that one of our lobbyists worked on. What should we do?**

Whenever an Organization Lobbyist discovers that the information in its Registration Form is incomplete or incorrect, it must file an amendment to fully and accurately disclose the required information. The amendment must be filed within calendar 10 days of discovering the incomplete or incorrect information.

## AUTHORITY

The following San Diego Municipal Code sections provide authority for the preceding information in this chapter:

| | |
|---|---|
| 27.4009(b) | Contents of Registration Form |
| 27.4012 | Amendments to Registration Form |

# Chapter 5
## Quarterly Disclosure Reports for Lobbying Firms

The Lobbying Ordinance requires a Lobbying Firm to file quarterly reports that disclose the lobbying activities the firm engaged in during the quarter, as well as other information relating to campaign and contracting activities. This chapter provides guidance on how to complete a quarterly report. All quarterly reports must be filed with the City Clerk no later than the last day of the month following the applicable calendar quarter (See Chapter 2 for more filing information.) Completed reports will be posted on the City Clerk's website.

Lobbying Firms must use the "Lobbying Firm Quarterly Disclosure Report" (Form EC-803). This report form is available on the City Clerk's website and through a link on the Ethics Commission's website.

**Note: If there is not enough room to report all relevant information in the appropriate box on a schedule, use the next box on the page or a continuation sheet, or print the information on a separate sheet of paper and attach it to the report. All attachments must be clearly identified and referenced on the schedule so that anyone reading the report will know which attachment pertains to which schedule.**

### COMPLETING THE FORM

#### Cover Sheet - Identification

The Lobbying Ordinance requires the disclosure of the name, address, and telephone number of the Lobbying Firm.

#### Cover Sheet - Schedules

The individual schedules are discussed later in this chapter. Note, however, that on the cover sheet for the Form EC-803, the Lobbying Firm must check either a "Yes" or a "No" box for each schedule to indicate which schedules are relevant to the firm. One box in each row must be checked. If any rows are left blank, the firm will be required to amend the form.

#### Cover Sheet - Verification

A duly authorized owner or officer of the Lobbying Firm must sign the cover sheet under penalty of perjury.

#### Schedule A – Client Disclosure

On Form EC-803, a Lobbying Firm must identify on Schedule A the clients for whom the firm engaged in lobbying activities during the quarter, and provide details regarding those activities.

Fill out at least one Schedule A for each client for whom the firm engaged in lobbying activities during the quarter. The term "lobbying activities" includes making a lobbying contact as well as monitoring decisions, preparing documents, attending hearings, research, etc. that are related to a lobbying contact. Fill out a separate Schedule A for each municipal decision for which the firm engaged in lobbying activities on behalf of the client during the reporting period.

***Example:*** *Conundrum Consulting is a Lobbying Firm that identified two clients on its Registration Form. The firm provided no services to Client 1 during the quarter, but for Client 2, it spent the quarter working on a tax report that it will use to lobby City Officials, and also had some lobbying contacts on a land use matter. When preparing its quarterly report, Conundrum Consulting will not complete a Schedule A for Client 1. For Client 2, it will complete two Schedule As – one for the tax matter and one for the land use matter. Although it has no actual lobbying contacts for the tax matter, it must still report its lobbying-related activities.*

#### *Client Identification*

In the first box on Schedule A, state the name, address, and telephone number of the client. If the client is a coalition or membership organization with members who are also "clients" (i.e., have paid or agreed to pay $1,000 or more lobbying services), such members are not required to be identified on the Quarterly Disclosure Report. Be sure, however, that these individuals are appropriately identified on the firm's Registration Form. See Chapter 3 for more information.

***Compensation Earned***

Identify the total compensation (to the nearest $1,000) the firm became entitled to receive from the client during the period. Include the amount actually received for lobbying and "lobbying activities" performed during the period, as well as any amounts earned, but not yet received, for lobbying and "lobbying activities" performed during the period. The term "lobbying activities" includes making a lobbying contact as well as monitoring decisions, preparing documents, attending hearings, research, etc. that are related to the lobbying effort.

Enter the compensation amount only on the first sheet of a client's schedule (you may leave this space blank on any continuation sheets for the same client).

Enter "zero" for any *pro bono* clients and "contingency" for any contingency clients who are not yet obligated to pay your firm. Do not include compensation earned or received for services that were rendered outside the reporting period.

Do not include compensation the firm received for "indirect" lobbying efforts, such as public relations and advertising. Such sums, if $5,000 or more in a calendar quarter, should be reported by the client as an "Expenditure Lobbyist." See Chapter 7 for information regarding expenditure lobbying.

***Identify Municipal Decisions***

At the top of the second box on Schedule A, identify the specific municipal decision for which the firm engaged in lobbying activities for the client during the reporting period. Providing only a vague description of a decision does not comply with the law.

The following are examples of descriptions that are not specific enough:

"land use issue"
"property acquisition"
"land use entitlement"
"regulatory issue"
"CUP amendment"
"approval of agreement"
"consideration of Mission Hills project"
"site development permit"
"historical designation"
"proposed home in Pacific Beach"
"ordinance support and approval"

The above descriptions do not provide the public with substantive information. Keep in mind that one of the purposes of the Lobbying Ordinance is to provide transparency regarding efforts to influence municipal decisions. If the public cannot ascertain what City decisions a lobbying firm is trying to influence, then the firm is not complying with its disclosure obligations.

Many of the above descriptions would be sufficient if accompanied by a specific location (e.g., "land use entitlement at 527 Broadway") or if supplemented by more detailed information (e.g., "support and approval of Living Wage Ordinance").

***Outcome Sought***

Below the specific decision, state the outcome that the client is seeking. It can be as simple as "approving the permit" or "opposing the plan update." When viewed in context with the description of the decision, the public should have a clear idea of the reason why your client has hired you to communicate with City Officials.

***City Officials Lobbied***

Below the outcome sought, list the name and department of each City Official that the firm lobbied during the reporting period with regard to the specific municipal decision you identified above.

When listing an official's name, do not merely say "Mayor" or "all members of the City Council." The Lobbying Ordinance requires their actual names. Keep in mind that following an election, where one official may be replaced with another, the public would not know which mayor or which councilmembers you were referring to.

Do not include the names of City Officials whom you addressed only at public meetings held in accordance with the Brown Act. Do not include the names of City employees who are not "City

Officials." See Chapter 8 for more information regarding which contacts are not subject to disclosure.

Check the Ethics Commission website for lists of various "City Officials." These lists are only updated quarterly, and may not be accurate on a given date. If you have any doubts concerning whether a person is, or is not, a "City Official" ask the person for their official title and see if it is in the list of "City Officials" contained in the Lobbying Ordinance (and set forth in Chapter 13). Note that some City Officials use a working title that is different from their official title. If still in doubt, please ask for assistance from the Ethics Commission.

If the firm engaged in some "lobbying activities" (e.g., monitoring proposed legislation) with regard to the identified decision, but didn't have any actual lobbying contacts with regard to that decision, it can leave the spaces for City Officials blank, or it can enter "none" or "no contacts."

### *Identity of Lobbyists*

Below the list of City Officials lobbied, list the name of each lobbyist in the firm who engaged in lobbying activities during the reporting period with regard to the decision identified in Schedule A. This will include individuals who made lobbying contacts, as well as those who worked on reports, monitored decisions, and otherwise participated in the lobbying effort in more than a clerical capacity.

### *Continuation Sheets*

If a firm is reporting more than one municipal decision for a client, it must check the continuation sheet box in the lower left corner of Schedule A, and then report each additional decision on its own Schedule A. When reporting multiple decisions for a single client, the client's name must be included on each Schedule A, but its address, telephone number, and compensation information need not be repeated on subsequent schedules.

### Schedule B – Activity Expenses

On Schedule B of Form EC-803, the Lobbying Firm must report its activity expenses for the reporting period. If the firm made no activity expenses, it does not need to include a Schedule B in its filing (and should check the applicable "No" box on the cover sheet to indicate this fact).

An "activity expense" means any payment made to, or on behalf of, any City Official or any member of a City Official's immediate family, by a lobbyist, lobbying firm, or organization lobbyist. Activity expenses include gifts, meals, consulting fees, salaries, and any other form of compensation to a City Official or a City Official's immediate family (other than campaign contributions).

City law limits gifts (e.g., meals, tickets to events) from lobbying firms and its lobbyists to $10 per City Official within a calendar month. This means that if a lobbyist in your firm purchases an $8 lunch for a particular City Official, neither the firm nor any of its lobbyists may purchase a $3 beverage for that official in the same calendar month. Because the Activity Expenses schedule only requires the reporting of activity expenses that exceed $10, your firm should have no gifts to report.

Tickets and invitations to events held for non-profit entities (e.g., the Chamber of Commerce, Father Joe's Villages) are not considered gifts for purposes of the Lobbying Ordinance. Accordingly, they are not subject to the $10 limit and need not be reported on the Quarterly Report Form. Note, however, that such tickets and invitations may be considered gifts under the City's Ethics Ordinance and could subject a City Official to that Ordinance's gift limits, reporting requirements, and disqualification rules. See Chapter 9 for more information regarding gifts.

***Example:*** *Halo Consulting is a Lobbying Firm that hires a Councilmember's spouse. Even though the spouse will not be lobbying or engaging in any lobbying activities, Halo must report information regarding the payments it made to the spouse during the reporting period.*

To complete Schedule B, identify each activity expense made during the reporting period that

exceeds $10 on any single occasion. For each activity expense identified, disclose:

- the date of the expense;
- a description of the expense (e.g., "consulting fees paid to John Smith");
- the name, title, and department of the City Official who benefited (or whose immediate family benefited) from the activity expense;
- the name of each lobbyist in the firm who participated in making the activity expense;
- the name and address of the payee of the activity expense;
- the amount of the expense; and,
- the name of any client on whose behalf the activity expense was made.

An activity expense is made on behalf of a client if the client requests, authorizes, or reimburses the expense.

Remember that a Lobbying Firm is not required to attach Schedule B if it has no activity expenses to disclose for the reporting period.

**Schedule C – Campaign Disclosures – Contributions to City Candidates**

On Schedule C of Form EC-803, the Lobbying Firm must disclose contributions totaling $100 or more made by the firm's owners, officers, and lobbyists during the reporting period to a City candidate committee.

Campaign contributions from owners and officers of the Lobbying Firm must be disclosed, even if they never engaged in lobbying.

***Example:*** *Jane is one of the lobbying firm's partners. In October, she writes a personal check for $250 and gives it to a candidate seeking office in an upcoming City election. When the lobbying firm prepares its October-December disclosure report, it must identify Jane's $250 contribution. It is not relevant that Jane did not have any lobbying contacts during the quarter.*

An elected officeholder remains a "candidate" throughout his or her entire term of office. Accordingly, contributions made to someone after he or she assumes office are reportable.

***Example:*** *After Councilmember Lopez is sworn into office, she sends out mailers soliciting contributions to retire her campaign debt. Reginald, one of the firm's lobbyists, sends a personal check for $150 to Councilmember Lopez. Even though the Councilmember is now an officeholder, she is also still a "candidate," and Reginald's firm must disclose the $150 contribution on its next quarterly disclosure report.*

For each contribution made by an owner, officer, or lobbyist of the firm during the reporting period, state:

- the name of the applicable owner, officer, or lobbyist;
- the name of the candidate supported;
- the date of the contribution; and,
- the amount of the contribution.

**Note: Only contributions totaling $100 or more in the quarter must be disclosed. A lobbyist who made only a single $75 contribution to a candidate during the quarter does not need to disclose that contribution.**

**Note: The $100 threshold applies to each individual donor and each individual candidate. In other words, if three owners of a Lobbying Firm each make a $50 contribution to a candidate during the quarter, none of the contributions will need to be reported on Schedule C. Similarly, if one owner makes $50 contributions to three City candidates, none of the contributions will need to be reported.**

**Note: If an individual made multiple contributions to a City candidate during the quarter and cumulatively reached the $100 threshold, report each contribution separately on Schedule C.**

Do not use Schedule C to report contributions made to ballot measure committees, even if the committee is candidate-controlled; use Schedule D instead.

Do not attach Schedule C if the Lobbying Firm has no campaign contributions to disclose for the reporting period.

**Schedule D – Campaign Disclosures – Contributions to Candidate-Controlled Ballot Measure Committees**

On Schedule D of Form EC-803, the Lobbying Firm must disclose contributions totaling $100 or more made by the firm as well as its owners, officers, and lobbyists during the reporting period to a City candidate-controlled ballot measure committee.

It is not difficult to determine if a candidate "controls" a ballot measure committee. Under the City's campaign laws, when a candidate "controls" a committee, that candidate's name must appear in a "paid for by" disclosure on all of the committee's mass-distributed campaign literature, including its door hangers, mailers, and yard signs. In addition, the name of the candidate controlling the committee must be disclosed on statements filed with the City Clerk; contact the City Clerk's office for assistance locating the statements filed by ballot measure committees.

Campaign contributions from owners and officers of the Lobbying Firm must be disclosed, even if they never engaged in lobbying.

***Example:*** *Robert is a partner in a lobbying firm. In May, he writes a personal check for $5,000 and gives it to Citizens Revolting Against Progress, a ballot measure committee controlled by a Councilmember. When the lobbying firm prepares its April-June disclosure report, it must identify Robert's contribution. It is not relevant that Robert did not have any lobbying contacts during the quarter.*

An elected officeholder remains a "candidate" throughout his or her entire term of office. Accordingly, contributions made to a ballot measure committee controlled by an elected officeholder are reportable.

***Example:*** *During Councilmember Rotini's term in office, he sends out mailers asking for contributions to a committee he created to support a ballot measure that will increase taxes. Luigi, one of the firm's lobbyists, sends a personal check for $200 to Rotini's committee. Luigi's firm must disclose the $200 contribution on its next quarterly disclosure report.*

For each contribution made by the firm or its owners, officers, or lobbyists during the reporting period, state:

- the name of the firm (if the contribution was made in the firm's name) or the name of the applicable owner, officer, or lobbyist;
- the date of the contribution;
- the amount of the contribution;
- the name of the committee; and,
- the name of the candidate controlling the committee.

**Note: Only contributions totaling $100 or more in the quarter must be disclosed. A lobbyist who made only a single $75 contribution to a candidate-controlled committee during the quarter does not need to disclose that contribution.**

**Note: The $100 threshold applies to each individual donor and each committee. In other words, if three owners of a Lobbying Firm each made a $50 contribution to a candidate-controlled committee during the quarter, none of the contributions will need to be reported on Schedule D. Similarly, if one owner makes $50 contributions to three different candidate-controlled committees, none of the contributions will need to be reported.**

**Note: If the firm or individual made multiple contributions to a candidate-controlled committee during the quarter and cumulatively reached the $100 threshold, report each contribution separately on Schedule D.**

Do not attach Schedule D if the Lobbying Firm has no campaign contributions to candidate-controlled ballot measure committees to disclose for the reporting period.

**Schedule E – Fundraising Activities**

On Schedule E of Form EC-803, the Lobbying Firm must disclose the fundraising activities by the firm's owners, officers, and lobbyists during the reporting period that resulted in a candidate receiving $2,000 or more.

**Note: The $2,000 fundraising disclosure threshold applies to each owner, officer, and lobbyist, and to each candidate supported. In other words, amounts fundraised by different owners, officers, and lobbyists are not aggregated for purposes of the $2,000 threshold. Similarly, amounts fundraised for different City candidates are not aggregated.**

See Chapter 10 for a detailed discussion of what constitutes "fundraising activity."

**Note: Prior to January 1, 2009, the fundraising disclosure threshold was $1,000. If you are filing a report for any quarter prior to January 1, 2009, apply the $1,000 threshold instead of the new $2,000 threshold.**

Fundraising by the owners and officers of a Lobbying Firm must be disclosed, even if they never engaged in lobbying.

When completing Schedule E, disclose all of the fundraising efforts for each person who reached the $2,000 threshold in the quarter, even if a specific instance of fundraising was less than $2,000 or if different dates or events were involved. For example, report both an April fundraiser that raised $900 and a June fundraiser that raised $1,100 for the same candidate.

**Note: Unlike the Registration Form, the Quarterly Disclosure Statement requires fundraising information for all City candidates, regardless of whether they are elected officeholders.**

For each instance of fundraising activity, state:

- a brief description of the fundraising activity (e.g., "hosted a fundraiser" or "mailed solicitations to 20 business associates");
- the name of the owner, officer, or lobbyist who engaged in the fundraising activity;
- the name of the candidate who benefited, or whose ballot measure committee benefited, from the fundraising activity;
- a description of any applicable ballot measure;
- the date(s) of the fundraising activity (e.g., the date a fundraiser was held, the week that contribution solicitations were mailed); and,
- the total amount of contributions raised through the fundraising effort. Identify the total amount that an owner, officer, or lobbyist of the firm helped raise, even if they were one of several persons involved in the fundraising effort. Do not reduce this amount on the basis of anyone's proportionate involvement.

***Example:*** *Mary is a partner in a lobbying firm. John and Bill are two of the firm's lobbyists. Candidate Smith asks Mary, John, and Bill to help raise money for his City Council election campaign. Candidate Smith gives each of them a stack of remittance envelopes and asks them to distribute the envelopes to their friends and associates for contributions to his campaign.*

- *Mary hosts a fundraiser at her house, collects $5,500 in contribution checks, and delivers them to Candidate Smith.*
- *John writes his name on a corner of each envelope and mails them to a dozen of his associates, asking them to place a contribution in the envelope and send it to the candidate. John later finds out (through his associates or the candidate) that those associates contributed a total of $2,300 to Candidate Smith.*
- *Bill calls 10 of his friends and encourages them to go to Mary's fundraiser. He takes no further action.*

*When the firm prepares its quarterly disclosure report, it must identify Mary's and John's fundraising activities. Both solicited campaign contributions, and both made sure the candidate knew they were*

*responsible for more than $2,000 in contributions. Bill's fundraising activities do not need to be disclosed – even though he solicited his friends on behalf of Candidate Smith, he never obtained any credit for contributions that might have resulted from his solicitations.*

***Example:*** *Harold and Maude are two lobbyists working for a Lobbying Firm. Both want to support Candidate Hernandez, who is seeking a Council office, as well as Candidate O'Reilly, who is running for Mayor. Harold collects $1,500 from his friends for Candidate Hernandez, and another $800 for Candidate O'Reilly. Maude raises $1,750 for Candidate Hernandez. None of these fundraising efforts are required to be disclosed. Even though Harold and Maude work for the same firm, their fundraising efforts are not aggregated, and neither independently reached the $2,000 per candidate threshold.*

Do not attach Schedule E if the Lobbying Firm has no fundraising activities to disclose for the reporting period.

**Schedule F – Campaign Services**

On Schedule F of Form EC-803, the Lobbying Firm must disclose the compensated campaign services provided by the firm's owners, officers, and lobbyists during the reporting period. Such services could be related to the candidate seeking office, or to a ballot measure committee controlled by the candidate. The services must be performed in exchange for a salary, bonus, or some other form of economic consideration, including an agreement for payment pursuant to a contingency fee agreement (e.g., a "win bonus"). Do not disclose volunteer work performed for a candidate.

Compensated campaign services are reportable regardless of whether they are provided by the firm.

***Example:*** *Tim is a lobbyist for a Lobbying Firm, but during campaign season he has a side business where he works as a professional campaign consultant. In November, he starts working on a campaign for a candidate seeking elective City office. When his Lobbying Firm is preparing its October-December disclosure report, it must identify Tim's campaign activities on Schedule F. (Note that the firm will not need to disclose on Schedule E any of Tim's fundraising efforts if he was compensated by the candidate for this work.)*

For each owner, officer, or lobbyist in the firm who provided compensated campaign services to a City candidate during the reporting period:

- If the services were provided to a candidate for elective City office, identify the name of the candidate and the office sought.
- If the services were provided to a candidate-controlled ballot measure committee, identify the name of the committee, the name of the candidate controlling the committee, and a brief description of the ballot measure (e.g., "increase transient occupancy taxes").
- Identify the approximate amount of compensation that the owner, officer, or lobbyist earned for campaign services during the reporting period. If the individual has not yet been paid, but may be entitled to a contingency-based form of compensation (e.g., a "win bonus"), state "contingency" on the form.
- Provide a brief description of the services rendered (e.g., "served as campaign consultant for Candidate A").

Do not attach Schedule F if the Lobbying Firm has no campaign services to disclose for the reporting period.

**Schedule G – City Contract Services**

On Schedule G of Form EC-803, the Lobbying Firm must disclose the compensated City contract services provided by the firm's owners, officers, and lobbyists during the reporting period. This disclosure is required when one of the firm's owners, officers, or lobbyists contracted with the City as an employee, consultant, or independent contractor.

Note that "City" includes all of the City's departments, agencies (such as CCDC and the Housing Commission), boards, and commissions.

Compensated City contract services are reportable regardless of whether they are provided by the firm.

***Example:*** *Isabel is a lobbyist in a Lobbying Firm. She specializes in environmental matters. Because of her expertise, the City's Environmental Services Department retains her as a consultant to evaluate the impact of a proposed hazardous waste program. (It is of no consequence whether the contract is through the Lobbying Firm.) Isabel starts and completes the contract in March. She submits a bill for $2,500 and she's paid in April. When her firm prepares its January-March quarterly disclosure report, it must report Isabel's services to the City and the $2,500 earned. Note: when the firm prepares its April-June quarterly disclosure report, it need not disclose this consulting contract even though the payment was received in April because the payment was "earned" in, and reported for, the prior quarter.*

For each owner, officer, or lobbyist in the firm who personally provided compensated services under a contract with the City during the reporting period:

- Identify the name of the person in the firm who provided the services.
- Identify the name of the applicable City department, agency, or board.
- State the approximate amount of compensation that person earned during the reporting period (regardless of whether the compensation was actually received).
- Provide a brief description of the services that were rendered (e.g., "consulting services pertaining to outsourcing computer services").

Do not attach Schedule G if the Lobbying Firm has no City contract services to disclose for the reporting period.

## AMENDING QUARTERLY REPORT

If any information on a Quarterly Disclosure Report is incomplete or inaccurate, the Lobbying Firm must file an amendment within 10 calendar days. Only new information needs to be disclosed on an amendment; there is no need to re-report information on a schedule that is still accurate.

***Example:*** *On Schedule C of its Quarterly Disclosure Report, Lobbying Firm Heer & Thayer identified campaign contributions made by three individuals. Shortly after filing the Report, it discovers that a fourth individual also gave a contribution during the quarter and should have been included in the report. Within 10 days of that discovery, Heer & Thayer must file a new EC-803, check the "Amendment" box on the form, and attach a new Schedule C. On Schedule C, it needs to list the fourth individual (it does not need to re-list the three individuals previously identified).*

If a Lobbying Firm wants to "unreport" a person or activity that it was never required to report, it may amend its Quarterly Disclosure Report to remove the information.

***Example:*** *On Schedule C of its Quarterly Disclosure Report, Lobbying Firm Tew & Frowe identified campaign contributions made by three individuals. Shortly after filing the Report, it discovered that one of those individuals, Edgar Tew, never actually made any contributions during the quarter and never should have been included on Schedule C of the Report. Within 10 days of that discovery, Tew & Frowe should file a new EC-803, check the "Amendment" box on the form, and attach a new Schedule C. Its new Schedule C should state: "Edgar Tew (delete)" or "Edgar Tew (remove)" or otherwise indicate that Edgar Tew did not make any reportable contributions during the quarter.*

New circumstances involving who is, or is not, a lobbyist for the Lobbying Firm, must be disclosed by amending the firm's Registration Form, not the firm's Quarterly Disclosure Report. Similarly, if the firm is retained by a new client or starts lobbying on a new municipal decision, those changes must be reflected in an amendment to the Registration Form. See Chapter 3 (Amending Registration) for more information.

## TERMINATING REGISTRATION

A Lobbying Firm's registration automatically terminates on January 5 of the following calendar year. A firm may, if it wishes, terminate at an earlier time. This would be the case, for example, when a firm's practice no longer involves lobbying City Officials and it no longer wishes to file quarterly statements.

A Lobbying Firm must use the Quarterly Disclosure Report to terminate registration. To terminate, the firm must check the "termination" box at the top of the Report's cover sheet. In

addition, the firm must complete the Quarterly Disclosure Report, and provide any information applicable to the firm up to the date of termination.

If a Lobbying Firm terminates its registration, but later in the year starts lobbying again, it will have to re-register as a Lobbying Firm (and pay another registration fee to the City Clerk).

As indicated above, all registrations terminate automatically on the following January 5. If a firm continues to have paid lobbying contacts after that time, it will have to re-register by filing a new Form EC-801. See Chapters 1 and 3 for more information.

## QUESTIONS

**My firm has offices throughout California and in several other states. Do I have to keep track of the campaign activities of all of the firm's partners?**

Yes. The Lobbying Ordinance requires the disclosure of fundraising activities and contributions by each owner, officer, and lobbyist of a Lobbying Firm. This requirement applies to the firm's equity partners regardless of where they are located. In the event that an out-of-town equity partner engages in fundraising activities for a San Diego candidate or makes a campaign contribution to a San Diego candidate, such activities will have to be reported on the firm's disclosure statements.

**A lobbyist in my firm contributed $250 to a County of San Diego candidate and $500 to a San Diego ballot measure committee that was not controlled by a City candidate. Are these contributions reportable by my firm?**

No. Your firm is not required to report any contributions made for candidate races outside the City of San Diego, nor is it required to disclose contributions to ballot measure committees that are not controlled by a City candidate.

## AUTHORITY

The following San Diego Municipal Code sections provide authority for the preceding information in this chapter:

| | |
|---|---|
| 27.4006 | Activity Expense on Behalf of Client |
| 27.4017(a) | Quarterly Disclosure Required |
| 27.4018 | Amendments to Quarterly Disclosure Reports |
| 27.4022 | Termination of Status as Lobbying Firm or Organization Lobbyist |

# Chapter 6
## Quarterly Disclosure Reports for Organization Lobbyists

The Lobbying Ordinance requires Organization Lobbyists to file quarterly reports that disclose the lobbying the organization engaged in during the quarter, as well as other information relating to campaign and contracting activities. This chapter provides guidance on how to complete a quarterly report. All quarterly reports must be filed with the City Clerk no later than the last day of the month following the applicable quarter (See Chapter 2 for more filing information.) Completed reports will be posted on the City Clerk's website.

Organization Lobbyists must use the "Organization Lobbyists Quarterly Disclosure Report" (Form EC-804). This report form is available on the City Clerk's website and through a link on the Ethics Commission's website.

**Note: If there is not enough room to report all relevant information in the appropriate box on a schedule, use the next box on the page or a continuation sheet. Alternatively, print the information on a separate sheet of paper and attach it to the report. Be sure that all attached sheets are clearly identified and referenced on the schedule so that a person reviewing the report will know which attachment pertains to which schedule.**

### COMPLETING THE FORM

#### Cover Sheet - Identification

The Lobbying Ordinance requires the disclosure of the name, address, and telephone number of the Organization Lobbyist.

#### Cover Sheet - Schedules

The individual schedules are discussed later in this chapter. Note, however, that on the cover sheet for the Form EC-804, the Organization Lobbyists must check either a "Yes" or a "No" box for each schedule to indicate which schedules are relevant to the organization. One box in each row must be checked. If any rows are left blank, the organization will be required to amend the form.

#### Cover Sheet - Verification

A duly authorized owner or officer of the Organization Lobbyist must sign the cover sheet under penalty of perjury.

#### Schedule A – City Decisions

On Form EC-804, an Organization Lobbyist must identify on Schedule A the municipal decisions the organization sought to influence during the quarter, and provide details regarding those lobbying attempts.

If the organization engaged in no lobbying during the reporting period, it does not need to include a Schedule A in its filing (and should check the applicable "No" box on the cover sheet to indicate this fact).

Each Schedule A page contains boxes for two municipal decisions. Fill out at least one box for each municipal decision for which the organization lobbied during the quarter.

***Example:*** *Global Solutions is an Organization Lobbyist that lobbied City Officials with regard to two separate municipal decisions during the reporting period. When preparing its quarterly report, Global Solutions will complete a Schedule A box for each municipal decision.*

#### *Identify Municipal Decisions*

At the top of a Schedule A box, identify the specific municipal decision for which the organization engaged in lobbying during the reporting period. Providing only a vague description of a decision does not comply with the law.

The following are examples of descriptions that are not specific enough:

"land use issue"
"property land acquisition"
"land use entitlement"
"regulatory issue"

"CUP amendment"
"approval of agreement"
"consideration of Mission Hills project"
"site development permit"
"historical designation"
"proposed home in Pacific Beach"
"ordinance support and approval"

The above descriptions do not provide the public with substantive information. Keep in mind that one of the purposes of the Lobbying Ordinance is to provide transparency regarding efforts to influence municipal decisions. If the public cannot ascertain what City decisions an organization is trying to influence, then the organization is not complying with its disclosure obligations.

Many of the above descriptions would be sufficient if accompanied by a specific location (e.g., "land use entitlement at 527 Broadway") or if supplemented by more detailed information (e.g., "support and approval of Living Wage Ordinance").

***Outcome Sought***

Below the specific identified decision, state the outcome that the organization is seeking. It can be as simple as "approving the permit" or "opposing the plan update." When viewed in context with the description of the decision, the public should have a clear idea of the reason why your organization is trying to influence City Officials.

***City Officials Lobbied***

Below the outcome sought, list the name and department of each City Official that the organization lobbied during the reporting period with regard to the specific municipal decision identified on the Schedule.

When listing an official's name, do not merely say "Mayor" or "all members of the City Council." The Lobbying Ordinance requires their actual names. Keep in mind that following an election, where one official may be replaced with another within a single reporting period, the public would not know which mayor or which councilmembers you were referring to.

Do not include the names of City Officials whom you addressed only at public meetings held in accordance with the Brown Act. Do not include the names of City employees who are not "City Officials." See Chapter 8 for more information regarding contacts that are, and are not, subject to disclosure.

Check the Ethics Commission website for lists of various "City Officials." These lists are only updated quarterly, and may not be accurate on a given date. If you have any doubts concerning whether a person is, or is not, a "City Official" ask the person if their title is included in the list of "City Officials" contained in the Lobbying Ordinance (and set forth in Chapter 13). Note that some City Officials use a working title that is different from their official title.

***Identity of Lobbyists***

Below the list of City Officials lobbied, list the name of each owner, officer, and lobbyist in the organization who engaged in "lobbying activities" during the reporting period with regard to the decision identified in Schedule A. This primarily means the individuals who lobbied City Officials during the quarter, but will also include those who worked on reports, monitored decisions, or otherwise participated in the lobbying effort in more than a clerical capacity. Do not include volunteer "rank and file" members of the organization; volunteer members of the organization's board of directors, however, must be identified if they engaged in any "lobbying activities" during the quarter.

***Number of Contacts***

Identify the total number of lobbying contacts that the organization's owners, officers, and employees had during the quarter with regard to the specific decision identified on the Schedule. Do not include the contacts made by volunteers who are not officers (i.e., not serving on the organization's board of directors).

***Continuation Sheets***

If an organization is reporting more municipal decisions than will fit on a single page, it must check the continuation sheet box in the lower

left corner of Schedule A, and then report each additional decision on a continuation sheet.

**Schedule B – Activity Expenses**

On Schedule B of Form EC-804, the Organization Lobbyist must report its activity expenses for the reporting period. If the organization made no activity expenses, it should not include a Schedule B in its filing (but should instead check the applicable "No" box on the cover sheet to indicate this fact).

An "activity expense" means any payment made to, or on behalf of, any City Official or any member of a City Official's immediate family, by a lobbyist, lobbying firm, or organization lobbyist. Activity expenses include gifts, meals, consulting fees, salaries, and any other form of compensation to a City Official or a City Official's immediate family (other than campaign contributions).

City law limits gifts (e.g., meals, tickets to events) from an Organization Lobbyist and its lobbyists to $10 per City Official within a calendar month. This means that if a lobbyist in your organization purchases an $8 lunch for a particular City Official, neither the organization nor any of its lobbyists may purchase a $3 beverage for that official in the same calendar month. Because the Activity Expenses schedule only requires the reporting of activity expenses that exceed $10, your organization should have no gifts to report.

Tickets and invitations to events held for non-profit entities (e.g., the Chamber of Commerce, Father Joe's Villages) are not considered gifts for purposes of the Lobbying Ordinance. Accordingly, they are not subject to the $10 limit and need not be reported on the Quarterly Report Form. Note, however, that such tickets and invitations may be considered gifts under the City's Ethics Ordinance and could subject to a City Official to that Ordinance's gift limits, reporting requirements, and disqualification rules. See Chapter 9 for more information regarding gifts.

***Example:*** *The Association of Industry Associates is an Organization Lobbyist that hires a Council-member's spouse to prepare its tax returns. Even though the spouse will not be lobbying, the Association of Industry Associates must report information regarding the payments it made to the spouse during the reporting period.*

To complete Schedule B, identify each activity expense made during the reporting period that exceeds $10 on any single occasion. For each activity expense identified, disclose:

- the date of the expense;
- the amount of the expense;
- a description of the expense (e.g., "consulting fees paid to John Smith");
- the name, title, and department of the City Official who benefited (or whose immediate family benefited) from the activity expense;
- the name of each lobbyist in the organization who participated in making the activity expense; and,
- the name and address of the payee of the activity expense;

Remember that an Organization Lobbyist is not required to attach Schedule B if it has no activity expenses to disclose for the reporting period.

**Schedule C – Campaign Disclosures – Contributions to City Candidates**

On Schedule C of Form EC-804, the Organization Lobbyist must disclose contributions totaling $100 or more made by the organization's owners, compensated officers, and lobbyists during the reporting period to a City candidate committee.

Campaign contributions from owners and compensated officers of the Organization Lobbyist must be disclosed, even if they never engaged in lobbying.

A member of an organization's board of directors (even if uncompensated) who is also a lobbyist for the Organization Lobbyist must disclose his or her campaign contributions. In

other words, although such a person may be exempt from disclosing this information as an "uncompensated officer," he or she would not be exempt in the context of being a "lobbyist" for the organization. Other volunteer members of an organization need not disclose their campaign contributions even if they have engaged in lobbying.

***Example:*** *Debra is a volunteer member of the board of directors for Big Cousins, an Organization Lobbyist. She is listed on the organization's Registration Form as a lobbyist because she regularly accompanies the organization's Executive Director on lobbying meetings with City Officials. In October, she writes a personal check for $250 and gives it to a candidate seeking office in an upcoming City election. When the Organization Lobbyist prepares its October-December disclosure report, it will identify Debra's $250 contribution.*

An elected officeholder remains a "candidate" throughout his or her entire term of office. Accordingly, contributions made to someone after he or she assumes office are reportable.

***Example:*** *After Councilmember Lopez is sworn into office, she sends out mailers soliciting contributions to retire her campaign debt. Rick is a lobbyist for a cable company, which has registered as an Organization Lobbyist. Rick sends a personal check for $150 to Councilmember Lopez. Even though the Councilmember is now an officeholder, she is also still a "candidate," and the cable company must disclose Rick's $150 contribution on its next quarterly disclosure report.*

For each contribution made by an owner, compensated officer, or lobbyist of the organization during the reporting period, state:

- the name of the applicable owner, compensated officer, or lobbyist;
- the name of the candidate supported;
- the date of the contribution; and,
- the amount of the contribution.

**Note: Only contributions totaling $100 or more in the quarter must be disclosed. A lobbyist who made only a single $75 contribution to a candidate during the quarter does not need to disclose that contribution.**

**Note: The $100 threshold applies to each individual donor and each individual candidate. In other words, if three owners of an Organization Lobbyist each made a $50 contribution to a candidate during the quarter, none of the contributions will need to be reported on Schedule C. Similarly, if one owner made $50 contributions to three City candidates, none of the contributions will need to be reported.**

**Note: If an individual made multiple contributions to a City candidate during the quarter and cumulatively reached the $100 threshold, report each contribution separately on Schedule C.**

Do not use Schedule C to report contributions made to ballot measure committees, even if the committee is candidate-controlled; use Schedule D instead.

Do not attach Schedule C if the Organization Lobbyist has no campaign contributions to disclose for the reporting period.

**Schedule D – Campaign Disclosures – Contributions to Candidate-Controlled Ballot Measure Committees**

On Schedule D of Form EC-804, the Organization Lobbyist must disclose contributions totaling $100 or more made by the organization as well as its owners, compensated officers, and lobbyists during the reporting period to a City candidate-controlled ballot measure committee.

It is not difficult to determine if a candidate "controls" a ballot measure committee. Under the City's campaign laws, when a candidate "controls" a committee, that candidate's name must appear in a "paid for by" disclosure on all of the committee's mass-distributed campaign

literature, including its door hangers, mailers, and yard signs. In addition, the name of the candidate controlling the committee must be disclosed on statements filed with the City Clerk; contact the City Clerk's office for assistance locating the statements filed by ballot measure committees.

Campaign contributions from owners and compensated officers of the Organization Lobbyist must be disclosed, even if they never engaged in lobbying.

***Example:*** *Sigmund owns Synergistic Anomalies, which has registered as an Organization Lobbyist. In May, he writes a personal check for $5,000 and gives it to Friends of Outdoor Lighting, a ballot measure committee controlled by a Councilmember. When Synergistic Anomalies prepares its April-June disclosure report, it must identify Sigmund's contribution. It does not matter whether Sigmund had any lobbying contacts during the quarter.*

A member of an organization's board of directors (even if uncompensated) who is also a lobbyist for the Organization Lobbyist must disclose his or her campaign contributions. In other words, although such a person may be exempt from disclosing this information as an "uncompensated officer," he or she would not be exempt in the context of being a "lobbyist" for the organization. Other volunteer members of an organization need not disclose their campaign contributions even if they have engaged in lobbying.

An elected officeholder remains a "candidate" throughout his or her entire term of office. Accordingly, contributions made to a ballot measure committee controlled by an elected officeholder are reportable.

***Example:*** *During Councilmember Rotini's term in office, he sends out mailers asking for contributions to support a ballot measure that will increase taxes. Rotini controls the committee, a fact that is evidenced by his name in a "paid for by" disclosure in the mailer. Anthony, a lobbyist for an entity registered as an Organization Lobbyist, sends a personal check for $200 to the committee. Anthony's organization must disclose the $200 contribution on its next quarterly disclosure report.*

For each contribution made by the organization or its owners, compensated officers, or lobbyists during the reporting period, state:

- the name of the organization (if the contribution was made in the organization's name) or the name of the applicable owner, compensated officer, or lobbyist;
- the date of the contribution;
- the amount of the contribution;
- the name of the committee; and,
- the name of the candidate controlling the committee.

**Note: Only contributions totaling $100 or more in the quarter must be disclosed. A lobbyist who made only a single $75 contribution to a candidate-controlled committee during the quarter does not need to disclose that contribution.**

**Note: The $100 threshold applies to each individual donor and each committee. In other words, if three owners of an Organization Lobbyist each made a $50 contribution to a candidate-controlled during the quarter, none of the contributions will need to be reported on Schedule D. Similarly, if one owner made $50 contributions to three different candidate-controlled committees, none of the contributions will need to be reported.**

**Note: If the organization or individual made multiple contributions to a candidate-controlled committee during the quarter and cumulatively reached the $100 threshold, report each contribution separately on Schedule D.**

Do not attach Schedule D if the Organization Lobbyist has no campaign contributions to candidate-controlled ballot measure committees to disclose for the reporting period.

**Schedule E – Fundraising Activities**

On Schedule E of Form EC-804, the Organization Lobbyist must disclose the efforts that result in fundraising $2,000 or more by the organization's owners, compensated officers, and lobbyists during the reporting period.

**Note: the $2,000 fundraising disclosure threshold applies to each owner, compensated officer, and lobbyist, and to each candidate supported. In other words, amounts fundraised by different owners, officers, and lobbyists are not aggregated for purposes of the $2,000 threshold. Similarly, amounts fundraised for different City candidates are not aggregated.**

See Chapter 10 for a detailed discussion of what constitutes "fundraising activity."

**Note: Prior to January 1, 2009, the fundraising disclosure threshold was $1,000. If you are filing a report for any quarter prior to January 1, 2009, apply the $1,000 threshold instead of the new $2,000 threshold.**

Fundraising by the owners and compensated officers of an Organization Lobbyist must be disclosed, even if they never engaged in lobbying.

A member of an organization's board of directors (even if uncompensated) who is also a lobbyist for the Organization Lobbyist must disclose his or her fundraising activities. In other words, although such a person may be exempt from disclosing this information as an "uncompensated officer," he or she would not be exempt in the context of being a "lobbyist" for the organization. Other volunteer members of an organization need not disclose their fundraising activities even if they have engaged in lobbying.

When completing Schedule E, disclose all of the fundraising efforts for each person who reached the $2,000 threshold in the quarter, even if a specific instance of fundraising was less than $2,000 or if different dates or events were involved. For example, report both an April fundraiser that raised $900 and a June fundraiser that raised $1,100 for the same candidate.

**Note: unlike the Registration Form, the Quarterly Disclosure Statement requires fundraising information regarding all City candidates, regardless of whether they are elected officeholders.**

For each instance of fundraising activity, state:

- a brief description of the fundraising activity (e.g., "hosted a fundraiser" or "mailed solicitations to 20 business associates");
- the name of the owner, compensated officer, or lobbyist who engaged in the fundraising activity;
- the name of the candidate who benefited, or whose ballot measure committee benefited, from the fundraising activity;
- a description of any applicable ballot measure;
- the date(s) of the fundraising activity (e.g., the date a fundraiser was held, the week that contribution solicitations were mailed); and,
- the <u>total</u> amount of contributions raised through the fundraising effort. Identify the <u>total</u> amount that an owner, compensated officer, or lobbyist of the organization helped raise, even if they were one of several persons involved in the fundraising effort. Do not reduce this amount on the basis of anyone's proportionate involvement.

***<u>Example:</u>*** *Mary is an owner of an Organization Lobbyist. John and Bill are two of the organization's lobbyists. Candidate Smith asks Mary, John, and Bill to help raise money for his City Council election campaign. Candidate Smith gives each of them a stack of remittance envelopes and asks them to distribute the envelopes to their friends and associates for contributions to his campaign.*

- *Mary hosts a fundraiser at her house, collects $5,500 in contribution checks, and delivers them to Candidate Smith.*
- *John writes his name on a corner of each envelope and mails them to a dozen of his associates, asking them to place a contribution in the envelope and send it to the candidate. John later finds out (through his associates or the candidate) that those associates contributed a total of $2,300 to Candidate Smith.*
- *Bill calls 10 of his friends and encourages them to go to Mary's fundraiser. He takes no further action.*

*When the organization prepares its quarterly disclosure report, it must identify Mary's and John's fundraising activities. Both solicited campaign contributions, and both made sure the candidate knew they were responsible for more than $2,000 in contributions. Bill's fundraising activities do not need to be disclosed – even though he solicited his friends on behalf of Candidate Smith, he never obtained any credit for contributions that might have resulted from his solicitations.*

***Example:*** *Harold and Maude are two lobbyists working for an Organization Lobbyist. Both want to support Candidate Hernandez, who is seeking a Council office, as well as Candidate O'Reilly, who is running for Mayor. Harold collects $1,500 from his friends for Candidate Hernandez, and another $800 for Candidate O'Reilly. Maude raises $1,750 for Candidate Hernandez. None of these fundraising efforts are required to be disclosed. Even though Harold and Maude work for the same organization, their fundraising efforts are not aggregated, and neither independently reached the $2,000 per candidate threshold.*

Do not attach Schedule E if the Organization Lobbyist has no fundraising activities to disclose for the reporting period.

**Schedule F – Campaign Services**

On Schedule F of Form EC-804, the Lobbying Organization must disclose the compensated campaign services provided by the organization's owners, compensated officers, and lobbyists during the reporting period.

Such services could be related to the candidate seeking office, or to a ballot measure committee controlled by the candidate. The services must be performed in exchange for a salary, bonus, or some other form of economic consideration, including an agreement for payment pursuant to a contingency fee agreement (e.g., a "win bonus"). Do not disclose volunteer work performed for a candidate.

Campaign services provided by the owners and compensated officers of an Organization Lobbyist must be disclosed, even if they never engaged in lobbying.

***Example:*** *Lester is the paid Executive Director for the United Whey, a dairy coalition that has registered as an Organization Lobbyist. During campaign season, Lester has a side business where he works as a professional campaign consultant. In November, he starts working on a campaign for a candidate seeking elective City office. When the United Whey is preparing its October-December disclosure report, it must disclose Lester's campaign activities on Schedule F. (Note that the organization will not need to disclose on Schedule E any of Lester's fundraising efforts if he was compensated by the candidate for this work.)*

A member of an organization's board of directors (even if uncompensated) who is also a lobbyist for the Organization Lobbyist must disclose his or her campaign services. In other words, although such a person may be exempt from disclosing this information as an "uncompensated officer," he or she would not be exempt in the context of being a "lobbyist" for the organization. Other volunteer members of an organization need not disclose their compensated campaign services even if they have engaged in lobbying.

For each owner, compensated officer, or lobbyist in the organization who provided compensated campaign services to a City candidate during the reporting period:

- If the services were provided to a candidate for elective City office, identify the name of the candidate and the office sought.
- If the services were provided to a candidate-controlled ballot measure committee, identify the name of the committee, the name of the candidate controlling the

committee, and a brief description of the ballot measure (e.g., "increase transient occupancy taxes").

- Identify the approximate amount of compensation that the owner, compensated officer, or lobbyist earned for campaign services during the reporting period. If the individual has not yet been paid, but may be entitled to a contingency-based form of compensation (e.g., a "win bonus"), state "contingency" on the form.
- Provide a brief description of the services provided (e.g., "served as campaign consultant for Candidate A").

Do not attach Schedule F if the Organization Lobbyist has no campaign services to disclose for the reporting period.

**Schedule G – City Contract Services**

On Schedule G of Form EC-804, the Organization Lobbyist must disclose the compensated City contract services provided by the organization's owners, compensated officers, and lobbyists during the reporting period. This disclosure is required when one of the organization's owners, compensated officers, or lobbyists contracted with the City as an employee, consultant, or independent contractor.

Note that "City" includes all of the City's departments, agencies (such as CCDC and the Housing Commission), boards, and commissions.

Compensated City contract services are reportable regardless of whether they are provided by the organization.

***Example:*** *Malcom is a lobbyist for an Organization Lobbyist who specializes in environmental matters. Because of his expertise, the City's Environmental Services Department retains him as a consultant to evaluate the impact of a proposed hazardous waste program. (It is of no consequence whether the contract is made by the organization lobbyist or by Malcom as an individual.) Malcom starts and completes the contract in March. He submits a bill for $2,500 and he's paid in April. When the organization Malcom works for prepares its January-March Quarterly Disclosure Report, it must report Malcom's services to the City. Note: when the organization prepares its April-June Quarterly Disclosure Report, it need not disclose this consulting contract even though the payment was received in April because the payment was "earned" in, and reported for, the prior quarter.*

A member of an organization's board of directors (even if uncompensated) who is also a lobbyist for the Organization Lobbyist must disclose his or her contract services. In other words, although such a person may be exempt from disclosing this information as an "uncompensated officer," he or she would not be exempt in the context of being a "lobbyist" for the organization. Other volunteer members of an organization need not disclose their services even if they have engaged in lobbying.

For each owner, compensated officer, or lobbyist in the organization who personally provided compensated services under a contract with the City during the reporting period:

- Identify the name of the person in the organization who provided the services.
- Identify the name of the applicable City department, agency, or board.
- State the approximate amount of compensation that person earned during the reporting period (regardless of whether the compensation was actually received).
- Provide a brief description of the services that were rendered (e.g., "consulting services pertaining to outsourcing computer services").

Do not attach Schedule G if the Organization Lobbyist has no City contract services to disclose for the reporting period.

## AMENDING QUARTERLY REPORT

If any information on a Quarterly Disclosure Report is incomplete or inaccurate, the Organization Lobbyist must file an amendment within 10 calendar days. Only new information needs to be disclosed on an amendment; there

is no need to re-report information on a schedule that is still accurate.

***Example:*** *On Schedule A of its Quarterly Disclosure Report, Organization Lobbyist Promote South Bay identified two employees who lobbied on a particular municipal decision. Shortly after filing the Report, it discovers that a third employee also lobbied on that matter during the quarter and should have been included in the report. Within 10 days of that discovery, Promote South Bay must file a new EC-804, check the "Amendment" box on the form, and attach a new Schedule A. On Schedule A, it needs to identify the decision and list the third employee (it does not need to re-list the two employees previously identified).*

If an Organization Lobbyist wants to "unreport" a person or activity that it was never required to report, it may amend its Quarterly Disclosure Report to remove the information.

***Example:*** *On Schedule A of its Quarterly Disclosure Report, Organization Lobbyist BioCube identified two employees who lobbied on a particular municipal decision. Shortly after filing the Report, it discovered that one of those employees, Sara Saosin, never actually lobbied on that matter during the quarter and never should have been included on Schedule A. Within 10 days of that discovery, BioCube should file a new EC-804, check the "Amendment" box on the form, and attach a new Schedule A. Its new Schedule A should identify the municipal decision reported in its original filing and state "Sara Saosin (delete)" or "Sara Saosin (remove)" or otherwise indicate that Sara Saosin did not lobby on the decision during the quarter.*

New circumstances involving who is, or is not, authorized to lobby for the Organization Lobbyist, must be disclosed by amending the organization's Registration Form, not the organization's Quarterly Disclosure Report. Similarly, if the organization starts lobbying on a new municipal decision, that fact must be reflected in an amendment to the Registration Form. See Chapter 4 (Amending Registration) for more information.

## TERMINATING REGISTRATION

An Organization Lobbyist's registration automatically terminates on January 5 of the following calendar year. An organization may, if it wishes, terminate at an earlier time. This would be the case, for example, when an organization no longer has any need to lobby City Officials and no longer wishes to file quarterly statements.

An Organization Lobbyist must use the Quarterly Disclosure Report to terminate registration. To terminate, the organization must check the "termination" box at the top of the Report's cover sheet. In addition, the organization must complete the Quarterly Disclosure Report and provide any information applicable to the organization up to the date of termination.

If an Organization Lobbyist terminates its registration, but later in the year starts lobbying again and reaches the 10-contacts registration threshold, it will have to re-register as an Organization Lobbyist (and pay another registration fee to the City Clerk).

As indicated above, all registrations terminate automatically on the following January 5. If an organization continues to have paid lobbying contacts in the new year and once again reaches the 10 contacts in 60 days threshold, it will have to re-register by filing a new Form EC-802. See Chapters 1 and 4 for more information.

## QUESTIONS

**My company is an Organization Lobbyist, but I also hired a firm to lobby the City. Do I report that firm on my disclosure statements?**

In such a situation, your company is both an Organization Lobbyist and the "client" of a Lobbying Firm. Your company does not need to report anything in its capacity as a "client." The firm your company hired will be required to register as a Lobbying Firm and will report on its disclosure statements the lobbying that it does on behalf of your company.

**In my organization, some of the lobbying is performed by members of the organization's board of directors,**

**all of whom are uncompensated. Does my organization have to report the lobbying contacts by these uncompensated officers?**

Yes. All of the members of an organization's board of directors must report their lobbying contacts. Other volunteers of the organization do not need to disclose their communications with City Officials.

## AUTHORITY

The following San Diego Municipal Code sections provide authority for the preceding information in this chapter:

| | |
|---|---|
| 27.4017(b) | Quarterly Disclosure Required |
| 27.4018 | Amendments to Quarterly Disclosure Reports |
| 27.4022 | Termination of Status as Lobbying Firm or Organization Lobbyist |

# Chapter 7
## Quarterly Disclosure Reports for Expenditure Lobbyists

Although Expenditure Lobbyists do not register with the City Clerk on an annual basis, they are still required to file Quarterly Disclosure Reports with the City Clerk if they have reached the $5,000 threshold for a calendar quarter. This chapter provides guidance on how to complete the quarterly report.

All quarterly reports are filed with the City Clerk by the last day of the month following the applicable quarter. For example, a person or entity that reaches the $5,000 threshold during the January through March quarter must file the report no later than the last day of April. Completed Quarterly Disclosure Reports will be posted on the City Clerk's website. See Chapter 2 for additional filing information.

Expenditure Lobbyists must use the "Expenditure Lobbyist Quarterly Disclosure Report" (Form EC-805). This report form is available on the City Clerk's website and through a link on the Ethics Commission's website.

An Expenditure Lobbyist is any person or entity that makes expenditures for public relations, media relations, advertising, public outreach, research, investigations, reports, analyses, studies, or similar activities designed to indirectly influence one or more municipal decisions, to the extent that such payments total $5,000 or more within a calendar quarter.

Expenditure Lobbyists are persons and entities that use indirect methods of influencing municipal decisions rather than having direct communications with City Officials. Activities such as holding a private meeting with a City Official, sending a letter or e-mail to a City Official, and talking with a City Official on the telephone do not count toward the $5,000 calendar quarter threshold. Instead, these types of "direct" lobbying efforts are disclosed by Lobbying Firms and Organization Lobbyists (see Chapters 5 and 6).

The $5,000 threshold applies to all municipal decisions a person or entity has sought to influence in a calendar quarter. It is not a "$5,000 per-decision" threshold. For example, a person could meet the $5,000 threshold by spending $2,500 to influence the adoption of a City ordinance in January and spending $2,500 to influence the approval of a land development permit in February.

Expenditures do not carry over to the following quarter. In other words, a person or entity that spends $3,000 in March and $2,000 in April does not meet the $5,000 threshold.

When determining whether a payment is "made" within a particular calendar quarter, keep in mind that an expenditure is "made" on the date the payment is made or on the date consideration, if any, is received, whichever is earlier. For example, an entity that arranges for a newspaper advertisement to run on September 5, but doesn't pay the $750 cost of the advertisement until October 15 has "made" a $750 expenditure on September 5 (during the July-September quarter).

The payments an organization makes to communicate with its own members do not count toward the $5,000 threshold. For example, an organization that hosts a breakfast meeting for its members is not making an "expenditure" even if that organization uses the meeting as an opportunity to encourage its members to support or oppose a particular municipal decision. Similarly, payments for a newsletter sent to an organization's members would not count toward the $5,000 threshold.

### COMPLETING THE FORM

#### Cover Sheet - Identification

The Lobbying Ordinance requires the disclosure of the name, address, and telephone number of the Expenditure Lobbyist.

**Cover Sheet – Responsible Person**

In addition to the above, the Lobbying Ordinance requires that the person completing the form identify himself or herself, along with the applicable address and telephone number.

**Cover Sheet - Verification**

A duly authorized owner or officer of the Expenditure Lobbyist must sign the cover sheet under penalty of perjury.

**Schedule A – City Decisions**

On Form EC-805, an Expenditure Lobbyist must identify on Schedule A each municipal decision the entity sought to influence during the quarter, the outcome sought, and the total payments made during the reporting period with regard to influencing that decision.

If another person or entity helped fund an expenditure by giving $100 or more to an Expenditure Lobbyist, the Quarterly Disclosure Report must also include the name, address, and telephone number of that person or entity.

***Example:*** *Calamity Construction spends $7,500 for a public relations firm to conduct community meetings in neighborhoods affected by a controversial development project that is awaiting approval by the City Council. The meetings are designed to show residents the benefits of the project moving forward and to encourage them to support the project. A local union whose members would benefit from the project gives Calamity Construction a $1,000 check to help cover the costs of retaining the public relations firm. When Calamity Construction files its Quarterly Disclosure Report as an Expenditure Lobbyist, it will disclose the $7,500 payment, and will also identify the union and the $1,000 payment it received from the union.*

**Note: In the example above, the public relations firm is not the source of the payment, so it is not an Expenditure Lobbyist. Calamity Construction needs to file a disclosure report, not the public relations firm.**

An Expenditure Lobbyist is only required to report the expenditures it made during the calendar quarter in which it reached the $5,000 threshold. There is no need to report payments made in previous quarters where the threshold was not met, even if those earlier payments were intended to influence the same municipal decisions that are being disclosed.

***Example:*** *Vroom is a business entity that rents motorized scooters. The City Council is considering an ordinance that would ban these scooters in the City's beach areas. Vroom opposes the ordinance and spends $3,000 in June on polling to gauge community support for the ordinance. In July and August, it spends $7,500 on newspaper advertisements urging people to contact their Councilmembers to oppose the ordinance. Vroom need not file a Quarterly Disclosure Report for the April-June quarter because it didn't reach the $5,000 threshold for that quarter. In other words, it does not need to report the $3,000 it spent on polling. Vroom must, however, file a Quarterly Disclosure Report for the July-September quarter, and disclose that it spent $7,500 on the newspaper advertisements designed to defeat the ordinance.*

Payments to a Lobbying Firm for direct lobbying activities that are reported by the Lobbying Firm on its Quarterly Disclosure Report should not be included for purposes of calculating the $5,000 threshold.

***Example:*** *Floor-Mart pays a lobbying firm to communicate directly with City Officials regarding an ordinance that would limit the ability of the company to expand its presence in the City. Floor-Mart also purchases more than $5,000 worth of advertisements on the radio and in the newspaper urging the public to oppose the ordinance. Floor-Mart does not need to disclose the payments to the lobbying firm on its quarterly report; those payments will be reported by the lobbying firm when it files its own Quarterly Disclosure Report. Floor-Mart needs only to disclose the payments it made for the radio and newspaper advertisements.*

Similarly, the salary an Organization Lobbyist pays an employee to communicate directly with a City Official (direct lobbying) does not count toward the $5,000 threshold. Note that an entity can be both an Expenditure Lobbyist and an Organization Lobbyist if its employees have a total of 10 or more lobbying contacts within 60

days and it also spends $5,000 or more in a calendar quarter on community outreach.

***Example:*** *Lo-Def Cable wants to provide cable television service in San Diego. Its in-house lobbyist meets with City Officials dozens of times to encourage them to adopt an ordinance that will make it easier for the company to obtain a franchise agreement. When the ordinance is due to come before the City Council, Lo-Def spends $10,000 on advertisements in the Union-Tribune, urging the public to attend the Council meeting. Because Lo-Def has qualified as an Organization Lobbyist and as an Expenditure Lobbyist, it must file disclosure statements in both capacities.*

## AMENDING QUARTERLY REPORT

If any information on a Quarterly Disclosure Report is incomplete or inaccurate, the Expenditure Lobbyist must file an amendment within 10 calendar days. Only new information needs to be disclosed on an amendment; there is no need to re-report information on a schedule that is still accurate.

***Example:*** *On Schedule A of its Quarterly Disclosure Report, Expenditure Lobbyist Mitosis Cellular identified a municipal decision for which it spent $10,000 to influence using radio advertising. After filing the Report, it realized that it should also have reported the $500 it received from FiberOptic Wireless to assist with the advertising campaign. Within 10 days of that discovery, Mitosis Cellular must file a new EC-805, check the "Amendment" box on the form, and attach a new Schedule A. On the Schedule A, it needs to identify the municipal decision and report FiberOptic Wireless' name, address, and telephone number, along with the $500 it received from that entity.*

If an Organization Lobbyist wants to "unreport" information that it was never required to report, it may amend its Quarterly Disclosure Report to remove the information.

***Example:*** *On Schedule C of its Quarterly Disclosure Report, Expenditure Lobbyist Solvency Bank incorrectly reported that it had spent $5,000 on expenditure lobbying when it had actually paid that sum to a lobbying firm. After filing its Report, it discovered the error. Within 10 days, Solvency Bank should file a new EC-805, check the "Amendment" box on the form, and attach a new Schedule A. Its new Schedule A should identify the municipal decision reported in its original filing and correct the error with a statement such as: "No expenditure lobbying performed with regard to this decision during the reporting period."*

## QUESTIONS

**My organization has some research materials from a past project. If I use this research for a public outreach effort, do I include the past costs of the research when determining if we meet the $5,000 threshold?**

No. Past research and associated work product originally created for purposes unrelated to the current public outreach effort do not count toward the $5,000 threshold. If, however, your organization incurs new expenses related to that research (e.g., updating the research) and the new costs are related to the effort to indirectly influence a municipal decision, then the new costs would count toward the $5,000 threshold.

**My organization is researching issues related to an upcoming municipal decision, and we gave some of our findings to a media outlet for a story it is doing on the subject. Do our research costs count toward the $5,000 threshold?**

No. Merely providing information to the media for a news story is not considered expenditure lobbying. On the other hand, if you purchase an advertisement in the newspaper to influence the public regarding the decision, then the research costs associated with the advertisement would count towards the $5,000 threshold.

**An employee of my organization has been spending about half of her work hours on public relations efforts associated with an upcoming City Council decision. Does the cost of this employee's salary count toward the $5,000 threshold?**

Yes. All payments made by the organization that are related to the effort to indirectly influence one or more municipal decisions

count toward the $5,000 threshold. It is necessary, therefore, for in-house employees to keep track of the time they spend on activities associated with expenditure lobbying, so that the organization can estimate the associated cost.

**AUTHORITY**

The following San Diego Municipal Code sections provide authority for the preceding information in this chapter:

| | |
|---|---|
| 27.4017(c) | Quarterly Disclosure Required |
| 27.4018 | Amendments to Quarterly Disclosure Reports |

# Chapter 8
## Contacts

Lobbying Firms and Organization Lobbyists must keep track of their "lobbying" contacts.

A Lobbying Firm needs to register a client when it has had a lobbying contact on behalf of that client. In addition, a Lobbying Firm must report on its Quarterly Disclosure Reports the names of City Officials who were the subject of lobbying contacts.

A prospective Organization Lobbyist must keep track of its lobbying contacts to determine whether or not it has met the 10-contacts threshold. As explained more fully in Chapter 1, an entity with 10 or more lobbying contacts within a 60 day period must register as an Organization Lobbyist. Once an entity becomes an Organization Lobbyist, it must still keep track of its number of contacts for purpose of disclosing that information on its Quarterly Disclosure Reports.

### GENERAL RULES

Under the Lobbying Ordinance's "contacts" rules:

- Each meeting with a City Official regarding a single municipal decision counts as 1 contact; a meeting regarding 2 municipal decisions counts as 2 contacts.
- A meeting with a City Official and a member of that official's immediate staff regarding a single municipal decision counts as 1 contact, even if the staff member is also a "City Official."

  ***Example:*** *Eric meets with a Councilmember and her Chief of Staff to discuss an upcoming land use decision. Although he is meeting with two City Officials, he is only making one contact because one City Official is the immediate staff member of the other.*

**Note: The Mayor's immediate staff consists of only the officials who report directly to the Mayor. Department Directors, for example, report to an intermediary and are not the immediate staff of the Mayor.**

- A meeting with 2 City Officials regarding a single municipal decision counts as 2 contacts (unless one of the officials is the immediate staff member of the other official).
- When multiple individuals from the same organization meet with a City Official regarding a single municipal decision, that meeting counts as a single contact.

  ***Example:*** *Jeff and Susan both work for a company interested in amending business regulations in the Municipal Code. They meet with a Deputy City Attorney to urge particular amendments. Although the company is sending two employees to meet with a City Officials, the company is making only one contact.*

- A meeting with a City Official attended by an Organization Lobbyist's owner and a lobbyist from a Lobbying Firm hired by the Organization Lobbyist will count as a contact for each entity. In other words, both the Organization Lobbyist and Lobbying Firm will report the lobbying contact with the City Official on their respective Quarterly Disclosure Reports.
- Meeting multiple times in the same day, to discuss the same municipal decision discussed earlier in the day, counts as 1 contact.
- A meeting that starts one day and finishes the next day, pertaining to the same municipal decision, counts as 1 contact.
- A meeting does not have to take place in a City Official's office to count as a contact. A contact includes any social or political occasion, such as a lunch engagement, cocktail party, reception, fundraiser, or similar event where an individual has direct communication with a City Official regarding a municipal decision. A contact also includes a chance encounter on the street if it involves an attempt to influence a municipal decision.

***Example:*** *Stanley is a good friend of a Council Representative. While both are attending a Padres game, Stanley mentions that his company will be hurt if a proposed zoning decision is adopted by the City Council. By making this comment, Stanley is attempting to influence a municipal decision on behalf of his company and is making a lobbying contact.*

- Identical or substantially similar letters, faxes, and e-mails count as 1 contact for each municipal decision discussed, regardless of the number of City Officials to whom they are sent.

  ***Example:*** *Vic sends the same e-mail message to 8 Councilmembers. He then copies the contents of the e-mail and pastes it into a letter to 3 Department Directors. Vic has made only 1 contact. Note that using a different argument or making a different point in any of the e-mails or letters would result in a separate contact for each unique communication.*

- Different letters, faxes, and e-mails sent to different City Officials regarding a single municipal decision count as 1 contact for each different letter, fax, or e-mail.

  ***Example:*** *Holly sends a letter to 4 Councilmembers that emphasizes a project's financial concerns, and sends a different letter to 3 Councilmembers emphasizing the project's environmental issues. She has made 2 separate contacts (1 contact for each different letter).*

**Note: The above rules for identical or "substantially similar" communications pertain solely to written contacts; they do not apply to meetings or telephone calls.**

- A communication is attributable to an organization only if the communication is made on behalf of that organization.

  ***Example:*** *Patricia is employed by PBJ Construction. In addition, she serves on the Board of Directors for EarthSavers. Both entities are Organization Lobbyists. She meets with a Department Director regarding a Municipal Code amendment that will impact PBJ Construction, but is of no interest to EarthSavers. Because she is meeting with the Department Director only on behalf of PBJ Construction, there is no lobbying contact attributable to EarthSavers.*

## EXCEPTIONS TO THE LOBBYING ORDINANCE

The following are not lobbying contacts:

- Speaking at City Council meetings, Council Committee meetings, and any public meetings of a City board or commission. This exception only applies to meetings that are noticed and conducted pursuant to the Ralph M. Brown Act. It does not apply to neighborhood group meetings that may be open to the public.

- Submitting documents that become part of the record of a public hearing. Note that you do not obtain this exemption simply by sending a document to a Councilmember or the City Clerk. For City Council meetings; the exemption applies only to documents that become part of the official public record for the meeting. It is the lobbyist's responsibility to ensure that a document becomes part of the record.

- A contact between two governmental officials. When a government (e.g., state, county, Port, etc.) employee communicates with a City employee on behalf of his or her agency, that contact is not a "lobbying" contact. This exemption also applies to a Lobbying Firm retained to represent a government agency.

- Submitting a question to a City Official so long as the question is not designed to influence a decision.

  ***Example:*** *Delores sends an e-mail to a Councilmember asking "Why would you support a needle exchange program that does nothing but attract crime to the businesses in your district?" Although this is indeed a question, it is not entitled to the exception because it is clearly intended to influence the Councilmember regarding a municipal decision.*

- Communications pertaining to bidding on contracts through the City's established competitive bid process do not generally fall within the scope of the Lobbying Ordinance. In other words, bids and responses to requests for proposals or qualifications are not lobbying contacts. Note, however, that this exception does not exempt

communications that are outside of the City's established bid procedures.

- Negotiating the terms of an officially authorized City contract.

  ***Example:*** *M&D Consulting is awarded a contract through the request for proposal process. Negotiating the terms of that contract is not lobbying. Keep in mind, however, that attempting to influence a City Official to extend the length of that contract would fall outside of the exception.*

- Requesting advice or an interpretation of a City law, regulation, or policy from a City Official.

  ***Example:*** *Lawrence contacts the City Attorney's Office for an interpretation of a City law. Merely asking for that information is not lobbying. Providing the City Attorney's Office with reasons to change the language of an ordinance being submitted to the City Council, however, would be considered lobbying.*

- Communications by attorneys and their staffs concerning pending or actual litigation or administrative enforcement actions.

  ***Example:*** *Simon is an attorney who communicates with the Ethics Commission's Executive Director regarding a pending administrative complaint. Simon's communications are exempt from the Lobbying Ordinance. Note that this exception is narrow and applies only to "pending or actual" litigation. It does not apply to other types of contentious matters, even if it is likely that the parties involved in a particular matter will eventually litigate their disputes. An attorney who contacts a City Official to influence a controversial land use decision is making a lobbying contact.*

- Communications regarding purely ministerial actions (i.e., actions that do not require a City Official to exercise discretion concerning an outcome).

  ***Example:*** *Greg makes arrangements to meet with a Department Director. The mere act of setting up the meeting would be considered "ministerial," although the meeting itself could involve "lobbying".*

- Meetings with, and letters, faxes, and e-mails to, a non-City Official. See Chapter 13 for additional information regarding who is a "City Official."

  ***Example:*** *George sends a letter to a Program Manager in the Development Services Department in an attempt to influence a land use decision. Because Program Managers are not "City Officials" under the Lobbying Ordinance, George has not made a lobbying contact.*

- Communications concerning collective bargaining agreements [CBA] and memorandums of understanding [MOU] between the City and a labor union. Note, however, that if a union representative seeks to influence a municipal decision not directly related to the applicable CBA or MOU, then "lobbying" is taking place.

  ***Example:*** *Mary is a union employee who meets with the City's negotiating team to discuss the terms of a new MOU. Her communications are exempt from the Lobbying Ordinance. Months later, Mary meets with the Independent Budget Analyst to influence a Municipal Code amendment related to outsourcing of City services. Mary has now made a lobbying contact.*

- A person who is responding to a subpoena or other legal request to provide information to the City.

- A person who is directly responding to an enforcement proceeding with the City.

  ***Example:*** *The City initiates a code enforcement action against House of Rock for a noise violation. The owner of House of Rock is not making a lobbying contact when he files a response to a notice of violation. On the other hand, he would be making a lobbying contact if he goes outside the scope of the code enforcement process by meeting with a City Councilmember to try to convince the Councilmember to pull strings to have the matter dismissed.*

- Providing purely technical data or analysis to a City Official. This exception is limited to communications that employ objective methodologies, principles, techniques, standards, or specialized knowledge within a particular scientific field.

  ***Example:*** *Kelly is a soils engineer who prepares a report detailing an inspection of property that is the subject of a municipal decision. She would not be "lobbying" simply by providing that report to a City Official. Kelly would, however, be making a lobbying contact if she communicates*

*with the City Official beyond the technical scope of the document. If, for example, she tells a City Official of community opposition to a project, she is "lobbying."*

- News items, editorials, and comments made in the ordinary course of business by a newspaper, magazine, radio station, or television station.
- Communicating through an Internet website that is accessible to the general public.

## CONTACTS BY VOLUNTEERS

The following discussion pertains to the applicability of the Lobbying Ordinance to individuals who donate their time to an entity that is, or could become, an Organization Lobbyist.

### "Rank and File" Volunteers

Communications by the unpaid "rank and file" members of an organization are never subject to the City's Lobbying Ordinance. Such communications, even if expressly made for the purpose of influencing a municipal decision on behalf of an organization, are not considered contacts for the "10-contacts" registration threshold. As stated in Chapter 1, the 10-contact threshold applies only to communications by individuals who are paid by the organization for the purpose of lobbying on behalf of the organization. These communications also do not count as contacts if the organization becomes an Organization Lobbyist and has reporting obligations.

### Volunteer Officers

Communications by unpaid officers (e.g., the volunteer members of an organization's board of directors) do not count as contacts for the "10-contact" registration threshold. Thus, if all of an organization's communications with City Officials were limited to communications by its unpaid board members, then that organization would never become an Organization Lobbyist.

Keep in mind, however, that lobbying communications by the volunteer members of the organization's board of directors will count as contacts if the organization becomes an Organization Lobbyist and has reporting obligations.

***Example:*** *Ernest is a volunteer member of the board of directors of Save Our Soils, a recently formed non-profit organization devoted to environmental causes. Bertrand is the organization's paid Executive Director. Both individuals communicate with several Councilmembers regarding an upcoming land use decision. Ernest is unpaid, so only Bertrand's contacts count toward the 10-contacts threshold. After Bertrand's 10th contact, Save Our Soils registers as an Organization Lobbyist. When identifying its lobbying contacts on its Quarterly Disclosure Report, Save Our Soils must disclose the contacts made by Bertrand (paid employee) and also by Ernest (volunteer officer).*

**Note: If a member of an Organization Lobbyist's board of directors is also a lobbyist, that person must report his or her lobbying contacts as well as his or her campaign contributions, fundraising activities, campaign services, and City contract services on the organization's disclosure forms. See Chapters 4 and 6 for additional information.**

## QUESTIONS

**If 5 employees of my organization meet with 1 City Official for lobbying purposes, is that 1 contact or 5?**

It is 1 contact. Each meeting to lobby 1 City Official with regard to 1 municipal decision counts as 1 contact regardless of the number of individuals from your organization who are present at the meeting. Note, however, that if your organization has become an Organization Lobbyist and all 5 employees are lobbying the City Official, then the identities of all 5 employees must be listed on the organization's Registration Form as well as on the applicable Quarterly Disclosure Report.

**I sent an e-mail to 1 City Official, who forwarded it to another City Official. How many contacts did I make?**

You made only 1 contact. The fact that a City Official forwarded it to other City Officials does not alter the fact that you were engaging in a

direct communication with only 1 City Official. The first City Official could have forwarded the e-mail to 20 other City Officials and it still would be only 1 contact.

**I provided a City Official with a policy analysis that does not take a specific stance (support or opposition) to a municipal decision. Did I make a lobbying contact?**

Providing that information to a City Official is a lobbying contact if it is for the purpose of influencing a municipal decision. You needn't advocate for one side or another to influence a decision. Providing information, statistics, analysis, or studies to a City Official is considered a lobbying contact if it could affect the decision.

**Several volunteer workers for my organization contacted members of the City Council to voice support for a prospective change to the Municipal Code. Do I need to keep track of those contacts?**

No. The actions of unpaid "rank and file" members of an organization are not subject to the Lobbying Ordinance.

**I am employed by an Organization Lobbyist. In addition, I serve on the Board of Directors for a different entity, which is also an Organization Lobbyist. If I have a meeting with a City Official, do both organizations have to report my lobbying contacts?**

Not unless the contact is on behalf of both organizations. If you represent to the City Official that you are communicating on behalf of just one of the organizations, then only that organization must disclose your lobbying efforts.

**My company was just awarded a City contract, and we are now going to work out the details of that contract. Will those discussions be considered "lobbying" contacts?**

No. Those discussions are exempt. The municipal decision – who should get the contract – has already been made. Note, however, that if you later have communications with the City regarding extending the current contract, then those communications would be subject to disclosure under the Lobbying Ordinance. For purposes of the Lobbying Ordinance, extending an existing contract is no different than entering into a new contract.

**I plan to contact a City Official to schedule a meeting. Would that count as a "lobbying" contact?**

A conversation with a City Official solely for the purpose of scheduling a meeting is not a lobbying contact. It only becomes a lobbying contact if the conversation switches from a scheduling discussion to a discussion in which you are attempting to influence a City decision. Keep in mind that the meeting itself will constitute a lobbying contact if at that meeting you attempt to influence a municipal decision.

**If I contact a City Official to inquire about the status of a project, am I making a lobbying contact?**

Merely seeking information is not a contact (unless the request for information is a disguised attempt to influence a decision). For example, asking a City Official this question is not a lobbying contact: "Has the City Council voted yet on the Sunstreet project?" On the other hand, this question is a lobbying contact: "Has the City Council voted yet on the Sunstreet project that will displace 100 low-income residents?"

## AUTHORITY

The following San Diego Municipal Code sections provide authority for the preceding information in this chapter:

27.4002 Definitions

27.4004 Exceptions

# Chapter 9
## Gifts

The Lobbying Ordinance prohibits Lobbying Firms and Organization Lobbyists, and their lobbyists, from giving gifts to a City Official with an aggregate value of more than $10 in a single month.

These gift limits are intentionally low in order to discourage lobbyists from giving gifts to City Officials, but are not so low as to make a violation out of an isolated incident where a lobbyist provides someone with a cup of coffee or other item of nominal value.

### GENERAL RULES

The $10 limit applies to the aggregate value of gifts.

***Example:*** *Calvin is a lobbyist who runs into Councilmember Hobbes at a Starbucks. While discussing last night's Padres game, Calvin offers to pay $4 for the official's coffee. Hobbes accepts the offer. Later in the same month, Calvin is at a sandwich shop standing in line next to Hobbes. When it is time for the City Official to pay for his $7 sandwich, Calvin tells the cashier to put Hobbes' sandwich on his bill. If Hobbes lets Calvin pay for his sandwich, Calvin will have violated the Lobbying Ordinance's gift limits.*

This limitation also applies to the aggregate activities of the lobbying entity and its lobbyists.

***Example:*** *Erica works as a lobbyist for Make A Dish, a local catering company that has registered as an Organization Lobbyist. Make a Dish sends a small box of candy, valued at $10, to each member of the City Council. Later in that same month, after a meeting with one of the Councilmembers, Erica offers to buy the Councilmember a glass of wine. Because Erica's company has already reached the $10 gift limit, Erica may not give anything of value to the Councilmember for the remainder of the month.*

The limitation applies not only to gifts that a lobbyist gives directly to a City Official, but also to gifts that are given indirectly or where the lobbyist or lobbying entity acts as an intermediary. The following are examples of gifts that are subject to the $10 gift limit:

- an organization hosting a gala event gives invitations to a lobbyist and asks the lobbyist to deliver them to City Officials;
- a Lobbying Firm authorizes an employee to bill a client's account to purchase a meal for a City Official; and,
- the client of a Lobbying Firm gives a lobbyist tickets to a ballgame with the understanding that the lobbyist will deliver the tickets to a City Official.

**Note: Because of the $10 gift limit, and because lobbying entities are only required to report activity expenses that exceed $10, lobbying entities should have no gifts to report on their Quarterly Disclosure Reports.**

### EXCEPTIONS

The gift exceptions contained in the City's Ethics Ordinance apply to the Lobbying Ordinance's gift rules. For example, the following would not be subject to the $10 limit:

- a gift from lobbyist who is a family member of the City Official who received the gift;
- a personalized plaque with a value of less than $250;
- hospitality in a lobbyist's home; and
- free or discounted admission to a seminar or conference that will assist the Official in the performance of his or her official duties.

Note that one of the gift exemptions in the Ethics Ordinance does not apply to lobbyists; the exemption for gifts exchanged on holidays and birthdays expressly excludes lobbyists.

In addition to the above exemptions, the $10 gift limit does not apply to tickets or invitations to events held for non-profit entities. For example, because the Chamber of Commerce is a non-profit entity, a lobbyist may give an invitation valued at $150 to the Chamber of Commerce's annual dinner without exceeding

the $10 limit. This exception applies to any event held for a non-profit entity, including events that are not considered fundraisers.

Keep in mind that the non-profit event exception is specific to the Lobbying Ordinance and does not apply to a City Official's duties and obligations under the City's Ethics Ordinance. A City Official will have to report gifts of tickets and invitations to events held for non-profit entities unless a specific exception exists in the Ethics Ordinance. If such gifts exceed the Ethics Ordinance's gift limit (currently $420 in a calendar year), they could cause the official to violate the law and trigger disqualification concerns.

***Example:*** *Ted is a lobbyist who invites Alice, a City Official, to an event hosted by a local non-profit organization. Tickets to the event cost $100. The "non-profit entity" exemption in the Lobbying Ordinance permits Ted to give the $100 ticket to Alice. Moreover, Ted's firm will not have to report the ticket as an activity expense on its Quarterly Disclosure Report. There is, however, no exemption for Alice under the Ethics Ordinance. Alice will have to report the $100 ticket from Ted when she fills out her Statement of Economic Interests.*

If a lobbyist or lobbying entity gives a City Official a gift in excess of the $10 limit, but the official reimburses the source of the gift within 30 calendar days, no violation will have occurred.

***Example:*** *Bob is a lobbyist who invites Carol, a City Official, to a seminar that Bill's firm is hosting. Because the information provided at the seminar will help Carol in the performance of her City duties, Carol's attendance at that seminar is not a gift. Carol received a meal at the seminar, however, and the meal, which had a $25 value, is not exempt from the gift limits. When Carol realizes this, she writes a $25 check to Bob's firm, and does so within 30 days of the seminar. Under this scenario, Carol has not received a gift from Bob or Bob's firm. Bob's firm will not need to report the lunch on its quarterly disclosure report.*

## QUESTIONS

**I am a lobbyist and have weekly lunch meetings with a City Official. We have a custom where I pay for lunch one week and she pays for lunch the next time. Over time, it all evens out, so there's no gift issue, right?**

Wrong. There is no exemption in the Lobbying Ordinance or the Ethics Ordinance for "trading lunches." If you buy the City Official a lunch that exceeds the $10 threshold, you have violated the Lobbying Ordinance, regardless of any plan or agreement to reciprocate in the future. (This is different than the Official reimbursing you within 30 days.)

**My company has not yet reached the contacts threshold for Organization Lobbyists, but it probably will later in the year. Does the gift limit apply to my company yet?**

No. The gift limits only apply to entities that are registered (or legally required to be registered) as a Lobbying Firm or an Organization Lobbyist.

**My company is a non-profit organization and is registered as an Organization Lobbyist. We recently held our annual dinner and gave invitations valued at $150 to several City Officials. I know these invitations aren't subject to gift limits, but are they reportable on my Quarterly Disclosure Report?**

No. The tickets are exempt from the $10 gift limits and don't need to be reported under the Lobbying Ordinance. (Note that under the Ethics Ordinance, the City Officials may be required to disclose the gifts from your company on their Statements of Economic Interests.)

## AUTHORITY

The following San Diego Municipal Code sections provide authority for the preceding information in this chapter:

| | |
|---|---|
| 27.4002 | Definitions |
| 27.4030 | Gifts from Lobbying Entities and Lobbyists |

# Chapter 10
## Fundraising Activities

Lobbying Firms must keep track of the fundraising activities engaged in by its owners, officers, and lobbyists. Organization Lobbyists must keep track of the fundraising activities engaged in by its owners, compensated officers, and lobbyists (which could include a non-compensated officer who lobbies). The fundraising activity need not be sponsored or encouraged by the firm or organization to be subject to these disclosure rules.

### WHAT IS "FUNDRAISING ACTIVITY"?

Whether or not a person is engaging in "fundraising activity" is determined by a two-part test. To engage in "fundraising activity," you must:

(1) SOLICIT A CONTRIBUTION: you solicit, or direct others to solicit, campaign contributions from one or more contributors; and,

(2) TAKE CREDIT FOR THE CONTRIBUTION: you either (a) personally deliver $2,000 or more in contributions to a City candidate or (b) identify oneself to a City candidate as having any degree of responsibility for $2,000 or more in contributions received as a result of that solicitation.

**Note: Prior to January 1, 2009, the fundraising disclosure threshold was $1,000. If you are filing a Registration Form, apply the $1,000 threshold if an individual fundraised $1,000 or more prior to 2009. If you are filing a Quarterly Disclosure Report for any quarter prior to January 1, 2009, apply the $1,000 threshold instead of the $2,000 threshold.**

The information required on a Registration Form is limited to fundraising that took place during the two-year period prior to registering, and only applies to fundraising for a current elected City Official. See Chapters 3 and 4 for more information regarding the Registration Form.

Quarterly Disclosure Statements, on the other hand, require more detailed information than a Registration Form, and seek information related to fundraising activity for <u>any City candidate</u> that took place during the reporting period. See Chapters 5 and 6 for more information regarding completing a Quarterly Disclosure Report.

The amount of contributions attributable to an individual at a particular event is the total amount raised at the event, even if that individual was one of several persons involved in the fundraising effort. Do not divide the total amount raised by the number of persons involved in the fundraising activities.

Keep in mind that you are engaging in fundraising activities only if your solicitations are successful in providing the candidate with at least $2,000 in contributions. If you solicit contributions from a dozen friends, but none of them gives the candidate a contribution, or if only a few hundred dollars is collected, then you have not reached the "fundraising activities" threshold.

### SOLICITING A CONTRIBUTION

Soliciting a campaign contribution means to either (1) personally ask someone to give a contribution to a candidate or the candidate's campaign committee, or (2) host or sponsor a campaign fundraising event.

Hosting a campaign event includes the following activities, even if you are only one member of a host committee for an event:

- providing your home or office for a fundraising event (without charging market value);
- providing goods or services at a fundraising event (without charging market value);
- inviting people to attend a fundraising event or giving a list of invitees to the candidate.

Hosting a campaign event does not include solely supplying your name to be used on the invitation to an event. This is commonly referred to as an “honorary” host.

**TAKING CREDIT FOR A CONTRIBUTION**

An essential part of engaging in fundraising activities is the act of identifying yourself to the candidate as having some responsibility for that candidate receiving $2,000 or more in contributions.

The following are examples of scenarios in which John Smith would be identifying himself as having some degree of responsibility for raising campaign contributions:

- John identifies himself to the candidate or the candidate’s committee as being the host of an event that results in contributions to the candidate.
- John identifies himself to the candidate or the candidate’s committee as providing the home or office where the fundraiser takes place.
- John codes contribution envelopes in some manner that lets the candidate know that John was involved with obtaining the contributions inside the envelopes.
- John provides the candidate with a list of individuals whom John solicited for contributions.
- John has a messenger deliver to the candidate a bundle of contributions accompanied by some indication that the bundle is from John.

**QUESTIONS**

**I did some fundraising in 2007. How long do I have to disclose those fundraising activities?**

If you are an owner, officer, or lobbyist of a Lobbying Firm, or you are an owner, compensated officer, or lobbyist of an Organization Lobbyist, then your 2007 fundraising activities must be identified on your 2008 Registration Form. Those fundraising activities must also be identified on your 2009 Registration Form if they took place within two years of the date your firm or organization files its Registration Form. For example, if you engaged in fundraising activity in June of 2007, and file your 2009 Registration Form in January of 2009, then the fundraising must be reported on the 2009 Registration Form.

**I am an uncompensated member of the board of directors for an Organization Lobbyist. I also lobby City Officials on behalf of my organization. Are my fundraising activities reportable?**

Yes. Although other volunteers are exempt from disclosing their fundraising activities and campaign contributions, board members who are also lobbyists must disclose all of their campaign activities, including fundraising activities, on the organization's Registration Form and Quarterly Disclosure Report.

**I am a partner in a Lobbying Firm. I also have my own business providing professional fundraising services directly to candidate committees. Does the Lobbying Firm need to disclose my professional fundraising services?**

Yes, but keep in mind that the disclosure will be made as "campaign services," not "fundraising activities." In other words, the Lobbying Firm will disclose on its Registration Form (Schedule C - Part 2) the compensated campaign services you provided to elected City Officials within the previous two years, and disclose on its Quarterly Disclosure Report (Schedule F) the compensated campaign services you provided to candidate-controlled committees during the quarter.

Because you were paid by one or more candidate committees for your fundraising efforts, your activities are not considered "fundraising activities" for purposes of the Lobbying Ordinance. The Lobbying Firm, therefore, is not required to disclose your professional fundraising services on Schedule

C - Part 1 of its Registration Form or on Schedule E of its Quarterly Disclosure Report.

**I sent out e-mails to all my friends and associates asking them to write checks supporting a particular candidate. That e-mail went out just before the end of September. I collected a dozen contribution checks, but didn't deliver them to the candidate until sometime in October. When do I report my fundraising activities?**

"Fundraising activities" has two parts: (1) soliciting contributions and (2) taking credit for the contributions collected. You didn't complete both parts until October, which falls within the year's fourth quarter. Therefore, even though you began your fundraising efforts in the third quarter, your "fundraising activities" must be reported on the Quarterly Disclosure Report that you file for the fourth quarter.

**I collected just over $2,000 in contributions and delivered them to the candidate. Of that amount, $270 was my own personal contribution to the candidate. Are my fundraising efforts reportable?**

Yes. Because you identified yourself to the candidate as having some responsibility for $2,000 or more in contributions, you have reached the reporting threshold. The fact that some of those funds were from you personally does not change the fact that you took credit for at least $2,000 in contributions.

**I'm a lobbyist who was responsible for raising $1,200 for a candidate in July, and then another $1,500 for that same candidate in August. Neither individual effort reached $2,000. Do these efforts have to be reported on the quarterly report filed by my Lobbying Firm or Organization Lobbyist employer?**

Yes. Although neither effort reached the $2,000 threshold on its own, your efforts were collectively responsible for raising more than $2,000 for a candidate within the same quarter. When completing Schedule E for the firm's or organization's July-September quarterly statement, fill out a separate entry for each fundraising effort.

**I held a fundraiser in my home in April and raised $1,500 for a City candidate. I held another fundraiser in my home in May and raised $1,000 for a different City candidate. Do these efforts have to be reported on my firm's or organization's quarterly report?**

No. The $2,000 fundraising threshold applies to funds raised per candidate in a calendar quarter. In other words, funds raised for different City candidates are not aggregated for purposes of the $2,000 threshold.

**If my law firm and another law firm (both of which are registered as Lobbying Firms), coordinate an event that raises $10,000 for a City candidate, what should each firm disclose on its quarterly report?**

Each firm must attribute the total amount raised by the fundraising effort ($10,000) to each owner, officer, and lobbyist who engaged in "fundraising activities" even though no one person (and no one firm) was solely responsible for the event. Note that under "Description of Fundraising Activity," each firm can state that its owners, officers, and lobbyists co-hosted the event with another firm, and thereby indicate that it shared the responsibility with another entity for the fundraising effort.

**I'm a lobbyist employed by an Organization Lobbyist, and I was responsible for raising $1,000 for a City candidate in July. In August, the owner of the Organization Lobbyist held a fundraiser for the same candidate and raised $1,500. Does the Organization Lobbyist have to disclose our efforts on its quarterly report?**

No. The $2,000 fundraising threshold applies to funds raised by each individual at the organization in a calendar quarter. In other words, funds raised by different individuals at an organization or firm are not aggregated for purposes of the $2,000 threshold.

**AUTHORITY**

The following San Diego Municipal Code sections provide authority for the preceding information in this chapter:

27.4002 Definitions

27.4009 Contents of Registration Form

27.4017 Contents of Quarterly Disclosure Report

# Chapter 11
## Restrictions and Prohibitions

The City's Lobbying Ordinance contains a number of restrictions and prohibitions applicable to lobbyists.

### PERSONAL OBLIGATION

The Lobbying Ordinance requires individual lobbyists to abstain from doing any act with the purpose or intent of placing a City Official under personal obligation to the lobbyist, or to the lobbyist's employer or client.

***Example:*** *Shady Shadigan works as a lobbyist for a Lobbying Firm. He desperately wants one of the Councilmembers to vote against an upcoming ordinance. Shady knows that the Councilmember is having difficulty with his mortgage payments, so he tells the Councilmember that he will use his contacts in the lending industry to help the Councilmember refinance his mortgage if, in exchange, the Councilmember promises to vote against the ordinance. Shady has violated the Lobbying Ordinance by attempting to make the Councilmember feel obligated to him.*

### DECEPTION

An individual lobbyist may not deceive or attempt to deceive a City Official as to any material fact pertaining to a pending or proposed municipal decision. In other words, a lobbyist may not lie to a City Official as a means of influencing that City Official.

***Example:*** *Sly Swindell works as a lobbyist for an Organization Lobbyist. He wants the Planning Commission to approve a development permit for his company. During the Planning Commission meeting where the permit is being discussed, Sly tells the Commissioners that residents in the affected neighborhoods have enthusiastically supported his development project, when in fact he has received nothing but negative feedback from the community. Sly has violated the Lobbying Ordinance by attempting to deceive the City Officials who are considering his permit.*

### MISREPRESENTION

An individual lobbyist may not cause any communication to be sent to a City Official in the name of any fictitious person, or in the name of any real person without the consent of such real person.

***Example:*** *Phineas Fibber works as a lobbyist for an Organization Lobbyist that wants to relax the regulatory rules applicable to pawnshops. He asks one of his friends to speak on this issue during the public comment portion of a Council committee meeting. He tells his friend to pretend to be a former law enforcement officer with experience regulating pawnshops. Phineas has violated the Lobbying Ordinance by causing his friend to misrepresent himself before the City Officials who are considering the matter.*

### USE OF AGENTS

An individual lobbyist may not attempt to evade the obligations in this section through indirect efforts or through the use of agents, associates, or employees.

***Example:*** *Connie Conivin works as a lobbyist for a Lobbying Firm, and has a client who does not want to be associated with a controversial project. The client wants to get some information to a Councilmember that could sway the Councilmember's vote on the project, but the client doesn't want his name listed in a lobbying report. Connie assures the client that this will not be a problem. Connie prepares a letter with the information but asks an associate with another firm to send it to the Councilmember (and tells the associate that since the associate is not getting paid he won't have to register as a Lobbying Firm.) Connie chooses not to disclose the client on her firm's Registration Form and Quarterly Disclosure Report. Connie has violated the Lobbying Ordinance by using an agent in order to avoid reporting her lobbying efforts (and by failing to file accurate and complete lobbying statements).*

### GIFTS

The Lobbying Ordinance restricts Lobbying Firms and Organization Lobbyists, and their individual lobbyists, from giving gifts valued in excess of $10 to a City Official within a single month. See Chapter 9 for more information regarding gifts.

## EMPLOYMENT CONCERNS

If any Lobbying Firm, Organization Lobbyist, or Expenditure Lobbyist employs or retains a current City Official, or any member of that official's immediate family, that lobbying entity must file a written statement with the City Clerk within 10 calendar days after such employment commences. This statement must set forth the name of the individual employed, the date the individual was first employed by the lobbying entity, and the individual's position, title, and department in the City.

***Example:*** *Jackie is a Department Director (a "City Official" under the Lobbying Ordinance). A local utility company that has registered as an Organization Lobbyist hires Jackie's husband. Within 10 days of the husband starting work, the utility company must send a letter or memo to the City Clerk advising the City of the hiring.*

## TRAVEL EXPENSES, HONORARIA, AND LOANS UNDER THE ETHICS ORDINANCE

In addition to the Lobbying Ordinance, the City's Ethics Ordinance contains several provisions applicable to lobbyists. In particular, the Ethics Ordinance makes it unlawful for a lobbyist to offer to pay travel expenses for any City Official or City employee who files a Statement of Economic Interests [Form 700].

In addition, the Ethics Ordinance makes it unlawful for a lobbyist to give an honorarium to any City Official or City employee who files a Statement of Economic Interests [Form 700].

Finally, the Ethics Ordinance makes it unlawful for a "High Level Filer" (which includes elected officials and other high-ranking officials) to accept a loan from a lobbyist that exceeds $250 at any given time.

## AUTHORITY

The following San Diego Municipal Code sections provide authority for the preceding information in this chapter:

| | |
|---|---|
| 27.4023 | Obligations of Individual Lobbyists |
| 27.4024 | Employment of City Officials by Lobbying Entity |
| 27.3520 | Restrictions on Benefits to Filers |

# Chapter 12
## Recordkeeping

The Lobbying Ordinance requires Lobbying Firms, Organization Lobbyists, and Expenditure Lobbyists to retain for a period of five years all documentation necessary to substantiate their required disclosures. In other words, each lobbying entity must keep records pertaining to the identity of its clients, if any; the decisions it has sought to influence; the outcome sought; the names of the individual lobbyists in the firm or organization; the identify of the City Officials lobbied; the amounts spent on expenditure lobbying; as well as other information concerning campaign-related activities and City contracts.

Organization Lobbyists are encouraged to implement a tracking system to monitor the lobbying contacts made by its owners, officers, and employees (it is assumed that Lobbying Firms typically have such systems in place for billing purposes). A simple chart or table, broken down by quarter, with spaces for dates; City Official/department lobbied; person lobbying; and municipal decision at issue can help an Organization Lobbyist track most of the information that is required on a quarterly report.

Entities that have occasional lobbying contacts, but have not yet reached the 10-contacts threshold, should also keep track of their lobbying efforts. Even though such entities may never reach the registration threshold, the implementation of a tracking system will alert the entity when it is close to reaching the threshold. And if it does reach the threshold, it will be better prepared to complete the required disclosure reports.

### AUTHORITY

The following San Diego Municipal Code section provides authority for the preceding information in this chapter:

27.4019 Retention of Records

# Chapter 13
## Definitions

### GENERAL DEFINITIONS

The following definitions provide guidance concerning some of the terms used in the Lobbying Ordinance. Please refer to the Ordinance itself for the full definitions.

**Activity Expense**

This term refers to any payment made to, or on behalf of, any City Official or any member of a City Official's immediate family, by a lobbyist, lobbying firm, or organization lobbyist. Activity expenses include gifts, meals, consulting fees, salaries, and any other form of compensation to a City Official or a City Official's immediate family. This term does not include campaign contributions.

**City Official**

For purposes of the Lobbying Ordinance, the term "City Official" refers to City officers and employees who hold one the following positions:

Mayor
City Attorney
City Councilmember
Council staff member
Council Committee Consultant
Council Representative
Assistant City Attorney
Deputy City Attorney
General Counsel
Chief
Assistant Chief
Deputy Chief
Assistant Deputy Chief
City Manager
Assistant City Manager
Deputy City Manager
Management Assistant to City Manager
Treasurer
Auditor
Comptroller
Independent Budget Analyst
Budget/Legislative Analyst
Financial Operations Manager
City Clerk
Labor Relations Manager
Retirement Administrator
Director
Assistant Director
Deputy Director
Assistant Deputy Director
Chief Executive Officer
Chief Operating Officer
Chief Financial Officer
President
Vice-President

"City Officials" include individuals holding the above positions with any of the City's agencies:

Centre City Development Corporation
San Diego Convention Center Corporation
San Diego Data Processing
San Diego Housing Commission
Southeastern Economic Development Corp.

The term "City Official" also means any member of a "City Board." This includes all of the members of City boards and commissions (e.g., Planning Commission, Civil Service Commission, Historical Resources Board, CCDC Board, Retirement Board) who file Statements of Economic Interests (Form 700). A list of these boards is posted on the Ethics Commission's website.

The term "City Officials" does not include candidates for elective City office (unless they are otherwise holding one of the above-listed positions).

**Client**

A client is any person who provides compensation to a lobbying firm for the purpose of influencing a municipal decision. It also means any person on whose behalf lobbying activities are performed by a lobbying firm (even without compensation, or pursuant to a contingency fee agreement).

**Contact**

Contact means the act of engaging in a direct communication with a City Official for the purpose of influencing a municipal decision. See Chapter 8 for a discussion of what is, and is not, a "contact."

**Direct Communication**

This means (a) talking to one the telephone or in person, or (b) corresponding through letter, e-mail, or facsimile.

**Fundraising Activity**

This term means soliciting, or directing others to solicit, campaign contributions from one or more contributors, either personally or by hosting or sponsoring a fundraising event, and either (a) personally delivering $2,000 or more in contributions to a candidate or to a candidate's controlled committee, or (b) identifying oneself to a candidate or a candidate's controlled committee as having any degree of responsibility for $2,000 or more in contributions received as a result of that solicitation. Note that prior to January 1, 2009, the reporting threshold for fundraising activities was $1,000. See Chapter 10 for more information regarding this term.

**Gift**

A gift is any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public.

Gifts are subject to the exceptions set forth in Municipal Code section 27.3525. Gifts do not include a ticket, invitation, or other admission privilege to an event held for a non-profit entity.

**Influencing a Municipal Decision**

This term means affecting or attempting to affect any action by a City Official on one or more municipal decisions by any method, including promoting, supporting, opposing, or seeking to modify or delay such action.

Influencing a municipal decision also includes providing information, statistics, analysis, or studies to a City Official.

**Lobbying**

Lobbying means direct communication with a City Official for the purpose of influencing a municipal decision on behalf of any other person.

**Lobbying Activities**

This term refers to the following and similar activities that are related to an attempt to influence a municipal decision:

(a) lobbying;

(b) monitoring municipal decisions;

(c) preparing testimony and presentations;

(d) engaging in research, investigation, and fact-gathering;

(e) attending hearings;

(f) communicating with clients;

(g) waiting to meet with City Officials; and

(h) communications with lower level City employees that don't meet the definition of a lobbying "contact."

When a Lobbying Firm is determining how much compensation to report on a Quarterly Disclosure Report, it will include all of the payments it earned for all of its "lobbying activities," not just the payments it earned for lobbying contacts. Organization Lobbyists will report on its Quarterly Disclosure Reports the names of individuals who engage in "lobbying activities," not just those who make lobbying contacts.

**Lobbyist**

A lobbyist is any individual who engages in lobbying on behalf of a client (for a Lobbying Firm), or any individual owner, officer (compensated or non-compensated), or employee who engages in lobbying on behalf of an Organization Lobbyist.

A person listed on Schedule A of a Lobbying Firm's Registration Form, or on Schedule B of an Organization Lobbyist's Registration Form, is not a "lobbyist" until he or she has a lobbying contact, and then will remain a "lobbyist" for the rest of the calendar year unless "deleted" as a lobbyist on an amended Registration Form.

**Municipal Decision**

This term means any ordinance or resolution; any report by a City Official to the City Council, a City Council Committee, or the Mayor; any contract; quasi-judicial decisions (including land development permits, maps, Process 2 through 5 land development matters, other types of permits and licenses, and debarment decisions); and any other decision by the City Council or a decisionmaking City commission, board, or committee. For a list of the City's decisionmaking commissions, boards, and committees, check the list of these bodies posted on the Ethics Commission's website.

If a decision is not a "municipal decision," it is not subject to the Lobbying Ordinance. For example, if the owner of a restaurant calls his Councilmember every day for a month demanding that the City fill the potholes on the street in front of the restaurant, he or she is not calling regarding a ""municipal decision."

**Officer**

Although not defined in the Lobbying Ordinance, this term is intended to refer to the decision-making individuals at the top of an entity's organizational structure. It includes a CEO, CFO, COO, Executive Director, President, Vice-President, and similar high-ranking positions. It also includes the members of an organization's board of directors, even if such individuals are not compensated for their services. A person who is "middle management" or a "rank and file" employee is not considered an "officer," nor is anyone an officer solely on the basis of serving on or heading a subcommittee.

**Public Hearing**

This term is limited to meetings that are conducted pursuant to the open meeting laws contained in the state's Ralph M. Brown Act. Just because a meeting is open to the public does not make it a "public hearing." Examples of a "public hearing" include meetings of the City Council, meetings of Council committees (e.g., Rules Committee, Land Use & Housing Committee), and meetings of the Planning Commission.

# Appendix 1

Fact Sheets regarding various provisions of the City's Lobbying Ordinance

These documents are available on the Ethics Commission's website:
www.sandiego.gov/ethics/sheets/index.shtml

# Appendix 2

Lobbying Ordinance
(San Diego Municipal Code section 27.4001, et seq.)

The Lobbying Ordinance is available on the Ethics Commission's website:
www.sandiego.gov/ethics/