



FACT SHEET ON PROFESSIONAL EXPENSE COMMITTEES - DISCLOSURE OF PENDING MATTERS

The City's Election Campaign Control Ordinance [ECCO] includes disclosure requirements applicable to individuals who make contributions to professional expense committees, and in particular to those individuals who have matters pending before the officeholder or candidates they are supporting. This fact sheet is designed to help officeholders, candidates, and their professional expense committees gain a better understanding of these laws, but should not be considered a substitute for the actual language of San Diego Municipal Code sections 27.2965 – 27.2969.

- ❖ Under ECCO, elected officeholders and candidates may raise funds to defray the professional expenses and costs associated with campaign audits or the defense of one or more civil, criminal, or administrative proceedings. Professional expense committees are created to solicit and expend these funds.
- ❖ Every individual who makes a contribution to an officeholder's or candidate's professional expense committee must accompany each contribution with a written disclosure form stating whether or not the individual has a matter pending before the officeholder or candidate.
 - ✓ Contributors who have one or more matters pending before the officeholder or candidate must accompany each contribution to the professional expense committee with a written description of the particulars of the pending matter.
 - ✓ Contributors who do not have any matters pending before the officeholder or candidate must state that fact on their disclosure form.
- ❖ Contributors must use a Professional Expense Committee - Disclosure of Pending Matters form (available on the Commission's website: www.sandiego.gov/ethics/documents/candidate.shtml) to identify matters pending before an officeholder or candidate.
- ❖ A contributor must disclose a pending matter if he or she has a personal financial interest in the matter or has an ownership interest of 10% or more in an entity that is directly involved in the matter.
- ❖ When reporting its contributions on disclosure statements filed with the City Clerk, the professional expense committee must "attach" (see next bullet) a copy of each contributor's form that discloses a pending matter. Forms stating that a contributor has no pending matters need not be filed with the City Clerk, but should instead be maintained along with the committee's other records.
- ❖ Professional expense committees are required to file their disclosure statements using the City Clerk's electronic filing system. This system, however, does not presently allow for the electronic filing of attachments. Accordingly, committees must file paper copies of all required Disclosure of Pending Matters forms with the City Clerk. The disclosure forms must be filed by the applicable deadline, and should be accompanied by a cover letter or similar document explaining that the forms are attachments to its electronically-filed campaign statement.

- ❖ A “pending matter” may include a decision before the City Council, such as:
 - ✓ an application by a private businesses for discretionary funding or discretionary entitlements;
 - ✓ a lease, agreement, or contract between a private business and the City; or,
 - ✓ a discretionary decision on a land development permit, map or other land use matter.
- ❖ A “pending matter” may also include a decision before an agency, board, or commission. For example, an individual with a project before the Planning Commission must disclose the particulars of that project when making a professional expense fund contribution to a candidate who is currently sitting on the Planning Commission.
- ❖ If the professional expense fund contribution is made to a candidate who is an employee of a public law firm, such as the City Attorney’s Office, a disclosable pending matter would include a claim or lawsuit filed against the public agency or any other matter under review by an attorney in the office.
- ❖ The disclosure requirement is not limited to City departments, boards, or commissions. If, for example, a member of the County Board of Supervisors is running for elective City office, a contributor to the Supervisor’s professional expense fund must identify any matters he or she has pending before the Board of Supervisors.
- ❖ A contributor is not required to disclose matters that he or she has pending before a public agency, board, or commission that is unrelated to the officeholder or candidate. For example, an individual with a land use matter before the City Council does not need to disclose a contribution he or she makes to the professional expense committee of a candidate who serves on the Civil Service Commission.
- ❖ A contributor whose sole connection to a pending matter is his or her representation of a party to that matter is not required to identify the matter on a disclosure form.
- ❖ A contributor is only required to disclose matters that are currently pending. In general, once action has been taken by the City Council or other government body, the matter is no longer pending. (Note that there may be an exception to this rule, such as when a renegotiation provision in a contract or agreement is triggered.)

For additional information, please contact the Ethics Commission at (619) 533-3476.

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