



## FACT SHEET: “AM I A LOBBYIST?”

The City’s Lobbying Ordinance imposes registration and reporting requirements on Lobbying Firms, Organization Lobbyists, and Expenditure Lobbyists. Lobbying Firms and Organization Lobbyists are entities that employ at least one individual lobbyist. This fact sheet is designed to assist individuals with determining whether or not they are lobbyists, and accordingly, whether the firm, business, or organization they work for is required to register with the City Clerk and report lobbying activities. This fact sheet is designed to offer general guidance to prospective lobbyists, but should not be considered a substitute for the actual language contained in the Lobbying Ordinance.

### GENERAL RULES

- ❖ A “lobbyist” is defined in the City’s Lobbying Ordinance as any individual who engages in “lobbying activities” on behalf of a client or on behalf of an Organization Lobbyist.
- ❖ The most important part of “lobbying activities” is lobbying itself, which occurs when an individual has a direct communication with a City Official outside of a public meeting (e.g., a private meeting, talking on the telephone, sending a letter or e-mail) for the purpose of influencing a municipal decision.
- ❖ Other “lobbying activities” include monitoring municipal decisions, preparing testimony and presentations, engaging in research, performing investigations, gathering facts, attending hearings, communicating with clients, and waiting to meet with City Officials, to the extent that such activities are related to influencing a municipal decision.
- ❖ The term “City Official” does not include all City employees. The following positions are “City Officials” under the Lobbying Ordinance (keep in mind that the “City” includes the City’s agencies, such as CCDC, SDDPC, etc.):

Elected officeholder	Council staff member	Council Committee Consultant
Council Representative	Assistant City Attorney	Deputy City Attorney
General Counsel	Chief	Assistant Chief
Deputy Chief	Assistant Deputy Chief	Mgmt. Asst. to City Manager
Treasurer	Auditor and 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	

- ❖ Some City Officials use “working titles” that are different from their official titles. Check the Ethics Commission website for a list of unclassified City Officials and their official titles.
- ❖ Officials also include the members of any City board, commission, or committee who are required to file Statements of Economic Interests.
- ❖ If you are a lobbyist, then the firm, business, or organization that you own or work for may be required to register with the City Clerk. The type of registration depends on whether the lobbying is done on behalf of clients (register as a “Lobbying Firm”) or on behalf of the entity you own or work for (register as an “Organization Lobbyist”).

- ❖ There is a third type of lobbying entity – the Expenditure Lobbyist. These lobbyists do not register annually, but are still required to file Quarterly Disclosure Reports with the City Clerk when they make expenditures designed to indirectly influence municipal decisions through methods such as public relations, media relations, advertising, public outreach, research, investigation, reports, analyses, and studies (instead of having direct contacts with City Officials). Please see the Fact Sheet on Expenditure Lobbyists for additional information.
- ❖ Note that a person or entity could qualify as more than one type of lobbyist. For example, a company that qualifies as an Organization Lobbyist could also be making payments to a public relations firm for “indirect” lobbying efforts” and thereby qualify as an Expenditure Lobbyist. Such an entity would have to file two quarterly reports, one as an Organization Lobbyist and one as an Expenditure Lobbyist.
- ❖ There are a number of exceptions to the Lobbying Ordinance that may be applicable to a prospective lobbyist. For a complete list of all the exceptions, please refer to the Fact Sheet on Exceptions to the Lobbying Ordinance.

### **REGISTRATION – LOBBYING FIRMS**

- ❖ If you work for a firm that has clients, and you attempt to influence a municipal decision on behalf of a client in exchange for compensation, 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.
- ❖ For 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 Jepson & Burke for the 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.”
- ❖ Note that attorneys are not exempt from the City’s Lobbying Ordinance. See the Fact Sheet on Attorneys and the Lobbying Ordinance for additional information.
- ❖ Firms must register with the City Clerk within ten calendar days of qualifying as a “Lobbying Firm.”

### **REGISTRATION – ORGANIZATION LOBBYISTS**

- ❖ If you own or work for a business or organization, including a non-profit or charitable organization, and your lobbying activities are performed 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 a total of 10 or more separate lobbying contacts with City Officials on behalf of the business or organization within any 60 calendar day period.
- ❖ For 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 3 meetings with City Council Chiefs of Staff, 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 this activity takes 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. For 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 “contacts” with City Officials and a Balboa Towers employee has 4 “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.”

- ❖ Businesses and organizations must register with the City Clerk within ten calendar days of qualifying as an “Organization Lobbyist.”
- ❖ 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.”
  - ✓ 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).
  - ✓ 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 meeting 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 meeting also includes a chance encounter on the street if it involves an attempt to influence a municipal decision.
  - ✓ Meetings with, and letter, faxes, and e-mails to, a non-City Official (i.e., someone whose title is not mentioned in the above list) are not considered “contacts” for purposes of the Lobbying Ordinance.
  - ✓ 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. For example, sending the same e-mail message to 8 Councilmembers, and using that e-mail message as the sole content of a letter to 3 Department Directors would count as 1 contact. Note that using a different argument or making a different point would characterize a communication as being “substantially different.”
  - ✓ Substantially different letters, faxes, and e-mails that pertain to a single municipal decision count as 1 contact for each different letter, fax, or e-mail. For example, sending 1 letter to four Councilmembers that emphasizes a project’s financial concerns, and sending 1 letter to three Councilmembers emphasizing the project’s environmental issues, would count as 2 contacts (1 contact for each different letter).
- ❖ Although lobbying contacts by uncompensated officers do not count toward the 10-contact threshold, they are still “contacts” that must be disclosed on the Organization Lobbyist’s registration and disclosure forms. For this reason, organizations should keep track of all lobbying contacts, even those made by its unpaid officers.

#### **ADDITIONAL FILING INFORMATION**

- ❖ In addition to filing a Registration Form, each Lobbying Firm and Organization Lobbyist must file a Quarterly Disclosure Report with the City Clerk to report their activities during the following calendar quarters: January through March; April through June; July through September; and October through

December. Each report must be filed with the City Clerk no later than the last day of the month that follows the reporting period.

- ❖ Refer to the Commission's Fact Sheet on Lobbying Disclosure Forms as well as the instructions on the forms themselves for additional filing information.
- ❖ Lobbying Firms and Organization Lobbyists generally retain their status until January 5 of the following year, and must renew their registration at that time (i.e., file a new Registration Form with the City Clerk) if they continue to qualify as a lobbying entity. If, however, a Lobbying Firm or Organization Lobbyist ceases to engage in lobbying activities in the midst of a calendar year, it may terminate its status as a lobbying entity by filing a Quarterly Disclosure Report with the City Clerk and reporting all of its activity to date.

If you have any questions concerning who is, and who is not, a "lobbyist" in the City of San Diego, please contact the Ethics Commission at (619) 533-3476.

Rev. 11/20/07