

**CITY OF SAN DIEGO
ETHICS COMMISSION**

Office of the Executive Director

MEMORANDUM

DATE: November 2, 2012

TO: Chair and Members of the San Diego Ethics Commission

FROM: Stacey Fulhorst, Executive Director

SUBJECT: Reporting of Fundraising Activities by Lobbying Entities
Docketed for Ethics Commission consideration on November 8, 2012

It recently came to the attention of Commission staff that some lobbying entities may not fully understand the requirements associated with the disclosure of fundraising activities. In particular, it appears that many lobbyists are not reporting fundraising events for which they served as members of a host committee. The Commission directed the staff to docket this issue for discussion in order to consider the various aspects of the current law and whether it is appropriate to recommend any amendments to the City Council.

The City's lobbying laws define fundraising as follows:

Fundraising activity means soliciting, or directing others to solicit, 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.

San Diego Municipal Code § 27.4002.

It is relevant to note that when the Commission overhauled the City's lobbying laws in 2006, the Commissioners carefully considered issues associated with the disclosure of fundraising activities. After recognizing the difficulty a lobbying entity would face trying to parse out which portion of the total funds collected could reasonably be attributed to any one person, the Commission expressly decided that: (1) hosting a fundraising event should include serving on a host committee; (2) fundraising should be disclosed if an individual had "any" degree of responsibility for raising the funds that are collected; and (3) the total amount raised at a fundraising event should be disclosed regardless of the number of individuals involved.

In light of the express language in the Municipal Code and the applicable legislative history, staff has been providing the following advice to the regulated community:

- Hosting a fundraising event includes the following (even if the individual is only one member of a host committee):
 - ✓ providing a 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.
- Identifying oneself as having some degree of responsibility for raising campaign contributions includes the following:
 - ✓ identifying oneself to the candidate or the candidate’s committee as being one of the hosts of an event that results in contributions to the candidate;
 - ✓ identifying oneself to the candidate or the candidate’s committee as providing the home or office where the fundraiser takes place.

Staff has further advised lobbying entities that if any of their owners, officers, or lobbyists co-host an event as described above, they must report the total amount raised at the event. This advice is based on the plain language of the Lobbying Ordinance, which requires disclosure of all funds that an individual had “any degree of responsibility” for raising, and stems from the notion that an individual who provides a home or office for a fundraising event, provides goods or services at the event, or otherwise encourages or facilitates the collection of campaign contributions at the event has at least some degree of responsibility for all of the funds that are raised at the event. Staff also considered the fact that the names of individuals serving on a host committee are typically listed on the invitation to the event, at least in part as a means of encouraging all invitees to join them in financially supporting the candidate.

In order to dispel the notion that an individual was personally responsible for the entire amount raised at an event, staff has suggested lobbying entities include a notation on the disclosure report indicating that the individual was a member of a host committee and was not solely responsible for raising the total amount disclosed. (In conjunction with updating the lobbying forms for 2013, staff has proposed disclosure reports to the City Clerk that include a box to check for this purpose.)