

**CITY OF SAN DIEGO
ETHICS COMMISSION**

M E M O R A N D U M

DATE: February 6, 2015

TO: Chair and Members of the San Diego Ethics Commission

FROM: Stacey Fulhorst, Executive Director

SUBJECT: Proposed Amendments to Campaign and Lobbying Laws Relating to Professional Expense Funds
Docketed for Discussion at Ethics Commission Meeting on February 12, 2015

As you know, the City's campaign laws include a series of provisions related to Professional Expense Committees. In particular, City Officials and candidates are permitted to create such committees and accept contributions (subject to limits) to pay for professional fees and costs incurred in connection with an audit or the defense of a civil, criminal, or administrative proceeding related to an election or an official's governmental duties. An individual making a contribution to one of these committees is required to submit a disclosure form identifying the matters that the individual has pending before the board, commission, department, or agency of which the City Official or candidate is a member.

It was recently brought to the attention of Commission staff that the phrase "pending matter" is subject to various interpretations, and that the applicable laws would benefit from the addition of some clarifying language. In particular, we have been asked to resolve the following issues:

- Does a "pending matter" include only matters in which the individual contributor has a financial interest, or does it also extend to nonmonetary matters?
- What constitutes a "financial interest" in a particular matter?
- Does a registered lobbyist representing a client before an official or candidate have to disclose the client's matter?
- When is a matter "pending" before a particular board, department, or agency? When the matter is initiated? When it appears on a meeting agenda? Somewhere in between?

For purposes of discussion, staff has prepared the attached strike-out ordinance, which would modify and clarify the existing disclosure requirement as follows:

- The phrase “pending matter” would be replaced with the phrase “municipal decision” and would have the same meaning as the defined term in the City’s lobbying laws (i.e., ordinances, resolutions, contracts, quasi-judicial decisions, decisions of the City Council or a City board, and reports to the Mayor/Council/Council Committees).
- The issue of whether a decision is “pending” before a particular board, commission, department, or agency would be clarified with language indicating that there must be a “realistic possibility” of the decision being “acted upon” by the official or candidate who established the committee.
- Only individuals who have a financial interest in a municipal decision would need to identify the decision on the disclosure form. The basis for what constitutes a “financial interest” would mirror the main provisions in the City’s Ethics Ordinance that trigger financial conflicts of interest for City Officials.
- Lobbyists who make contributions to a professional expense committee would not need to disclose their clients’ financial interests in matters coming before the applicable official or candidate. This proposal is tied to a related amendment to the Lobbying Ordinance that would require lobbyists to report contributions to professional expense committees on their quarterly disclosure reports (in addition to their current obligation to report regular campaign contributions).
- An individual would be required to submit the disclosure form only if he or she has contributed \$100 or more to the professional expense committee (currently there is no dollar threshold).
- Because professional expense committees cannot electronically file the disclosure forms as attachments to a campaign statement, they would be allowed two weeks to submit copies of the paper forms to the City Clerk (which could then scan and upload them to the electronic filing system).

Staff is disseminating notices to the Commission’s campaign and lobbying “interested persons” email lists soliciting input on this issue in connection with Commission deliberations at its meetings on February 12, 2015, and March 12, 2015.

Stacey Fulhorst
Executive Director

Attachment