



## FACT SHEET ON BECOMING A CITY CONSULTANT

City agencies, departments, boards, and commissions collectively hire hundreds of outside consultants to provide a wide variety of services to the City. When a consultant is given influence or authority with regard to City decisions, that consultant is generally considered a city official. Such consultants are subject to conflict of interest laws to ensure that their governmental actions do not improperly benefit their financial interests. Consultants should be aware that the ethics ordinance requires the disclosure of certain types of personal financial information and imposes several prohibitions and restrictions. This fact sheet offers general guidance regarding these laws. It should not, however, be considered a substitute for the actual language contained in the ethics ordinance.

As explained below, not all consultants are city officials. This fact sheet applies only to those consultants who have input on City decisionmaking and have been officially designated by their respective agencies or departments as city officials.

- ❖ A consultant will generally be considered a city official if he or she is hired to:
  - (1) make governmental decisions (for example, issue permits or licenses, approve contracts); or
  - (2) serve in a staff capacity with the City, and in that capacity participate in making governmental decisions, or perform substantially the same duties for the City that would otherwise be performed by a City employee designated in a conflict of interest code.
- ❖ The determination regarding whether or not a consultant is a “city official” is made by the agency, department, board, or commission that hires the consultant, in consultation with its legal counsel. The determination is not made by the ethics commission or the city attorney (except for consultants hired by these entities). In addition, it is not up to the consultant to decide whether he or she is a city official.
- ❖ The City entity (agency, department, etc.) should use a determination of applicability for consultant form to notify the city clerk whether a particular consultant is required to file a statement of economic interests – in other words, whether that consultant is a city official. If the consultant is determined to be a city official, the form should also state whether he or she will file pursuant to the broadest disclosure category in the conflict of interest code or is otherwise permitted to file pursuant to a narrower scope.
- ❖ Each consultant who is city official is:
  - ✓ required to file a statement of economic interests;
  - ✓ subject to disqualification for conflicts of interest, and prohibited from using his or her position to create a contract in which he or she has a financial interest;
  - ✓ subject to other provisions of the City’s ethics ordinance, including post-employment restrictions, prohibitions against misusing a City position, and prohibitions against engaging in incompatible activities, and;
  - ✓ required to complete an ethics training program conducted by the ethics commission.

- ❖ Alternatively, if a City entity determines that a consultant is not required to file a statement of economic interests (that is, the consultant is not a city official), then none of the disclosure requirements, conflict provisions, or training obligations identified in this fact sheet will be applicable to that consultant.

## **DISCLOSURE REQUIREMENTS**

- ❖ Consultants must disclose their economic interests on a statement of economic interests form prepared by the California fair political practices commission. It is also known as a Form 700. Consultants must file this form with the city clerk's office.
- ❖ The purpose of the disclosure requirement is to provide the public with relevant information concerning city officials to ensure that they are not using their City positions to promote or enhance their own financial interests.
- ❖ The type of information disclosed on a Form 700 is determined by the conflict of interest code adopted for the particular agency, department, board, or commission that hired the consultant. All conflict of interest codes are posted on the city clerk's website. Alternatively, as discussed above, the City entity that hired the consultant may make a written determination (on the determination of applicability for consultant form) that the consultant's disclosure categories are more limited in scope than those stated in the conflict of interest code.
- ❖ Consultants must file an assuming office Form 700 within 30 days of commencing work on the consulting contract; an annual Form 700 on or before April 1 of each year; and a leaving office Form 700 within 30 days of concluding work on the consulting contract.
- ❖ Depending on the scope of disclosure (as set forth in the applicable conflict of interest code or written determination by the hiring entity), a consultant may have to disclose the following information on a Form 700:
  - ✓ investments (e.g., stocks, bonds, excluding those in a mutual fund);
  - ✓ businesses owned (this includes partial ownership), and the names of people (for example, clients, customers) who have paid \$10,000 or more to the business;
  - ✓ real property owned (excluding a personal residence), and income from renters;
  - ✓ people and entities that are sources of income (\$500 or more), gifts (\$50 or more), or travel; and
  - ✓ the above information, but with regard to a spouse (which includes a registered domestic partner) and dependent children.
- ❖ For more information regarding disclosure requirements, please refer to the ethics commission's fact sheet on disclosing economic interests.

## **RESTRICTIONS AND PROHIBITIONS**

- ❖ City consultants may not:
  - ✓ participate in City decisions that might affect (even indirectly) their financial interests, such as companies in which they own stock, or companies/clients from whom they have received income.

- A consultant may not, for example, participate in City decisions that involve: a company in which he or she has an ownership interest; real estate that he or she owns; or any individual or entity that paid him or her \$500 or more within the previous twelve months.
  - When a consultant has a disqualifying conflict of interest, the consultant may not contact, appear before, or otherwise attempt to influence, any member, officer, employee, or consultant of his or her agency or department regarding that matter.
  - See the ethics commission's disqualification fact sheets for more information regarding disqualification rules.
- ✓ participate in City decisions that involve the interests of a person or entity with whom they are seeking or negotiating future employment;
  - ✓ use their City position or authority to induce anyone to provide them with something of value; or,
  - ✓ solicit campaign contributions from City employees.
- ❖ The ethics ordinance prohibits consultants from accepting gifts (for example, meals, tickets to events) valued at \$590 or more from the same reportable source (that is, a source identified on the conflict of interest code for the applicable agency or department) within a single calendar year. For more information, including the applicable exceptions to this rule, please refer to the ethics commission's fact sheet on gifts to city officials.
  - ❖ After ceasing to be a city official, consultants are subject, for a period of one year, from lobbying the City on behalf of a private entity. See the ethics commission's fact sheet on post-employment lobbying restrictions for more information.

## **ETHICS TRAINING**

- ❖ City of San Diego Council Policy 000-04 requires that all City consultants complete ethics training upon becoming a city official and every two years thereafter. Ethics training covers key provisions of the City's ethics ordinance.
- ❖ The ethics commission has implemented an online program that allows City consultants to complete the training when it is convenient for their schedules. Newly retained consultants should expect to be contacted about training obligations shortly after being designated as a city official.

If you have any questions concerning your obligations as a City consultant under the City's ethics ordinance, please contact the ethics commission at (619) 533-3476.

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