

LOBBYIST
REGISTRATION AND REPORTING
TRAINING



GOALS

- Familiarize yourself with the lobbying provisions within the WSSC Code of Ethics.
- Determine how these provisions and requirements may impact you and your potential obligation to register and report your lobbying compensation and expenses to WSSC.
- Recognize how the lobbying provisions restrict certain activities.
- Understand the potential consequences for violations of the lobbying requirements.
- Know where to go with your questions.



Purpose of Lobbying Disclosure Regulations

- Open, responsible government requires that the identities of those who attempt to influence government be disclosed.
- Disclose to the ratepayers who is spending money to influence executive, regulatory and/or administrative actions.
- Strengthen ratepayers' confidence in the integrity of WSSC officials by disclosure.
- Preserve the integrity of the WSSC decision-making process.



Purpose of Lobbying

Disclosure Regulations (continued)

- Promote a full and fair opportunity for ratepayers to address WSSC officials, either directly, or through paid representatives, on matters.
- "The purpose of our lobbying laws is to tell the public who is being paid how much to lobby whom on what..." (U.S. Senator Carl Levin, D. Mich.)



Why Does WSSC Have Lobbying Disclosure Regulations?

- State Law Requires it! (Md. Code Ann., General Provisions § 5-830).
- WSSC makes quasi-legislative decisions. (Enacts regulations that have the force of law, e.g. the Plumbing Code).
- WSSC is empowered to take executive, regulatory and administrative action (e.g. acquiring property, approving or rejecting water and sewer plans, issuing permits).



Hypothetical Scenario 1

Recently, the Commission was asked to review and adopt updates to the WSSC Small, Local and Minority Business Enterprise (SLMBE) program. Representatives from Company X approached 2 Commissioners prior to a Commission meeting to recommend further changes to the program suggesting that there was no need to regulate greater participation by SLMBEs in Commission contracts. Company X went on to explain that it like so many companies already had internal policies for ensuring the hiring of small, local and minority subcontractors on its contracts.



Hypothetical Scenario 1 Response

The Commissioners thanked Company X for its information and asked whether it was registered as a lobbyist.

Company X stated “no;” there was no need since they were not before elected officials, and they were in a public forum where everyone could see them. The Commissioners explained those reasons, unfortunately, did not exempt them from the lobbyist registration requirements. The Commissioners further communicated that WSSC has Lobbyist Disclosure rules that may be applicable to Company X if it plans on communicating with a Commissioner or an Employee to influence executive, regulatory or administrative action, and they immediately informed Company X to see WSSC’s Ethics Officer.



Hypothetical Scenario 2

A Developmental Design Unit Employee received a call one morning from Lady W. Lady W explained that she wanted to take the Employee to lunch to discuss an issue that one of her "clients" wanted her to raise with the Developmental Design Unit. Lady W went on to explain that her client was a well-known local commercial and residential developer. The Employee was aware that the Developmental Design Unit often received calls from lobbyists acting on behalf of clients who had particular interests.



Hypothetical Scenario Response 2

The Employee was prudent and asked Lady W whether she was registered as a lobbyist. Lady W stated "no." The Developmental Design Unit communicated to Lady W that WSSC has Lobbyist Disclosure rules that may be applicable to her if she plans on communicating with a Commissioner or Employee to influence executive, regulatory or administrative action, on behalf of her client. The Employee encouraged Lady W to review WSSC's website at <http://www.wsscwater.com/home/jsp/content/lobbyistregistrationinformation.faces> prior to scheduling any meeting with the Developmental Design Unit.



WSSC Code of Ethics, Article 6: Lobbying Disclosure

- WSSC has had a lobbying disclosure program since 2003.
- WSSC's Board of Ethics is charged with direction and administration of the WSSC's Lobbying Disclosure Program.
- Pursuant to the Code of Ethics § 2-10(c), WSSC must provide a report on lobbying before WSSC to the governing bodies of Montgomery and Prince George's Counties annually.



Role of WSSC Board of Ethics

- Commissioners, Employees and Lobbyists may request Advisory Opinions from the Board of Ethics on issues relating to Article 6, Lobbying Disclosure.
- Lobbyist registrations and reports are filed under oath with the Board of Ethics.
- Board of Ethics has authority to levy fines on lobbyists for late reports as part of its Complaint process.
- All lobbyist registration documents are maintained pursuant to the WSSC Code of Ethics and the Maryland Public Information Act.



Definition of a WSSC Lobbyist

Key Factors Required to Determine a Lobbyist

- Communication to influence, and
- Lobbyist compensation or expenditures.

The law establishes compensation and expenditure standards to determine if an individual or organization must register.



Code of Ethics, Article 6 - Triggering Thresholds for Lobbyist Registration

- Communication ANYTIME with a Commissioner or an Employee to influence executive or administrative action.

(Code of Ethics § 6-1(a))

AND

- Compensation in certain minimum amounts or expenditures in certain minimum amounts as set forth in the Code of Ethics.

(Code of Ethics § 6-1(a))



Compensation Thresholds

Purpose: To establish a compensation standard to identify both the lobbyist and the person paying the lobbyist to influence executive, regulatory or administrative action.

- Communication to influence + Compensation of \$500 per lobbying employer per reporting period OR \$2500 from all lobbying employers cumulatively during a reporting period = Registration Required.



Expenditure Thresholds

Purpose: To establish an expenditure standard that would require registration as a lobbyist.

- Communication to influence + Expenditures of \$100 or more during a reporting period = Registration Required.
- Examples of expenditures: meals, beverages, special events, gifts.

Note: The WSSC Code of Ethics, Article 3 regarding solicitation and acceptance of gifts apply!



Specific Types of Influence (Listed in Code of Ethics, Article 6)

- Communication to influence development or adoption of policy, regulation or procedure.
(Code of Ethics § 6-1(a)(2))
- Communication to influence land acquisition or service extension decisions.
(Code of Ethics § 6-1(a)(2))
- Communication to influence WSSC recommendations to County Government or State Government, including the General Assembly.
(Code of Ethics § 6-1(a)(2))



Specific Types of Influence (continued)

- Communication to influence WSSC procurement (anytime during the procurement process) that exceeds \$100K or is reasonably anticipated to exceed \$100K.

(Code of Ethics § 6-1(a)(3))

- Communication to secure a grant, credit, or other subsidy from WSSC with a value of more than \$100K (e.g. SDC credits).

(Code of Ethics § 6-1(a)(4))



List in the Code of Ethics is not all inclusive!

Despite the means, if contact or communication is intended to or can be construed as an attempt to influence WSSC on any specific matter or WSSC policy AND the compensation threshold or expenditure threshold applies, Code of Ethics, Article 6 applies to you.



Examples of Why Registration May Not Be Required

- Advising clients on proposed or pending WSSC regulations or policies without an attempt to influence (can't engage in any other acts that would require registration during the reporting period).
(Code of Ethics § 6-1(c)(1))
- Communicating with WSSC when requested by WSSC.
(Code of Ethics § 6-1(c)(2))
- Communicating with WSSC regarding submission or interpretation of plans, blueprints, drawings, maintenance requirements, and the like.
(Code of Ethics § 6-1(c)(3))



Examples of Why Registration May Not Be Required (continued)

- Communicating with WSSC as an official acting for the state, a political subdivision of the state or the US **and** not on behalf of any other person or entity (ask the question to understand the person or entity's role).

(Code of Ethics § 6-1(c)(4))

- Publisher or journalist working in the ordinary course of disseminating news to the general public.

(Code of Ethics § 6-1(c)(5))



How/When to Register

- When: Within 5 days after an individual or organization first meets the requirements for Registration.
- How:
 - Complete registration form on WSSC's website (paper form must be filed with original signatures).
 - One form per lobbying employer is required. Lobbyist must file separate registration for each organization that has engaged the lobbyist.
 - Remit fee of \$100 per form.
 - Provide executed authorization for the person to act, if an entity engages a lobbyist.
 - Lobbyist's employer can be held accountable for reporting if lobbyist fails to report.



Lobbying Registration Form

Information included on the lobbying registration form:

- Listing of type of lobbying to be done
- Lobbyist's name
- Lobbyist's employer
- Period of lobbying activity
- Specific matters to be addressed by lobbyist
- Original signatures of lobbyist and lobbyist employer required



Lobbyist Reports

- Must be submitted twice yearly, under oath to the Board of Ethics.
(Code of Ethics § 6-5(a))
- Must provide details: compensation, gifts, expenses, fees and costs.
(Code of Ethics § 6-5(c)(2))
- Must include business transactions that an individual lobbyist had with the General Manager or any Commissioner, as described in Md. Code Ann., State Gov't Article § 15-706.
(Code of Ethics § 6-5(c)(3))



Lobbyists Reports (Continued)

- Failure to file timely reports may subject the lobbyist to late fees (imposed by the Board of Ethics) of \$25/day, not to exceed \$1000.
(Code of Ethics § 2-5(e))
- Lobbyist's employer can be held accountable for reporting if lobbyist fails to report.
(Code of Ethics § 6-1(e))
- Potential related criminal proceedings/sanctions fall within the Maryland State Prosecutor's purview.
- Reporting Periods are January 1 through June 30 and July 1 through December 31.
(Code of Ethics § 6-5)



Lobbyists Reports (Continued)

- The Lobbying Activity Report form and Directions are available on the WSSC website.



Board of Ethics Complaint Process

What happens after a complaint is filed?

- Complaint moves forward or is dismissed if no reasonable cause.
- If the complaint moves forward:
 - Preliminary staff counsel investigates.
 - Board of Ethics determines whether to hold a pre-hearing settlement, a hearing or dismiss complaint.
 - Matter remains confidential.



Board of Ethics Complaint Process (continued)

- At the hearing, staff counsel presents evidence to Board of Ethics.
- Board of Ethics considers all evidence and makes written findings of fact and conclusions of law.
- If Board of Ethics determines no violation, complaint is dismissed.
- If Board of Ethics determines violation, possible sanctions may be imposed.



Possible Board Sanctions for Violation of Code of Ethics, Article 6

- Issue order of compliance.
- Issue a reprimand.
- Assess late fees of \$25/day, not to exceed \$1000.
- Require filing of additional information.
- Board of Ethics may refer matters to the appropriate prosecuting authority.



What are my support options for Lobbyist Disclosure Questions?

- Ethics Office, 301.206.8010
- General Counsel's Office, 301.206.8165
- Email: #ethicsquestions@wsscwater.com

Feel free to contact us with any questions or comments.



WSSC Lobbying Disclosure Program

Thank you for your participation and undertaking of the WSSC Lobbyist Registration and Reporting Training.