



ETHICS COMMISSION FORMAL OPINIONS (RQOS) ON LOBBYING

I. LOBBYING

A. Lobbyist (s)(1)(b), (s)(2)

1. “Lobbyist” means all persons, firms or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modification of an ordinance, resolution, action, recommendation, or decision. “Lobbyist” specifically includes the principal, as well as any employee whose normal scope of employment includes lobbying activity. **(s)(1)(b)**. Former employees engaged in representation of third parties at ticket appeal hearings or settlement negotiations would be considered lobbyists. **RQO 04-33**. Where plan expeditors are representing clients at ticket appeal hearings, negotiating unsafe structure cases and representing third parties on other enforcement matters, said expeditors are lobbying and required to register as such. **RQO 04-148**. A member of the board of directors of a corporation who is appointed to serve as the representative of the corporation in negotiations is a principal and is required to register as a lobbyist. **RQO 08-41**. Individuals who appear in video presentations intended to be shown to County staff, selection committee members, and others involved in the procurement process are not required to register as lobbyists as long as the presentations do not attempt to influence official decision. **RQO 13-12**. A public relations firm engages in lobbying when it is hired by a client who has an interest in foreseeable or pending contracts or legislation before the County, and it communicates favorable news stories or clippings directly to County elected officials and staff with the intent to influence their opinions or actions. **RQO 14-01**. A company and its sales representatives must register as lobbyists when the sales representatives seek to influence a County committee regarding a possible trial or purchase of one of its products. **RQO 06-65**. Principals and employees of nonprofit organizations who appear for the purpose of requesting a *grant* without special compensation or reimbursement (i.e., compensation that is different or in addition to regular wages and that is paid for a particular purpose) for the appearance, are not required to register as lobbyists; however, principals or employees of nonprofit organizations who appear in front of the mayor or public body to lobby on matters *other than grant* funding, are required to register as lobbyists but are exempt from paying lobbyist registration fees but they must pay the lobbyist training fee. **RQO 14-04**

2. **PRINCIPAL**— The definition of “principal” does not include those who employ or retain lobbyists. **RQO 10-09**. Principals of certain certified small businesses have been exempt from paying lobbyist registration fees, however, County ordinances continue to require principals to register as lobbyists. **RQO 10-09**.

3. **QUASI-JUDICIAL PROCEEDINGS**—Giving testimony or appearing on behalf of private clients in a publicly noticed, quasi-judicial proceeding does not constitute lobbying. **RQO 10-19, RQO 11-26**. A quasi-judicial matter is not concluded until the time for resolving the disputes stemming from the quasi-judicial hearing has expired. **RQO 13-04**.

B. PHT (s)(1)(b)

1. The Code does not require vendors to register as lobbyists to provide technical assistance, instruction and advice to clinical personnel after a medical/surgical product has been purchased by the PHT during the regular or emergency procurement process. If the vendor only serves a training and technical support function and does not perform any sales function, the person would fall within the exemption for employees of the principal whose normal scope of employment does not include lobbying activities and would not have to register. **RQO 06-04**. However, vendors must register as lobbyists if they approach UM doctors regarding the purchase of products or services which foreseeably will be reviewed by the PHT Board of Trustees or a PHT board or committee (UM doctors function as County personnel to the extent that they make decisions regarding products or services in Jackson clinics and operating rooms). **RQO 06-63**. A sales manager of a pharmaceutical company must register as a lobbyist when he or she seeks to influence PHT staff to use his or her company’s product. **RQO 10-28**.

C. Neighborhood Association Exemption (s)(1)(b)

1. The term “Lobbyist” specifically excludes a representative of a neighborhood association without compensation or reimbursement for the appearance, but the exemption only applies for the purpose of requesting a government grant or other government funding. **RQO 04-07**. A neighborhood association is localized and addresses residential and business concerns of the overall community. **RQO 04-08**. An organization established to represent specifically the residents of a neighborhood and whose activities are limited to addressing and representing the concerns of those residents, meets the definition of a “neighborhood association.” **RQO 05-18**.

D. Withdrawal (s)(2)(b)

1. The code requires that a company that provides governmental representation and consulting advice to clients execute a withdrawal form for any lobbyist that is no longer authorized to represent a client of the firm. If the former lobbyist is not available, the company may submit a withdrawal form signed by the head of the company. All former lobbyist employees are required to execute a new authorization form for any client of the company who retains the former employee. **RQO 07-44**.

E. Appearing in Official Capacity (s)(3)(a)

1. Any public officer, employee or appointee who only appears in his or her official capacity shall not be required to register as a lobbyist. Union representatives who are County employees but released from duty to tend to union affairs do not have to register before meeting with County Commissioners under the public/official employee exception. **RQO 09-26**. A law firm and its attorneys appearing in an official capacity as the designated appointee of a municipality on a specific government law matter are not required to register as a lobbyist nor pay any registration fees. **RQO 02-177, RQO 03-62**.

F. Contingency Fee Ban (s)(7)

1. Contingency fee arrangements are not allowed. A contingency fee may not be given or received. However, if a matter was advertised before the effective date of the contingency fee ordinance then a principal is not prohibited from paying a contingency fee to a lobbyist for any lobbying done between advertisement and award. Nevertheless, modification or extension of the original contract would be considered a new agreement and subject to the ordinance in effect at the time it was executed. **RQO 05-34**. Moreover, Section (s)(7) is not intended to prohibit salespeople who are lobbyists, from receiving a commission pursuant to his or her customary compensation agreement when profits are generated from sales made to Miami-Dade County. **RQO 06-34**. A person is not prohibited from serving as a vendor and lobbyist for the same client on the same contract, but only if the agreement does not amount to a prohibited contingency fee agreement. **RQO 04-208**.

G. Outside Employment/ Two-Year Rule (q)

1. **OUTSIDE EMPLOYMENT**—A County employee who was granted permission to engage in outside employment may not appear before any County personnel including officers, employees and advisory and quasi-judicial board members on behalf of private clients and other third parties, even in routine ministerial matters. **RQO 12-10**.

2. **TWO-YEAR RULE**—Former County employees are prohibited from lobbying Miami-Dade County and its various entities for a period of two (2) years after County employment has ceased, regardless of whether the Code specifically mentions the employees' former job classification with the County (former "Assistant County Manager" is covered by the two-year rule). **RQO 04-106**. The two-year rule prohibits a former County employee from arranging or participating in meetings before the County on behalf of his new employer, if he is publicly identified as a member of his employer's lobbying team. However, the two-year rule does not prohibit the former employee from attending meetings with County staff on behalf of his new employer if he is trying to obtain generic procurement procedures and opportunities. **RQO 04-34**. Former municipal employee may not attempt to influence any official decision or action in the municipality regardless of whether the action will foreseeably be heard or reviewed by the city commission, a city board or city committee or by the city manager throughout the two years following city employment. **RQO 12-09**.