



FAIR POLITICAL PRACTICES COMMISSION

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May 27, 2004

Jane Levikow, Director
Tides Center
The Presidio
Post Office Box 29907
San Francisco, CA 94129-0907

**Re: Your Request for Advice
Our File No. A-04-086**

Dear Ms. Levikow:

This letter is in response to your request on behalf of the Tides Center for advice regarding the lobbying provisions of the Political Reform Act (the "Act").¹

QUESTION

Is the Tides Center required to report as a lobbyist employer?

CONCLUSION

No. The Tides Center, by simply providing administrative services to the Projects, is not required to register or report as a lobbyist employer.

FACTS

The Tides Center is a nonprofit organization which provides management services to other nonprofit organizations, referred to as "Projects." These services include: fiscal sponsorship as a charitable entity organized under Internal Revenue Code 501(c)(3); financial services for oversight of revenues and expenditures; employee benefits; administrative support, including liability insurance and contract management; and, human resources expertise.

The Tides Center acts as an umbrella organization for a variety of Projects, some of which conduct lobbying activities in the State of California. These Projects are distinct and separate from each other, the only commonality being that each is a "Project of the Tides

¹ Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.

Center.” Only one or two of the Tides Projects employs a lobbyist requiring registration and reporting under the Political Reform Act. The vast majority of Projects engage in little, if any, direct lobbying activity in California.

The Projects work independently, beginning with the responsibility for their own fundraising. Some Projects receive grants from a variety of public and private sources. For an administrative fee, the Tides Center accepts funds raised by each Project as the fiscal sponsor and assists each Project in monitoring spending in accordance with the restrictions of the grants received, if any. When a Project decides to engage in lobbying, it is the Tides Center’s responsibility to ensure that there are unrestricted funds available to pay for such expenditures.

In the past, the Tides Center has registered each Project as a separate lobbyist employer. However, in our telephone conversation of May 13, 2004, you stated that the Tides Center is currently registered as a lobbyist employer for the Projects which lobby.

ANALYSIS

The Act regulates the activities of lobbyists, lobbying firms, and lobbyist employers. Specifically, Chapter 6 of the Act requires lobbyists, lobbying firms, and lobbyist employers to register and file periodic reports disclosing money spent to influence legislative or administrative action. (Sections 86100-86118.)

A lobbyist employer is defined in section 82039.5 as:

- “...any person, other than a lobbying firm, who:
- (a) Employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action, or
 - (b) Contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense[s], for the purpose of influencing legislative or administrative action.”

Essentially, your question involves the issue of whether the Tides Center is the lobbyist employer for those Projects which are engaged in lobbying activity,² or whether each Project is its own lobbyist employer. The Tides Center does not meet the definition of a lobbyist employer in that it is not employing a lobbyist or contracting with a

² The term “lobbyist” means “any individual who receives two thousand dollars (\$2,000) or more in economic consideration in a calendar month ... or whose principal duties as an employee are, to *communicate directly or through his or her agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action.* (Section 82039(a).) [Emphasis added.]

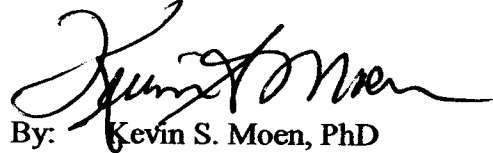
lobbying firm to lobby *on its behalf*. (Section 82039.5.) Under the facts you present, Projects control all of the programmatic activities for their lobbying efforts, not the Tides Center. The fact that the Tides Center is making the payments as part of its administrative function does not change this analysis.

When a Project hires a lobbyist or a lobbying firm to lobby on its behalf, the Tides Center will be an intermediary. Assuming the Tides Center does not otherwise qualify as a lobbyist employer, it should file a Notice of Termination, Form 606.³

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca
General Counsel



By: Kevin S. Moen, PhD
Political Reform Consultant II
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³ The Projects may have obligations under the lobbying provisions of the Act. These persons should request advice on their own behalf.