

The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Lobbyist Division

Marie D. Marra
Director

June 15, 2016
LAO 16/44

Dear [REDACTED],

I have received your May 27, 2016 letter requesting a lobbyist advisory opinion. See G.L. c. 3, § 41. Specifically, you inquired whether performing work related to business development incentives and infrastructure grant writing services for your client's organization would require you to register with this office. You indicate that the tasks you would perform would include but not limited to:

- Advising companies on the Economic Development Incentive Program (EDIP);
- Introducing companies to local governments, typically through the economic development staff or a City or Town Manager, to discuss the business development;
- Introducing companies to state government, typically through the Massachusetts Office Business Development staff or the Secretary of Housing & Economic Development or other agency staff;
- Assisting companies to complete Preliminary or Supplemental EDIP Applications;
- Attending meetings with state and local government staff; and
- Attending and presenting at Economic Assistance Coordinating Council (EACC) meetings on behalf of companies.

The definition of executive lobbying is:

any act to promote, oppose, influence, or attempt to influence the decision of any officer or

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employee of the executive branch or an authority, including but not limited to, statewide constitutional officers and employees thereof, where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation promulgated pursuant to any general or special law, or any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement; provided further, that executive lobbying shall include acts to influence or attempt to influence the decision of any officer or employee of a city or town when those acts are intended to carry out a common purpose with executive lobbying at the state level; and provided further, that executive lobbying shall include strategizing, planning, and research if performed in connection with, or for use in, an actual communication with a government employee; and provided, further, that "executive lobbying" shall not include providing information in writing in response to a written request from an officer or employee of the executive branch or an authority for technical advice or

factual information regarding a standard, rate, rule or regulation, policy or procurement for the purposes of this chapter.

G.L. c. 3, § 39 (2008 ed.) (Emphasis added).

In an advisory opinion dated January 22, 2012 (LAO 11/38), this office clarified the definition of executive lobbying and the registration requirement applicable to tax incentive-related activities.

G.L. c. 3, § 39. As provided therein,

While the Company may engage in certain activities and communicate with local and state officials regarding an EDIP eligible project, these activities in which the Company acts on behalf of its clients would not meet the statutory definition of executive lobbying. Based on the information provided to this office, the Company's activities appear to consist solely of those conducted within the confines and regulations of a statutorily defined program designed to promote business growth and economic development, and not within the parameters of the executive lobbying definition.

The Company's efforts on behalf of its clients are not acts "to promote, oppose, influence, or attempt to influence the decision of any officer or employee of the executive branch or an authority... where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation... or any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement..." See G.L. c. 3, § 39. The Company may advocate on behalf of its clients with respect to tax incentive eligibility, represent its clients before local and state officials, and advocate for the merits of a

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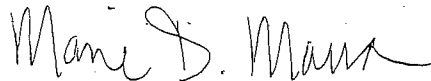
proposed project. Yet, these activities engaged in by the Company as presented to this office do not concern legislation, nor do they relate to any proposed action on a standard, rate, rule or regulation. Furthermore, these activities do not relate to any type of executive branch policy or procurement decision. The Company's activities relate to economic development initiatives conducted within the set of rules and regulations enacted to support an existing executive branch policy.

The Company's various activities as conducted on behalf of its clients with respect to local and state tax incentive plans, including those outlined within the request as part of the EDIP program, are not activities that meet the statutory definition of executive lobbying pursuant to G.L. c. 3, § 39. Accordingly, these activities do not constitute acts of executive lobbying and the Company is not required to register with this office with respect to these specific activities.

You further indicate that your company assists municipalities and developers in applying for public infrastructure grants to meet the city or town's economic development goals. You have not provided sufficient information concerning your company's activities to respond. However, as a general rule preparing, submitting, and negotiating agreements connected with grants, tax credits or other economic incentives would not constitute "executive lobbying."

Please be advised that this opinion is applicable only to the details you have provided in your request. You are advised to seek further guidance from this office with respect to any additional activities not detailed within your request to this office for an advisory opinion.

Very truly yours,



Marie D. Marra

Director, Lobbyist Division