



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division - Lobbyist Section

Alan N. Cote
Director

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June 9, 2010
LAO/10-25

Mr. Peter D. Corbett, Esq.
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Dear Attorney Corbett:

I have received your May 14, 2010 correspondence requesting an advisory opinion. See G.L. c. 3, § 41 (2008 ed.). Specifically, you requested confirmation of your understanding that certain conduct does not constitute lobbying. The conduct at issue includes the initial inquiry by members of your firm to covered officials to determine if the Commonwealth is willing to sell property or grant an easement, as well as responses to requests for proposals (RFP).

An executive agent is defined as a person who, for compensation or reward, engages in executive lobbying, which includes in part any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement. G.L. c. 3, § 39 (2008 ed.). Nothing prohibits an individual from responding to an awarding authority or covered official to an RFP. In fact, one of the exceptions to an "act to communicate directly with a covered executive official" includes:

a response to a request for proposals or similar invitation by an officer or employee of the executive branch or an authority, including, but not limited to, statewide constitutional officers and employees thereof, for information relevant to a contract

G.L. c. 3, § 39 (2008 ed.).

Thus, to the extent that an individual is simply responding to an RFP by a government entity, such communication is not within the purview of lobbying. Similarly, an initial inquiry as described above does not constitute lobbying to the extent that there is no attempt to influence the decision of covered officials. However, where there is contact with an awarding authority or official in an attempt to influence the decision

Mr. Peter D. Corbett, Esq.
Page Two
June 9, 2010

LAO/10-25

regarding a proposal, such action falls within the definition of lobbying. Id. In such circumstances, if the individual who engages in lobbying also meets the criteria of being an executive agent, a legislative agent, or both, registration with the Lobbyist Section is proper. G.L. c. 3, §§ 39, 41 (2008 ed.).

Very truly yours,


Alan N. Cote
Director