

**THE CITY AND COUNTY OF SAN FRANCISCO**



**LOBBYIST MANUAL**

**Regulation of Lobbyists**

**San Francisco Campaign and Governmental Code, Article II, Chapter 1**

**Instructions**

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## INTRODUCTION

Under San Francisco’s Lobbyist Ordinance, individuals who qualify as lobbyists are required to register with the Ethics Commission and periodically disclose information about their contacts with and efforts to influence decisions by City Officers. Lobbyists are also subject to certain prohibitions.

The Ethics Commission administers the Lobbyist Ordinance and serves as the filing officer for information required to be submitted pursuant to the Ordinance. The Commission produced this Lobbyist Manual to help lobbyists comply with their obligations under the Lobbyist Ordinance. In case of a conflict between this Manual and the Ordinance, the Ordinance prevails.

The Ethics Commission is located at 25 Van Ness Avenue, Suite #220, San Francisco, California, 94102-5302. The Commission may be reached at (415) 252-3100, or <http://www.sfethics.org>

## WHO QUALIFIES AS A “LOBBYIST”?

A lobbyist is any individual who:

- receives or is promised economic consideration of \$3,000 or more within three consecutive calendar months for lobbyist services;
- and
- makes **any** contact with a City officer on behalf of the persons providing the economic consideration.

(Section 2.105(g))

## WHO IS A “PERSON”?

A “person” is defined as an:

- individual
- partnership
- corporation
- association
- firm
- labor union
- or other organization or entity, however organized.

(Section 2.105(l))

## WHAT DOES IT MEAN TO MAKE A “CONTACT”?

A contact is defined as:

- a communication, oral or written, including communication made through an agent, associate or employee, **for the purpose of influencing local legislative or administrative action**

(Section 2.105(d))

## WHO ARE “CITY OFFICERS”?

As explained above, a individual may qualify as lobbyist based on a contact with a “City Officer.” For purposes of the Lobbyist Ordinance, a “City Officer” includes:

- any officer identified in San Francisco Administrative Code, section 1.50
- Board of Education members
- Community College Board members
- Housing Authority members
- Redevelopment Agency members
- Transportation Authority members
- The Zoning Administrator
- The City Engineer
- The County Surveyor
- Bureau Chief of the Department of Public Works' Bureau of Street Use and Mapping officers.

Under limited circumstances, contacts with individuals other than City officers are considered contacts with City officers for purposes of determining whether an individual qualifies as a lobbyist and for reporting purposes. If a lobbyist communicates with City staff for the purpose of influencing local legislative or administrative action, and the communication is intended or reasonably could be expected to be conveyed to a City officer, the communication is deemed to be a contact with the officer. (See Advice Letter to John Taylor, dated November 15, 1993)

(Section 2.105(k) and San Francisco Administrative Code, section 1.50)

## WHAT KINDS OF COMMUNICATION ARE EXEMPT?

The Lobbyist Ordinance explicitly exempts certain kinds of communications with officers from the definition of “contact.” (Section 2.105(d)(1)(A)-(Q)) The exempt communications include communications by an individual:

- Representing a news media organization and gathering news and information or disseminating news and information to the public.

- Providing oral or written testimony that becomes part of the record of a public hearing. (If the individual has already qualified as a lobbyist and is testifying on behalf of a client, the individual's testimony must identify the client on whose behalf the individual is testifying.)
- Performing a duty or service that can be performed only by an attorney, an architect, or a professional engineer licensed to practice in the State of California. (This includes any communication by an attorney in connection with litigation involving the City and County or a claim filed pursuant to Administrative Code Section 10.20-1 et seq.)
- Making a speech or publishing material that is distributed and made available to the public through a medium of mass communication.
- Providing written information in response to an oral or written request made by a City officer, provided that the written information is a public record available for public review.
- Providing oral or written information pursuant to a subpoena.
- Providing oral or written information in response to a Request for Proposals, Request for Qualifications, or other similar request.
- Submitting a written petition for local legislative or administrative action, provided that the petition is a public record available for public review.
- Making an oral or written request for a meeting, for the status of an action, or similar administrative request, if the request does not include an attempt to influence local legislative or administrative action.
- Appearing before a City officer pursuant to an established procedure for levying real property assessments.
- Providing purely technical data, analysis, or expertise in the presence of a registered lobbyist.
- Distributing to a City officer any regularly published newsletter or other periodical which is not published for the primary purpose of influencing local legislative or administrative action.
- Disseminating information or material to all or a significant segment of the person's employees or members.
- Communicating with City officers in connection with the administration of an existing City contract. This includes, but is not limited to, communication regarding: insurance and bonding; contract performance and default; requests for in-scope change orders; legislative mandates imposed on contractors by the City; payments and invoicing; personnel changes; prevailing wage verification; liquidated damages and other penalties for breach of contract; audits; assignment; and subcontracting.

- Negotiating the terms of a contract after being selected to enter into a contract with the City and County through a competitive bidding process.
- Appearing as a party or a representative of a party in an administrative adjudicatory proceeding before a City agency or department
- Communicating, on behalf of a labor union representing City employees, regarding the establishment, amendment, or interpretation of a collective bargaining agreement or memorandum of understanding with the City, or communicating about a management decision regarding the working condition of employees represented by a collective bargaining agreement or a memorandum of understating with the City.

(Section 2.105(d)(1)(A)-(Q))

Some activities are not “contacts” for the purpose of determining whether an individual qualifies as a lobbyist, but are “contacts” for the purpose of disclosure required by the Ordinance. These include communication where an individual:

- Provides oral information to an officer of the City and County in response to an oral or written request made by that officer.
- Makes an oral or written request for the status of an action.
- Participates in a public interested persons meeting, workshop, or other forum convened by a City agency or department for the purpose of soliciting public input.

(Section 2.105(d)(2)(A-C))

## **INITIAL REGISTRATION**

Registration is required within five days of the date that the individual meets the qualification thresholds described above. No individual who qualifies as a lobbyist may make any additional contacts with any City officers without first registering with the Ethics Commission. (Section 2.110(a))

At the time of initial registration, the lobbyist must provide the following information:

### (1) Lobbyist Information

- first and last name
- business address
- e-mail address
- business telephone number

### (2) Client Information

- first and last name
- business address
- e-mail address

- business telephone number

(3) Lobbyist's Employer Information (if applicable)

- first and last name
- business address
- e-mail address &
- business telephone number

(Section 2.110(b))

At the time of initial registration, all individual lobbyists must pay a registration fee. (Section 2.110(e)(1)) The initial registration fee is \$500, which must be paid to the City and County of San Francisco and delivered to the San Francisco Ethics Commission at 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102.

Each individual lobbyist must also submit a professional-like quality digital color photo of the lobbyist's head and shoulders. This photo **must be submitted at the time of registration** via email to ethics.commission@sfgov.org, or by compact disc.

After initial registration, all individual lobbyists must also pay an annual re-registration fee of \$500 on or before every subsequent February 1. (Section 2.110(e)(2))

## WHAT DISCLOSURES ARE REQUIRED

For each calendar month after registering, each lobbyist must submit the following information no later than the fifteenth calendar day following the end of the month:

- the name, business address, and business telephone number of each person the lobbyist or lobbyist's employer received or expected to receive economic consideration to influence local legislative or administrative action during the reporting period;
- The name of each officer of the City and County of San Francisco with whom the lobbyist made a contact during the reporting period;
- The date on which each contact was made;
- The local legislative or administrative action that the lobbyist sought to influence, including, if any, the title and file number of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement, or contract, and the outcome sought by the client;
- The client on whose behalf each contact was made;

- The amount of economic consideration received or expected by the lobbyist or the lobbyist's employer from each client during the reporting period;
- All activity expenses incurred by the lobbyist during the reporting period, including the date and amount of the activity expense, the full name and official position of the beneficiary, a description of the benefit and amount, the full name of the payee of the activity expense, and any activity expense paid as a salary (if applicable). (Section 2.110(c)(7)(A-D)). The following information must also be included:
- All political contributions of \$100 or more made or delivered by the lobbyist or the lobbyist's employer, or made by a client at the behest of the lobbyist or the lobbyist's employer during the reporting period to an officer of the City and County, a candidate for such office, a committee controlled by such officer or candidate, or a committee primarily formed to support or oppose such officer or candidate, or any committee primarily formed to support or oppose a ballot measure to be voted on only in San Francisco;
- For each contact at which a person providing purely technical data, analysis, or expertise was present, as described in section 2.105(d)(1)(K), the name, address, employer and area of expertise of the person providing the data, analysis or expertise
- Any amendments to the lobbyist's registration information required by section 2.110
- Any other information required by the Ethics Commission.

**FILING SCHEDULE AND REQUIREMENTS**

<b>DUE DATE</b>	<b>TYPE OF FILING</b>	<b>FEE</b>
Within 5 business days of qualifying as a lobbyist	Initial Registration	\$500
On or Before February 1 of each subsequent year	Re-Registration	\$500
The 15 <sup>th</sup> of every month	Monthly Report	-

**1. Filing Due Every 15<sup>th</sup> Day of Each Month**

Provide all required information required as discussed in the disclosures section above.

**2. Filing Under Penalty of Perjury.**

Lobbyists must verify, under penalty of perjury, the accuracy and completeness of the information required to be filed with the Ethics Commission. (Section 2.135)

### **3. Registration and Re-Registration Fees.**

Lobbyists must pay all fees by check payable to the “City and County of San Francisco.” Fees may be waived for any organization submitting proof of tax-exempt status under 26 U.S.C. Section 501(c)(3) or Section 501(c)(4). Lobbyists must file this proof with the Ethics Commission at the time of initial registration and annual re-registration. (Section 2.110(e)(3))

### **4. Late Fines**

If a lobbyist fails to submit **ANY** required filing or registration before midnight on the applicable deadline, a late fine of **\$50 per calendar day will be assessed.**

### **5. Record Keeping.**

Lobbyists are required to retain, for at least five years, all records and documents necessary to substantiate the registration and disclosure reports required to be submitted under the Lobbyist Ordinance. (Section 2.135)

## **TERMINATION OF LOBBYIST REGISTRATION**

Once an individual qualifies as a lobbyist, the lobbyist is subject to all registration, reporting and other requirements and prohibitions imposed by the Lobbyist Ordinance until the lobbyist notifies the Ethics Commission that all lobbying activity has ceased.

The Ethics Commission will terminate the registration of a lobbyist who fails to pay the annual registration fee by February 1. (Section 2.110(e)(2))

## **SUMMARY OF RESTRICTIONS AND REQUIREMENTS IMPOSED ON LOBBYISTS**

### **1. Gift Limit.**

Lobbyists may not make a gift to a City officer that has a fair market value greater than \$25, unless the gift qualifies for one of the exemptions under section 3.216(b) Campaign and Governmental Conduct Code. (Section 2.115(a))

### **2. Future Employment**

No lobbyist may cause or influence the introduction or initiation of any local legislative or administrative action for the purpose of thereafter being employed or retained to secure its granting, denial, confirmation, rejection, passage or defeat. (Section 2.115(b))

### **3. Fictitious Person.**

No lobbyist may contact any City Officer in the name of a fictitious person, or in the name of any real person, except with the consent of such real person. (Section 2.110(c))

### **4. Lobbyist Training.**

Each lobbyist must complete a lobbyist training session offered by the Ethics Commission within one year of the lobbyist's initial registration. Thereafter, the lobbyist must attend additional training sessions as required by the Executive Director. (Section 2.116)

### **5. Lobbying by Campaign Consultants**

Except in limited circumstances, no campaign consultant, individual who has an ownership interest in the campaign consultant, or an employee of the campaign consultant may communicate with any City Officer who is a current or former client of the campaign consultant on behalf of another person or entity (other than the City and County) in exchange for economic consideration for the purpose of influencing local legislative or administrative action. (Section 2.117)

### **6. Evasion of Obligations.**

Lobbyists are prohibited from evading or attempting to evade the requirements of the Lobbyist Ordinance, through indirect efforts or through the use of agents or others. (Section 2.115(d))

## **SPECIAL REPORTING ISSUES**

### **1. Reporting Activity Expenses.**

- An activity expense is any expense incurred or payment made by a lobbyist or a lobbyist's client at the behest of the lobbyist, or arranged by a lobbyist or a lobbyist's client at the behest of the lobbyist, that is
  - incurred or made within three months of a contact with a City Officer, candidate, or Supervisor's aide, who
    - benefits in whole or in part from the expense, or whose
    - immediate family or registered domestic partner benefits from the expense.
- Activity expenses Do NOT include:
  - political contributions, honoraria, consulting fees, salaries, and any other thing of value totaling more less \$25 in value in a consecutive three-month period

## **2. Reporting Political Contributions.**

- Any contribution equaling \$100 or more must include the following information:
  - The amount of the contribution;
  - The name of the contributor;
  - The date on which the contribution was made;
  - The contributor's occupation;
  - The contributor's employer, or if self-employed, the name of the contributor's business; and
  - The committee to which the contribution was made.

### **PENALTIES FOR VIOLATION OF THE LOBBYIST ORDINANCE**

The Ethics Commission may impose administrative penalties of up to \$5,000 per violation of the Lobbyist Ordinance, or three times the amount not properly reported, or three times the amount given or received in excess of the gift limit, whichever is greater. (Section 2.145(b); Charter Section C3.699-13)

Persons who knowingly or negligently violate the Lobbyist Ordinance may also be subject to civil penalties. (Section 2.145(c)) The City Attorney may bring an action to revoke for up to one year the registration of any lobbyist who knowingly violates the Lobbyist Ordinance. (Section 2.145(f))

### **IF YOU HAVE ADDITIONAL QUESTIONS . . .**

If you have additional questions regarding the Lobbyist Ordinance, please contact the Ethics Commission staff at (415) 252-3100.

The Ethics Commission provides informal and formal advice regarding the Lobbyist Ordinance in response to written inquiries. If the City Attorney and District Attorney concur with the Commission's formal advice, the requester is afforded some protection from subsequent prosecution: "No person who acts in good faith on an opinion issued by the commission and concurred in by the City Attorney and the District Attorney shall be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request." (Charter Section 3.699-12(a))

The Ethics Commission's advice letters regarding the Lobbyist Ordinance are public documents and are available at the Commission office.