

CONTACT LOBBYIST MANUAL



SAN FRANCISCO ETHICS COMMISSION

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This guide is intended to be used to assist Contact Lobbyists navigate
San Francisco Campaign and Governmental Conduct Code, Article II, Chapter 1
San Francisco Ethics Commission Regulations 2.105-1 et seq

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I. INTRODUCTION

Under San Francisco's Lobbyist Ordinance (Ordinance), individuals who qualify as *Contact Lobbyists* are required to register with the Ethics Commission and file monthly reports disclosing information about their efforts to influence decisions by *Officers of the City and County* of San Francisco. Qualified lobbyists are subject to certain prohibitions.

The Ethics Commission administers and serves as the filing officer for the Ordinance. The Ethics Commission produced this Contact Lobbyist Manual (Manual) to help *Contact Lobbyists* comply with their obligations under the Ordinance. In case of a conflict between this Manual and the Ordinance or its implementing regulations, the Ordinance and/or those regulations prevail.

II. QUALIFICATION AS A CONTACT LOBBYIST

This section is designed to help clarify what activities will qualify an individual as a *Contact Lobbyist*, and provides the definitions to make the determination.

Contact Lobbyists are individuals who will be compensated to communicate with an *Officer of the City and County* of San Francisco for the purpose of influencing the outcome of a *Local Legislative or Administrative Action*.

Once an individual qualifies as a *Contact Lobbyist*, the lobbyist is subject to all disclosure requirements and prohibitions until the lobbyist terminates their registration.

Contact Lobbyist means any individual who

- 1) Makes one or more *Contacts* in a calendar month;
 - 2) With an *Officer of the City and County*;
 - 3) On behalf of any *Person* who pays or who becomes obligated to pay the individual or the individual's *Employer* for *Lobbyist Services* (i.e., a *Client*),
- OR**
- 1) Makes five or more *Contacts* in a calendar month;
 - 2) With *Officers of the City and County*;
 - 3) On behalf of the individual's *Employer* for *Lobbyist Services* (unless the individual owns 20 percent or more of the employing entity).

Contact is defined in [Section III Contact – Defined, Exemptions, and How to Count Contacts](#).

Officer of the City and County - is defined in [Section IV – Officers of the City and County](#).

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

Employer - includes, but is not limited to a *Person*:

- 1) That is required to provide an Internal Revenue Service Form W-2 to an employee who performs *Lobbyist Services*, **OR**
- 2) Owned by a lobbyist and which performs and charges *Clients* for *Lobbyist Services*, even if the *Person* is not required to provide an Internal Revenue Service Form W-2 to an employee who performs *Lobbyist Services*.

Client - means the *Person* for whom *Lobbyist Services* are performed by a lobbyist.

Lobbyist Services – means services rendered for the purpose of influencing *Local Legislative or Administrative Action*, including but not limited to *Contact* with *Officers of the City and County* of San Francisco. Including but not limited to, contacting, preparing for such *Contacts*, as well as conducting analysis, performing research, providing advice and recommending strategy with respect to any pending, proposed or potential *Local Legislative or Administrative Action*.

Local Legislative or Administrative Action – Includes the drafting, introduction, consideration, modification, enactment, defeat, approval, veto, granting or denial by any *Officers of the City and County* of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement to use or contract.

See S.F. C&GC Code § 2.105 and SFEC Regulations 2.105-2 and 2.105-3.

III. CONTACT – DEFINED, EXEMPTIONS, AND HOW TO COUNT CONTACTS

Contact - Reportable and Qualifying

One factor used to determine whether an individual qualifies as a *Contact Lobbyist* is based on the number of contact(s) that are made.

Contact – is defined as any communication, oral or written, including communication made through an agent, associate or employee, with an *Officer of the City and County* made for the purpose of influencing *Local Legislative or Administrative Action*, except as described below.

Examples of *Contacts* include but are not limited to; an in-person meeting, telephone call, video conference, letter, fax, e-mail, and text message.



Example #1. A lobbyist sends an e-mail to the personal e-mail address of a member of the Board of Supervisors. The message includes a personal message about their pickup basketball game the night before as well as an attempt to influence the member's vote on an upcoming resolution. The lobbyist has made a contact.

Example #2. A lobbyist sends a text message to a member of the Board of Supervisors in order to urge the member to vote against an ordinance. The lobbyist has made a contact.

Contact - Conditionally-Reportable but NOT Qualifying

Some *Contacts* do not count for the purposes of determining whether an individual qualifies as a *Contact Lobbyist*, but must be reported on a lobbyist's monthly report. If a qualified *Contact Lobbyists* engages in these activities, they must report them on their monthly report. However if you are not a qualified lobbyist, you do not need to register as a *Contact Lobbyists* when engaging in these activities.

Contacts that do not determine whether an individual qualifies as a *Contact Lobbyists*, but must be disclosed if done by a *Contact Lobbyist* include:

- 1) A *Person* providing oral information to an *Officer of the City and County* in response to an oral or written request made by that officer;
- 2) A *Person* making an oral or written request for the status of an action; or
- 3) A *Person* participating in a public interested persons meeting, workshop, or other forum convened by a city agency or department for the purpose of soliciting public input.

Not Contacts

The definition of *Contact* includes a list of activities/communications that are not considered *Contacts* and do not need to be reported by a qualified *Contact Lobbyist*, or count towards qualifying as a *Contact Lobbyist*. The following activities/communications are not *Contacts* within the meaning of the Ordinance:

- 1) A representative of a news media organization gathering news and information or disseminating the same to the public, even if the organization, in the ordinary course of business, publishes news items, editorials or other commentary, or paid advertisements, that urge action upon local legislative or administrative matters;

- 2) A *Person* providing oral or written testimony that becomes part of the record of a public hearing; provided, however, that if the *Person* making the appearance or providing testimony has already qualified as a *Contact Lobbyists* under this Chapter and is appearing or testifying on behalf of a *Client*, the *Contact Lobbyist's* testimony shall identify the *Client* on whose behalf the *Contact Lobbyists* is appearing or testifying;
- 3) A *Person* performing a duty or service that can be performed only by an architect or a professional engineer licensed to practice in the State of California;
- 4) A *Person* making a speech or producing any publication or other material that is distributed and made available to the public, through radio, television, cable television, or other medium of mass communication;
- 5) A *Person* providing written information in response to an oral or written request made by an *Officers of the City and County*, provided that the written information is a public record available for public review;
- 6) A *Person* providing oral or written information pursuant to a subpoena, or otherwise compelled by law or regulation;
- 7) A *Person* submitting a written petition for *Local Legislative or Administrative Action*, provided that the petition is a public record available for public review;
- 8) A *Person* making an oral or written request for a meeting, or any other similar administrative request, if the request does not include an attempt to influence *Local Legislative or Administrative Action*;
- 9) A *Person* appearing before an *Officer of the City and County* pursuant to any procedure established by law or regulation for levying an assessment against real property for the construction or maintenance of an improvement;
- 10) A *Person* providing purely technical data, analysis, or expertise in the presence of a *Contact Lobbyists*;
- 11) A *Person* distributing to any *Officer of the City and County* any regularly published newsletter or other periodical which is not primarily directed at influencing *Local Legislative or Administrative Action*;
- 12) A *Person* disseminating information or material on behalf of an organization or entity to all or a significant segment of the organization's or entity's employees or members;
- 13) A *Person* appearing as a party or a representative of a party in an administrative adjudicatory proceeding before a city agency or department;
- 14) A *Person* 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 conditions of employees represented by a collective bargaining agreement or a memorandum of understanding with the city;
- 15) A party or prospective party to a contract providing oral or written information in response to a request for proposals, request for qualifications, or other similar request, provided that the information is directed to the department or official specifically designated in the request to receive such information; negotiating the terms of the contract with the city after being selected to enter into the contract; or communicating in connection with the administration of an existing contract between the party and the city. For the purposes of this subsection:
 - a) A party or prospective party includes that party's officers or employees; a subcontractor listed in the contract, bid, or proposal; or that subcontractor's officers or employees. A party or prospective party does not include any other agent or associate, including any outside consultant or independent contractor.
 - b) Communication in connection with the administration of an existing contract includes, but is not limited to, communication regarding: insurance and bonding; contract performance and/or default; requests for in-scope change orders; legislative mandates imposed on contractors by the city and

county; payments and invoicing; personnel changes; prevailing wage verification; liquidated damages and other penalties for breach of contract; audits; assignments; and subcontracting. Communication in connection with the administration of an existing contract does not include communication regarding new contracts, or out-of-scope change orders

- 16) An officer or employee of a nonprofit organization or an organization fiscally sponsored by such a nonprofit organization communicating on behalf of their organization.

For purposes of this subsection only, nonprofit organization means either:

- a) An organization with tax exempt status under 26 United States Code Section 501(c)(3), or
- b) An organization with tax exempt status under 26 United States Code Section 501(c)(4) whose most recent federal tax filing included an IRS Form 990-N or an IRS Form 990-EZ, or
- c) An organization whose next federal tax filing is reasonably likely to include an IRS Form 990-N or an IRS Form 990-EZ.

See S.F. C&GC Code § 2.105 & 2.106; SFEC Regulation 2.106-2



Example #1: A lobbyist and an engineer meet with a member of the Board of Supervisors. The lobbyist urges the Board member to oppose a proposed Ordinance on behalf of a client. The engineer provides purely technical data and analysis related to that Ordinance, and the lobbyist will report that the engineer was present at the meeting when disclosing this contact. Later in the meeting, the engineer urges the Board member at the behest of his employer to support a different Ordinance with respect to employment issues. The engineer has made one lobbying contact.

Example #2: A paid representative of a city employee labor union meets with the Mayor's Chief of Staff regarding the working conditions of the union's members. During the conversation, the paid representative also asks that the Mayor support a particular land use measure. The union representative has made one lobbying contact.

The Practice of Law

The Lobbyist Ordinance is not intended to regulate attorneys engaged in the practice of law under the California State Bar Act, Business and Professions Code Sections 6000 et seq.

Any determination of whether communications with an *Officer of the City and County* or other activities constitute the practice of law shall be based on an analysis of whether those communications or activities would constitute the unauthorized practice of law if performed by a layperson instead of a licensed attorney, and shall not be based on whether the *Person* engaging in that communication or those activities is in fact a licensed attorney.

However, please note that an individual will not avoid lobbyist registration and reporting requirements simply because they are a licensed attorney.

See S.F. C&GC Code § 2.107 and SFEC Regulations 2.107-1



Example #1: An attorney is representing a corporation that opposes a proposed Ordinance. The attorney and the Chief Executive Officer of the corporation meet with the Mayor's Chief of Staff. The attorney begins the meeting by stating that they represent the corporation, and that they are acting in their capacity as an attorney for the corporation. Throughout the meeting, the attorney and the CEO urge that the Mayor should oppose the proposed Ordinance because it would adversely affect the corporation and other companies in the same business sector. The attorney and the CEO have each made a contact.

Example #2: An attorney is representing a *Person* involved in ongoing litigation with the city and county. The attorney contacts the City Attorney and urges him to dismiss the city's complaint against her client, arguing that the city's legal claims are not supported by existing law. The attorney has not made a contact.

Example #3: An attorney representing a trade association sends a letter to the City Attorney on behalf of her client urging a change to the wording of a proposed Ordinance and provides a legal analysis in that letter supporting her position. The attorney has made a contact.

Counting Contacts

Determining the number of *Contacts* an individual has with *Officers of the City and County* is important both for determining whether that individual qualifies as a lobbyist and for determining how to report these *Contacts*. In this regard, the number of *Contacts* should be determined according to the following rules:

- 1) A meeting with an officer regarding a single *Local Legislative or Administrative Action* constitutes one contact, a meeting regarding two *Local Legislative or Administrative Action* constitutes two *Contacts*, etc.
- 2) A meeting with an officer and a member of that officer's staff regarding a single *Local Legislative or Administrative Action* constitutes one *Contact* with that officer.
- 3) A meeting with two officers regarding a single *Local Legislative or Administrative Action* constitutes two *Contacts*.
- 4) Meeting or otherwise communicating multiple times in the same day with an officer to discuss the same *Local Legislative or Administrative Action* discussed earlier in the day constitutes one *Contact*.
- 5) Each letter, fax, e-mail, text message, or similar communication, or copies thereof sent to other recipients, that pertains to a single *Local Legislative or Administrative Action* constitutes a separate *Contact* even if such letters, faxes, e-mails, text messages, or other communications are identical or substantially similar. However, multiple copies of the same communication sent from the same individual to the same officer shall constitute only one *Contact*.

Important rule for real estate projects: notwithstanding the above rules, various matters concerning a single real estate project are considered a *Local Legislative or Administrative Action*, and *Contacts* regarding these matters shall be reported by referencing that single project.

See SFEC Regulations 2.106-3



Example #1: A lobbyist sends an e-mail on behalf of a client to four of the seven members of the SFMTA Board urging them to vote in support of a particular agenda item. The lobbyist copies the Executive Director of the SFMTA on the e-mail. The lobbyist has made five *Contacts*.

Example #2: A lobbyist sends a text message on behalf of his employer to a member of the Board of Supervisors and to her legislative aide urging the Board member to vote in favor of a proposed Ordinance. The lobbyist has made one contact.

Example #3: A lobbyist sends an e-mail on behalf of a client to a member of the Board of Supervisors urging them to vote in favor of a proposed Ordinance. The same day, the lobbyist sends the same e-mail to the supervisor's legislative aide regarding the same Ordinance. The lobbyist has made one contact.

Example #4: A lobbyist meets with a member of the Board of Supervisors on behalf of a client to discuss various required permits and other regulatory and legislative actions in connection with a single proposed real estate development project. The lobbyist has made one contact.

IV. OFFICERS OF THE CITY AND COUNTY

An additional factor of whether a communication is a reportable *Contact* in the City and County of San Francisco, depends on who the communication is with. *Contacts* with *Officers of the City and County* are relevant for the purposes of determining whether an individual is a *Contact Lobbyist* and for the purposes of monthly reporting. *Officers of the City and County* include a mixture of elected officials, appointed officials, and conditionally their staff.

Officers of the City and County include the following Elected Offices

- | | | |
|---|--|---|
| <ul style="list-style-type: none"> • Mayor • Members of the Board of Supervisors • City Attorney | <ul style="list-style-type: none"> • District Attorney • Sherriff • Public Defender | <ul style="list-style-type: none"> • Treasurer • Assessor |
|---|--|---|

Officers of the City and County include the following Appointed Officials

- | | | |
|--|--|--|
| <ul style="list-style-type: none"> • City Administrator • Heads of All City Departments • Members of All City Boards • Members of All City Commissions | <ul style="list-style-type: none"> • Controller • City Engineer • Zoning Administrator • County Surveyor | <ul style="list-style-type: none"> • Bureau Chief of the Department of Public Works' Bureau of Street Use and Mapping |
|--|--|--|

Officers of the City and County include Members of the following Boards and Commissions

- | | | |
|--|--|--|
| <ul style="list-style-type: none"> • Board of Education • Community College Board • First Five Commission • Health Authority Board • Housing Authority Commission | <ul style="list-style-type: none"> • Successor Agency to the former Redevelopment Agency • Oversight Board of the Successor Agency • Successor Agency Commission • Local Agency Formation Commission | <ul style="list-style-type: none"> • Parking Authority • Transportation Authority • Relocation Appeals Board • Law Library Board of Trustees • Workforce Investment San Francisco Board |
|--|--|--|

See S.F. C&GC Code § 2.105 § 3.203

Contact of Officer of the City and County; Use of Intermediary

As stated above, communications with a member of the staff of an *Officers of the City and County* when it is understood, or could be reasonably expected, that the staff member will transmit the terms of the communication to an *Officers of the City and County* are *Contacts*.

Examples of such staff members include, but are not limited to, the legislative aides of members of the Board of Supervisors, the Mayor's Chief of Staff, and Deputy Directors of city departments.

Importantly, a lobbyist communication with a staff member which qualifies as a *Contact* as stated above, should be reported as a contact with the relevant *Officers of the City and County*. E.g., a *Contact* with the legislative aide of a member of the Board of Supervisors should be reported as a *Contact* with that supervisor.

See SFEC Regulations 2.106-1



Example #1: A lobbyist meets with the legislative aide of a member of the Board of Supervisors to advocate on behalf of a client for an amendment of pending legislation sponsored by the Supervisor. Although the Supervisor does not attend the meeting, the lobbyist should presume that the aide will convey the substance of that meeting to the Supervisor and thus the lobbyist has made a contact.

Example #2: Paid representatives of a real estate developer meet with staff at the Planning Department to discuss possible modifications to the draft Environmental Impact Report for the developer's project. The staff members do not state or otherwise indicate, and the representatives have no reason to believe, that they will have the substance of their conversation conveyed to either the Planning Director or the Zoning Administrator. The representatives have not made a lobbying contact.

V. \$500 ANNUAL FEE, DEADLINES, DISCLOSURE, & RECORDKEEPING REQUIREMENTS

\$500 Annual Fee

At the time of initial registration, all individual lobbyists must pay the registration fee.

The fee can be paid online <https://services.paysf.co/service/ethics-commission>, or

By check payable 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.

If a *Contact Lobbyist* wants to continue providing *Lobbyist Services* in the next calendar year they must pay an annual re-registration fee of \$500 on or before every subsequent February 1. If the re-registration fee is not paid by February 1, the lobbyist's registration will be terminated.

Please note qualified *Contact Lobbyists* who are not registered with the S.F. Ethics Commission may not make additional *Contacts* until they register.

Unregistered qualified *Contact Lobbyists* are subject to the prohibitions and penalties listed in [sections VII – VIII](#).

The Ethics Commission waives all registration fees for any full-time employee of a tax-exempt organization presenting proof of the organization's tax-exempt status under 26 U.S.C. Section 501(c)(3) or 501(c)(4)

See S.F. C&GC Code § 2.110

Deadlines

Initial Registration – Due Within Five Days

Within five days of qualifying as a *Contact Lobbyist*, lobbyists must create an account at www.netfile.com/filer, e-file a registration statement and pay the [registration fee](#). No individual who qualifies as a lobbyist may make any additional *Contacts* with any city officers without first registering with the Ethics Commission.

Monthly Disclosure – Due the 15th of each Calendar Month.

For each calendar month after registering and until the lobbyist's registration is terminated, each lobbyist must disclose information related to their efforts to influence legislative or administrative actions, by the 15th of the following month.

A registered lobbyist must file a monthly statement, even if the lobbyist does not engage in any reportable activity.

Employment of City Officers or Employees – Due Within 10 Days

If a lobbyist employs or causes a client to employ a *Officer of the City and County*, any immediate family member of an *Officer of the City and County*, or a full-time employee of the city and county, or if an employee of a lobbyist is appointed to city and county office, the lobbyist must file a Employment of City Officers or Employees Statement in NetFile within 10 days.

Amendments to Registration and Monthly Disclosures – Due Within Five Days

Lobbyists must amend any information submitted to the Ethics Commission through registration or monthly disclosures within five days of the changed circumstances that require correction or updating of information.

Examples of such changes include:

- Representing new *Clients* or ending representation of previously registered *Clients*;
- Adding or removing a department/agency the lobbyist will attempt to influence;
- A change to the lobbyist's information;
- A change to the lobbyist's firm/employer information, or.
- Missing disclosures

Lobbyist Training – Due Within One Year of Registration

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.

The lobbyist training video is available on the commission's website at www.sfethics.org.

On or before the deadline for completing any required lobbyist training session, each lobbyist must file a signed declaration with the Ethics Commission stating, under penalty of perjury, that the lobbyist has completed the required training session.

See S.F. C&GC Code § 2.110, 2.116, 2.120

Disclosure Requirements

Information Required When Filing A Lobbyist Registration Statement:

A *Contact Lobbyist* must disclose and keep up to date information about their employer/firm, the client(s) on whose behalf they lobby, the departments/agencies they will attempt to influence, as well as their personal information, by filing registration statements in NetFile.

Lobbyist's Employer/Firm Information (if applicable)

- 1) Name of firm or employer
- 2) Business address
- 3) E-mail address
- 4) Business telephone number

Contact Lobbyist's Information

- 1) First and last name
- 2) Business address

- 3) E-mail address
- 4) Business telephone number
- 5) Photo (color, head and shoulders)

Client's Information

- 1) Name of client
- 2) Business address
- 3) E-mail address
- 4) Business telephone number
- 5) Date representation began
- 6) Date representation ends (present if unknown)

Department/Agency that the lobbyist will attempt to influence on behalf of client/employer:

- 1) Name of department/agency
- 2) Date representation began
- 3) Date representation ends (present if unknown)

See S.F. C&GC Code § 2.110; SFEC Regulations 2.110-8

Information Required When Disclosing Monthly Activity

Lobbyists must disclose the following details related to **contact, economic consideration, activity expenses** as well as **campaign contributions**.

Disclosing Reportable Contact(s)

When disclosing *Contact(s)* with *Officers of the City and County*, lobbyists must include:

- 1) The client/employer on whose behalf *Contact* was made.
- 2) The *Local Legislative or Administrative Action* that the lobbyist sought to influence, including:
 - a) Descriptive name
 - b) File number (if applicable)
 - c) Outcome sought
 - d) Subject area
- 3) Name of the *Officer of the City and County*
 - a) Department/agency they represent
- 4) The date of the *Contact*
- 5) Subject matter expert in attendance (if applicable)
 - a) First and last name
 - b) Address
 - c) Employer

See S.F. C&GC Code § 2.110

Disclosing Economic Consideration/Payments Promised (Received or Expected)

When disclosing *Economic Consideration* for the provision of *Lobbyist Services*, lobbyists must include:

- 1) The source of the payment (*Client/Employer*)
- 2) The date the payment was received or expected during the reporting period
- 3) The amount of the payment

Special Reporting Issues for Economic Consideration

Economic Consideration – means any payments, fees, reimbursement for expenses, gifts, or anything else of value. *Economic Consideration* does not include salary, wages or benefits furnished by a federal, state or local government agency.

A lobbyist must report on their monthly disclosure report *Economic Consideration* received or expected by the lobbyist or the lobbyist's *Employer* from each *Client* during the reporting period for the provision of *Lobbyist Services* as well as any reimbursements for travel costs and other expenses related to *Lobbyist Services*. The applicable rules regarding such disclosure depend on whether the lobbyist represents a *Client* or the lobbyist's *Employer*.

Calculating Economic Consideration

The amount of reportable *Economic Consideration* received or expected by a lobbyist from his or her *Employer* in a given month shall be calculated by multiplying the lobbyist's salary, plus any bonuses or other incentive compensation not directly related to the *Lobbyist Services*, received or expected by the lobbyist in that month by the percentage of the lobbyist's time spent performing *Lobbyist Services* in that month. It shall also include the full amount of any bonuses or other incentive compensation directly related to the *Lobbyist Services*.

Economic Consideration; Shared Client Reporting

If two or more lobbyists work for the same *Employer*, all *Economic Consideration* received or expected from the employer's *Clients* for *Lobbyist Services* may be reported by a single lobbyist on his or her monthly disclosure report so long as that lobbyist discloses all such *Economic Consideration* in that manner throughout the calendar year.

See S.F. C&GC Code § 2.105; SFEC Regulations 2.110-1, 2.110-2, 2.110-3



Example #1. A public policy expert at a social welfare organization is a registered lobbyist and earns a salary of \$5,000 per month. She spends 20 percent of her time one month performing *Lobbyist Services* for her employer. She must report \$1,000 in economic consideration received or expected for *Lobbyist Services*.

Example #2. The Director of Governmental Affairs at a large corporation is a registered lobbyist and earns a salary of \$10,000 per month. They spends 10 percent of their time in December performing *Lobbyist Services* for their employer. They also earns a year-end bonus of \$10,000 in December based on overall work performance. They must report receiving \$2,000 in economic consideration for *Lobbyist Services* in December.

Disclosing Activity Expenses

When disclosing *Activity Expenses*, lobbyists must include:

- 1) The full name of payee
 - a) The address of payee

- b) The date of payment
- c) The amount payee received
- d) A description of payment
- 2) The full name of beneficiary
 - a) The official position
 - b) The amount of benefit
 - c) A description of benefit

What Qualifies as a Reportable Activity Expense

Activity Expenses include honoraria, consulting fees, salaries, and any other thing of value totaling more than \$25 in value in a consecutive three-month period.

Activity Expenses do not include campaign contributions

Activity Expense – means:

1. Any expense made, incurred or arranged by
 - a. A lobbyist, or
 - b. A lobbyist's *Client* at the behest of the lobbyist, or
 - c. A lobbyist *Employer* at the behest of the lobbyist,
2. Which benefits in whole or in part any:
 - a. *Officer of the City and County*,
 - b. Candidate for city elective office,
 - c. Aide to a member of the Board of Supervisors, or
 - d. Member of the immediate family or registered domestic partner of an individuals identified above, AND
3. Incurred within three months of a *Contact* with individuals identified above

See S.F. C&GC Code § 2.105; SFEC Regulations 2.105-4

Disclosing Campaign Contributions

When disclosing campaign contributions of \$100 or more, lobbyists must include:

- 1) The name and ID of committee to which the contribution was made;
- 2) The date on which the contribution was made;
- 3) The amount of the contribution;
- 4) The name of the contributor; and if the contributor is an individual include:
 - a) The contributor's occupation; and
 - b) The contributor's *Employer*, or if self-employed, the name of the contributor's business.

When Lobbyists Must Disclose Campaign Contributions

Campaign contributions must be disclosed by a lobbyist if made during the reporting period:

1. A contribution of \$100 or more is made or delivered by:
 - a. A *Client* at the behest of the lobbyist or the lobbyist's *Employer*, or

- b. The lobbyist's *Employer*, including:
 - i. Contributions raised as a result of *Fundraising Activity*, or
- c. The lobbyist¹, and including:
 - i. Contributions arranged by the lobbyist, or
 - ii. Contributions raised as a result of *Fundraising Activity* by the lobbyist or their agent, and
- 2. The contribution is made to;
 - a. An *Officer of the City and County*, or
 - b. A candidate for such office, or
 - c. A committee controlled by such officer or candidate, or
 - d. A committee primarily formed to support or oppose such officer or candidate, or
 - e. Any committee primarily formed to support or oppose a measure to be voted on only in San Francisco.

Fundraising Activity includes but is not limited to:

- 1) Requesting that another *Person* make a contribution;
- 2) Inviting a *Person* to a fundraising event;
- 3) Supplying names to be used for invitations to a fundraising event;
- 4) Permitting one's name or signature to appear on a solicitation for contributions or an invitation to a fundraising event;
- 5) Providing the use of one's home or business for a fundraising event;
- 6) Paying for at least 20 percent of the costs of a fundraising event;
- 7) Hiring another *Person* to conduct a fundraising event;
- 8) Delivering a contribution, other than one's own, either by mail, by messenger, or in *Person*; or
- 9) Acting as an agent or intermediary in connection with the making of a contribution.

See S.F. C&GC Code § 2.110, SFEC Regulations 2.110-4

¹ See [Section VII. Prohibitions](#)



Example #1. A lobbyist employer's name is listed as a co-host on the invitation to a campaign fundraiser for a candidate for the Board of Supervisors, which is paid for by the candidate's committee. Contribution checks totaling \$5,000 are collected by the campaign at the event from ten attendees. The lobbyist must disclose those ten contributions.

Example #2. A lobbyist invites five people to attend a campaign fundraiser held by a candidate for the Board of Supervisors. Contribution checks totaling \$10,000 are collected by the campaign at the event. The five persons invited by the lobbyist made contributions totaling \$1,000 at the event. The lobbyist must disclose those five contributions.

Example #3: A lobbyist hosts a fundraising event at his home for a candidate for the Board of Supervisors. The event is attended by twenty guests. Contribution checks totaling \$5,000 are collected by the campaign at the event from ten attendees. A few weeks later, five other event attendees make contributions directly to the candidate without informing the lobbyist. The lobbyist must disclose only the \$5,000 in contributions collected at the event.

Example #4: A lobbyist solicits a contribution from one *Person* to a candidate for the Board of Supervisors. The solicited person specifically indicates that they will mail the contribution check for \$500 to the candidate the next day. After confirming the next day that the contribution has been made, the lobbyist must disclose that contribution.

Contributions Arranged by Multiple Parties

There are special reporting rules for contributions that are arranged by two or more individuals:

- 1) If two or more lobbyists working for the same *Employer* together arrange contributions, or if the lobbyists' *Employer* arranges such contributions, whether through a fundraising event or otherwise, all such arranged contributions may be reported by a single registered lobbyist.
- 2) If two or more lobbyists not working for the same *Employer* arrange contributions together, or if two or more lobbyist *Employer* and/or lobbyists arrange such contributions, whether through a fundraising event or otherwise, all such arranged contributions should be reported either:
 - a) According to which lobbyist or *Employer* bore primary responsibility for soliciting the contribution; or
 - b) In approximate proportion to each lobbyist's or *Employer's* participation in the fundraising activity.
- 3) If a lobbyist arranges contributions with another individual who is not a lobbyist and is not employed by the lobbyist's *Employer*, all such contributions must be reported by the lobbyist.

See SFEC Regulations 2.110-5

Information Required When Disclosing Employment of City Officers or Employees

When a lobbyist must file a Employment of City Officers or Employees Statement the statements must include:

- 1) The employee's name;
- 2) The date first employed;
- 3) The nature of the employment duties; and
- 4) The salary of the employee (Paid by the lobbyist or lobbyist's client).

See S.F. C&GC Code § 2.120

Recordkeeping

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 Ordinance. These records shall include, but not be limited to, copies of all fundraising solicitations sent by the lobbyist or his or her agent

for 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.

Any lobbyist must provide the Ethics Commission with any requested documents which are required to be retained under the Lobbyist Ordinance within ten business days.

See S.F. C&GC Code § 2.135

VI. PERMIT CONSULTANTS

Permit Consultants are required to register with the Ethics Commission and file quarterly disclosure reports. These reporting requirements are similar to, but not exactly the same as, those for lobbyists. Detailed information regarding qualification, registration and reporting requirements for permit consultants is available in the Permit Consultant Manual.

If an individual qualifies as both a lobbyist and a permit consultant they must register as a lobbyist and as a permit consultant.

When it comes to disclosure, that individual must either:

- 1) File separate disclosure reports as a lobbyist (monthly) and as a permit consultant (quarterly), or
- 2) File only monthly lobbyist disclosure reports so long as the individual discloses all information required under that section with respect to his or her permit consulting services.

Any individual qualifying as both a lobbyist and a permit consultant who files their disclosure reports exclusively as a lobbyist must file in that manner through the end of the calendar year, or until he or she terminates as both a lobbyist and a permit consultant, whichever is earlier.

See SFEC Regulations 2.110-6



Example: A permit consultant decides to lobby members of the Board of Supervisors regarding a land use ordinance on behalf of a client for whom the consultant is currently providing permit consulting services. The consultant may register as a lobbyist and file monthly lobbying reports in addition to filing quarterly reports as a permit consultant. Alternatively, the consultant may register as a lobbyist and only file monthly lobbying reports that disclose, among other things, the date of each *Contact* in connection with permit consulting activity.

VII. PROHIBITIONS

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

The Ordinance prohibits any person from knowingly and intentionally furnishing false or fraudulent evidence, documents, or information to the Ethics Commission, District Attorney, or City Attorney, or knowingly and intentionally misrepresenting any material fact, or concealing any evidence, documents, or information relevant to an investigation by the Ethics Commission, District Attorney, or City Attorney of an alleged violation of the Ordinance.

Prohibited Activity

1) **Employment of Unregistered Persons**

It shall be unlawful knowingly to pay any *Contact Lobbyist* to *Contact* any *Officer of the City and County* of San Francisco, if said *Contact Lobbyist* is required to register under the Ordinance and has not done so by the deadlines imposed in the Ordinance.

2) **Campaign Contributions**

No lobbyist shall make any contribution to a city elective officer or candidate for city elective office, including the city elective officer's or candidate's controlled committees, if that lobbyist (A) is registered to lobby the agency of the city elective officer or the agency/department for which the candidate is seeking election or (B) has been registered to lobby that agency/department in the previous 90 days.

If a lobbyist has failed to disclose which agency/department the lobbyist will or can attempt to influence, as required by Section 2.110(b), the lobbyist may not make a contribution to any city elective officer or candidate for city elective office, or any city elective officer's or candidate's controlled committees.

3) **Bundling of Campaign Contributions**

No lobbyist shall deliver or transmit, or deliver or transmit through a third party, any contribution made by another person to any city elective officer or candidate for city elective office, or any city elective officer's or candidate's controlled committees, if that lobbyist (A) is registered to lobby the agency for which the candidate is seeking election or the agency of the city elective officer or (B) has been registered to lobby that agency in the previous 90 days.

If a lobbyist has failed to disclose which agencies the lobbyist attempts to influence, as required by Section 2.110(b), the lobbyist may not deliver or transmit, or deliver or transmit through a third party, any contribution made by another person to any city elective officer or candidate for city elective office, or any city elective officer's or candidate's controlled committees.

4) **Gift(s)**

No lobbyist shall make any gift, including any gift of travel, to an *Officer of the City and County*, or to a parent, spouse, domestic partner registered under state law, or dependent child of an *Officer of the City and County*. No lobbyist shall make any payment to a third-party for the purpose of paying for a gift or any part of a gift, including any gift of travel, to an *Officer of the City and County*, or to a parent, spouse, domestic partner registered under state law, or dependent child of an *Officer of the City and County*.

Exception

Lobbyists may offer gifts of food or refreshment worth \$25 or less per occasion, and *Officers of the City and County* may accept such gifts, if the lobbyist is a 501(c)(3) nonprofit organization, the gift of food or refreshment is offered in connection with a public event held by the 501(c)(3) nonprofit organization, and the same gift of food or refreshment is made available to all attendees of the public event.

5) **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.

6) **Fictitious Person**

No lobbyist may *Contact* any *Officer of the City and County* in the name of a fictitious person, or in the name of any real person, except with the consent of such real person.

7) **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 *Officer of the City and County* 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*.

Exceptions

This prohibition shall not apply to:

- 1) An employee of a campaign consultant whose sole duties are clerical; or
 - a) This exception shall not apply to any person who communicates with an *Officer of the City and County* in their capacity as an employee of the campaign consultant who is prohibited from making the communication.
- 2) An employee of a campaign consultant who did not personally provide campaign consulting services to the *Officer of the City and County* with whom the employee seeks to communicate in order to influence *Local Legislative or Administrative Action*.

8) Evasion of Obligations

Lobbyists are prohibited from evading or attempting to evade the requirements of the Ordinance, through indirect efforts or through the use of agents or others.

See S.F. C&GC Code § 2.130, 2.115, 2.116, 2.117

VIII. PENALTIES FOR VIOLATION OF THE LOBBYIST ORDINANCE

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 may be assessed**.

The Ethics Commission may impose administrative penalties of up to \$5,000 per violation of the 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.

Persons who knowingly or negligently violate the Ordinance may also be subject to civil penalties of up to \$5,000 per violation of the 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. The City Attorney may bring an action to revoke for up to one year the registration of any lobbyist who knowingly violates the Ordinance.

The *Client or Employer* of a lobbyist shall be jointly and severally liable for all violations of the Ordinance committed by the lobbyist in connection with acts or omissions undertaken on behalf of the *Client or Employer*.

See S.F. C&GC Code § 2.145

IX. TERMINATION OF LOBBYIST REGISTRATION

A lobbyist who has ceased all activity requiring registration and reporting may terminate their status as a lobbyist by filing a final monthly disclosure report and indicating on the report that it constitutes the lobbyist's termination statement. The final report should cover all activity through the date of termination. The lobbyist must also file a final registration statement to update the date representation for their client(s) ended.

The Ethics Commission will automatically terminate the registration of a lobbyist who fails to pay the annual registration fee by February 1.

See S.F. C&GC Code § 2.110; SFEC Regulations 2.110-7

X. IF YOU HAVE ADDITIONAL QUESTIONS

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

Persons subject to the laws administered by the commission may seek guidance from the commission about how the city's laws relating to lobbying apply to them.

The Ethics Commission provides two kinds of guidance: informal advice and opinions. For both forms of guidance, the requester provides facts about specific circumstances they are facing to receive tailored analysis about how the law applies to those facts.

Informal advice is provided by commission staff and is provided over the phone or by email. More complex questions that require research may take longer to receive a response. If the requester, having disclosed all the material facts, receives advice from staff and acts in accordance with the advice, that may serve as a mitigating circumstance in any subsequent enforcement proceeding with the potential to fully mitigate any penalties.

Opinions are given through a formal vote of the Ethics Commission at a public meeting. After the requester asks for an opinion of the commission, staff drafts a proposed opinion and agendas it for a hearing at a subsequent commission meeting. Once adopted by the commission, an opinion provides the requester with immunity from subsequent enforcement if the material facts are as stated in the opinion request and the requester acts in accordance with the opinion.

Both informal advice and opinions always address only the requester's prospective actions – actions that are planned but that have not yet been taken. The commission does not provide guidance on hypothetical situations, regarding actions that have already been taken, or actions of others (unless the requester is authorized to ask on another's behalf).

The Ethics Commission's advice letters regarding the Ordinance are public documents and are available on the commission's website <https://sfethics.org/laws/advice-letters> as well as at the commission office.