

City of Oakland Public Ethics Commission



Lobbyist Registration Act Guide

2018



Public Ethics Commission
1 Frank Ogawa Plaza (City Hall), Room 104
Oakland, CA 94612
www.oaklandnet.com/pec
ethicscommission@oaklandnet.com
(510) 238-3593



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INTRODUCTION

The Oakland Lobbyist Registration Act (Act) regulates individuals engaged in lobbying activity related to decisions by the City of Oakland (City).

This **Guide to the Oakland Lobbyist Registration Act** (Guide) is intended to provide a general overview of the Act and does not cover all exclusions and inclusions. The Guide is intended to be **advisory only** and is not a substitute for legal advice. To the extent the Guide conflicts with the Act or other interpretation by the Oakland Public Ethics Commission (Commission), those authorities govern over this Guide in the implementation and enforcement of the Act.

SUMMARY OF THE ACT

The significant features of the Act include:

- Lobbyists intending to influence actions by the City and meeting certain qualifications are required to register with the Commission.
- Lobbyists must file quarterly reports detailing their lobbying activities.
- Lobbyists are limited in giving gifts or payments that benefit Oakland officials.
- Lobbyists can be banned or penalized for failure to comply with the Act.
- As of January 2018, lobbyist registration and reports must be submitted to the Commission, **not** the City Clerk.

The Commission is the administrative body that receives lobbyist filings, provides education and advice, and enforces the Act. If you have any questions about this Guide or your obligations under the Act, contact Commission staff.

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LOBBYISTS AND LOBBYING DEFINED

LOCAL GOVERNMENTAL LOBBYIST

The term “lobbyist” is **interpreted broadly** and includes any individual:

1. who receives, or is entitled to receive, \$1,000 or more in compensation in a single calendar month to communicate with any public official for the purpose of influencing an action by the City (commonly referred to as a “contract lobbyist”); **or**
2. whose duties as a paid employee, officer, or director, of any corporation, organization or association, include communication with any public official for the purpose of influencing an action by the City (commonly referred to as an “in-house lobbyist”).
[Oakland Municipal Code (OMC) 3.20.030(D)]

If an individual falls into one of the two categories above, s/he **must register** as a lobbyist with the Commission **before** attempting to lobby. Both contract and in-house lobbyists have identical filing requirements under the Act.

In determining whether an individual is an in-house lobbyist, the Commission will consider the nature and number of the individual’s contacts with public officials, as well as the individual’s roles and responsibilities in his/her organization.

Note: While the Act only requires individuals to register as lobbyists (and not companies or organizations), each employer and client of a lobbyist must be identified on both the Lobbyist Registration Form and Lobbyist Quarterly Reports.

LOBBYING ACTIVITIES

Lobbying is a **broad term** that includes (1) any communication, (2) whether direct or through agents, (3) with any public official¹, (4) made with the purpose of influencing any proposed or pending action of the City. Only ministerial actions by the City (*i.e.*, decisions requiring no discretion or judgment) are excluded.
[OMC 3.20.030(D)]

An “agent” is a person acting on behalf of another person. Members of the public who are asked to contact public officials regarding a specific issue are not considered “agents” of the person making the request. This practice, commonly referred to as “grassroots lobbying,” is not covered by the Act.

Note: An action can consist of a decision to refrain from action, delay action, or delay considering a matter.

Examples:

An employee who plans to communicate her employer’s opposition to a proposed decision by a City commission to a member of the City commission qualifies as an in-house lobbyist and must register with the Commission before s/he makes the communication.

A volunteer of a non-profit organization who meets with a member of a City board on the organization’s behalf does not qualify as a lobbyist.

A person who talks to a City public works employee on behalf of a neighborhood association to get a stop sign placed at a busy intersection does not qualify as a lobbyist unless the person is being paid \$1,000 or more or is a paid employee, officer, or director, of the neighborhood association.

¹ A Public Official means any elected or appointed officer or employee or officially designated representative, whether compensated or not, of any federal, state, or local government entity.

WHAT IS NOT LOBBYING ACTIVITY

The Act does not apply to the following:

1. Public Officials acting in their official capacity. Public Officials include all elected and appointed officers, employees, and representatives of federal, state, or local governments. [3.20.030 (H)]

Example: An elected state official, in his/her official capacity, communicating with City Councilmembers to authorize a public works project **does not** qualify as lobbying.

2. The publication or broadcast of news, editorials, comments, or paid advertisements that urge governmental action.
3. Persons who have been specifically invited by a City official or employee to give testimony or information to assist the body or person extending the invitation.

Example: An architect's expert testimony to City Council, in response to an invitation by City Council, **does not** qualify as lobbying.

4. Persons who, without extra compensation and not as part of, or in the ordinary course of, their regular employment, present the position of their organization when that organization already has a registered lobbyist.
5. Attorneys, architects, or civil engineers, whose attempts to influence governmental action are limited to appearance at, preparation for, or conversations with City employees about, a public meeting, public hearing, or public proceeding.

Example: An architect representing an applicant before the Planning Department **does not** qualify as lobbying. However, an attorney contacting a member of the Planning Commission on behalf of a client outside a public meeting to help secure a permit **qualifies** as lobbying.

6. Designated representatives of employee organizations engaged in collective bargaining negotiations regarding employment terms and agreements.
7. Participation in a public bid, proposal and/or contract award process. This exception does not apply to communication with an elected official or member of any City board or commission.

Lobbying:

Requesting a variance to the City's zoning laws for a new development **qualifies** as lobbying and may require the person to register and file as a lobbyist.

Attempting to influence the award or terms of a contract with the City by communicating with an elected official or member of any City board or commission **qualifies** as lobbying and may require the person to register and file as a lobbyist.

Not Lobbying:

Applying for a business license or library card **does not** qualify as lobbying because issuing a business license or library card is a ministerial act.

Setting up a website that opposes a proposed ordinance **does not** qualify as lobbying because the person has not communicated with a Public Official. "Grassroots lobbying" is not covered by the Act.

LOBBYIST CLIENTS

The **client** is the person or organization (the "real party in interest") for whose benefit the services of a lobbyist are being performed. However, a person is not a client if s/he is simply a member of an organization that is represented by a registered lobbyist. [OMC 3.20.030(A)]

Example: An in-house lobbyist's employer is that lobbyist's client.

Example: The person or organization that hires a contract lobbyist is that lobbyist's client.

Example: An individual member of a union is **not** a client where the lobbyist is representing the union, so long as the individual member does not pay any extra fees for representation by the lobbyist.

REGISTRATION AND REPORTS

INITIAL REGISTRATION

Once a person qualifies as a lobbyist, s/he is required to file a [Lobbyist Registration Form](#) (see Appendix I) with the Commission **before** beginning or continuing any lobbying activity. [OMC 3.20.040 and 3.20.120]

At a minimum, the Lobbyist Registration Form requires the lobbyist to provide his/her name, employers, clients, contact information, and governmental actions the lobbyist is attempting to influence.

REGISTRATION RENEWAL

All lobbyists must re-register each year by January 31 by filing a Lobbyist Registration Form and checking the box for “Annual/Renewal Registration.” [OMC 3.20.040 and 3.20.050]

The lobbyist must update the names of all clients and employers as well as any new governmental actions the lobbyist has been retained to address.

Even if a lobbyist filed an initial registration mid-year (e.g. June), the lobbyist must renew registration in January of the next year.

Once a person qualifies as a lobbyist, s/he is required to re-register every year by January 31 until s/he ceases to qualify as a lobbyist **and** files a Notice of Termination with the Commission.

Example: A person who recently began working as a contract lobbyist should register when the lobbyist receives, or becomes entitled to receive, a total of \$1,000 in any calendar month to lobby.

DEBARMENT FOR FAILURE TO REGISTER

If a lobbyist fails to properly register, s/he can be barred from acting as a lobbyist in addition to facing administrative and criminal penalties. [OMC 3.20.070]

MANDATORY QUARTERLY REPORTS

In addition to initial registration and annual renewal, lobbyists must file a [Lobbyist Quarterly Report](#) (see Appendix III) that identifies all lobbying activities for each calendar quarter. Lobbyist Quarterly Reports must be filed within 30 days of the end of each quarter in which the lobbyist is registered or should be registered. [OMC 3.20.110]

Reporting Period	Due Date
January 1-March 31	April 30
April 1-June 30	July 30
July 1-September 30	October 30
August 1-December 31	January 30

Lobbyist Quarterly Reports contain the following general information (consult the Act for specific details and exceptions):

- Each governmental action on which the lobbyist was hired to work, and who hired the lobbyist for each action;
- The name, title, and department, of everyone connected with the City with whom the lobbyist communicated;
- A description of each position advocated by the lobbyist on behalf of each client;
- The name of any City official or official's family member that the lobbyist hired, a description of the services performed, and the total payments to the individual;
- The name of any City official or candidate who hired the lobbyist, a description of the service performed, and the total payment made to the lobbyist;
- The name of every person whom the lobbyist solicited for a campaign contribution and the name of the officeholder or candidate (including any committee or fund) the solicitation benefitted. *A solicitation must be reported even if it does not generate a contribution.*

Note: Once a contract lobbyist registers, s/he needs to report **all** clients that have a pending interest before the City, regardless of how much an individual client pays the lobbyist. A lobbyist hired by a network of people or organizations should disclose **all** individuals or organizations who are part of that network as clients unless the network exists as its own legal entity.

REQUIRED NOTICE OF TERMINATION OF LOBBYING ACTIVITIES

Lobbyists who have stopped **all** lobbying activity are required to file a [Lobbyist Notice of Termination](#) (see Appendix II) with the Commission. Once a person has filed a Lobbyist Notice of Termination, s/he has no further obligations under the Act unless s/he begins lobbying again. [OMC 3.20.050]

Example: A lobbyist stops working on a campaign for Client A, but s/he is still engaged in lobbying activities for Client B. The lobbyist would not file a Lobbyist Notice of Termination unless s/he stops performing regulated lobbying activity for **all** his/her clients.

If a lobbyist has terminated all lobbying activity for all clients, but fails to file a Lobbyist Notice of Termination, s/he is still required to file Lobbyist Quarterly Reports and renew his/her Lobbyist Registration Form each January. Failing to do so violates the Act and could lead to an investigation and penalties.

A lobbyist must re-register by filing a new Lobbyist Registration Form if s/he begins lobbying after filing a Lobbyist Notice of Termination.

MANDATORY RECORD RETENTION

Lobbyists must keep all documents related to registration and quarterly reports for **5 years**. This includes all books, papers and documents, including Lobbyist Registration Forms, Lobbyist Quarterly Reports, and Lobbyist Termination Forms. [OMC 3.20.100]

If you are in doubt, it is better to keep all documents. It is the lobbyist's responsibility to provide copies of records to the Commission upon an investigation, and it is a violation of the Act if required records are missing. If you file manually, request and save a date-stamped copy of your filed document.

PROHIBITED ACTIVITIES

The Act prohibits lobbyists, clients, contractors, and persons doing business with the City, from engaging in certain activities. The following are a few activities prohibited by the Act. Please consult the Act for specific details and a complete list of restrictions.

PERSONAL OBLIGATION

Lobbyists, clients, contractors, and persons doing business with the City may not take any action that places a City official or employee under personal obligation to the lobbyist, client, contractor, or person doing business with the City. [OMC 3.20.130]

Example: A lobbyist may not make a monetary loan to a City employee. A lobbyist may not make an investment in a City project in exchange for a favorable vote by a City Councilmember on future legislation.

DECEPTION

A lobbyist, client, contractor, or person doing business with the City, may not attempt to deceive a City official or employee regarding facts about a governmental action (pending or proposed). [OMC 3.20.140]

Example: A lobbyist may not provide false data that supports his/her position on pending legislation.

IMPROPER INFLUENCE

A lobbyist may not cause or influence a government action for the purpose of creating future lobbying business for the lobbyist. [OMC 3.20.150]

Example: A lobbyist may not influence the introduction of legislation when the lobbyist hopes to be later retained to promote or oppose that very legislation.

FALSE APPEARANCES

A lobbyist may not attempt to create a false appearance of public favor or disfavor of any governmental action. A lobbyist may not cause any communication to be sent to a City official or employee in the name of any fictitious person, or in the name of a real person without that person's consent. [OMC 3.20.160]

Example: A lobbyist may not submit a letter in support of a proposed development on behalf of a neighborhood group that does not exist, or on behalf of a neighborhood group that does exist, without that group's consent.

PROHIBITED REPRESENTATIONS

A lobbyist may not represent that s/he can control or obtain the vote or action of any City officer or employee. [OMC 3.20.170]

Example: A lobbyist may not tell a potential client that the lobbyist can convince City Councilmember A to support a specific ordinance.

RESTRICTIONS ON PAYMENTS, GIFTS

Lobbyist and clients may not make payments to, or incur expenses for, any officeholder, candidate, employee, or family member thereof, that exceed \$240 in any single calendar year. [OMC 3.20.180]. This restriction includes gifts, honoraria, and any other form of compensation, but does not include political contributions.

Example: The client of a lobbyist is prohibited from giving the Mayor's spouse a \$300 ticket to a musical concert.

"REVOLVING DOOR" RESTRICTIONS

A City officer, department head, or budget director, may not act as a lobbyist for **1 year** after leaving office. [3.20.190]. This restriction applies to the Mayor, the City Administrator, City Councilmembers, the City Attorney, the City Clerk, the City Auditor, and executive officers and members of City commissions and boards.²

Example: A member of a City board or commission may not engage in lobbying for one year after leaving his/her board seat. However, s/he may speak on his/her own behalf in support of a proposed ordinance.³

² "City officer" is defined by City Charter section 400.

³ There are additional "revolving door" restrictions in the Oakland Government Ethics Act. See OMC 2.25.050.

ENFORCEMENT

Persons who violate the Act are subject to administrative and criminal penalties. The Commission's Complaint Procedures and Complaint Forms are available from the Commission and are posted on its website.

ADMINISTRATIVE PENALTIES

The Commission is responsible for enforcing the Act and is authorized to impose administrative penalties of up to \$1,000 for each violation. [OMC 3.20.200]

CRIMINAL PENALTIES

In addition to the potential for administrative penalties, any person who knowingly or willfully violates the Act is guilty of a misdemeanor. No person convicted of a misdemeanor violation of the Act may act as a lobbyist, advise a client, or otherwise attempt to influence a governmental action for compensation, for one year after the conviction. [OMC 3.20.220]

LOBBYIST REGISTRATION FORM



**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

<p>Date Received</p> <p>RESERVED FOR PUBLIC ETHICS USE</p>
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2018 LOBBYIST REGISTRATION FORM

Full Name:	
Name of Lobbying Firm or Employer:	
Lobbying Firm/Employer Business Address:	City, State, Zip Code
Work Phone:	Work Email:

Please check if you are a: Client Contracted Lobbyist Employer In-House Lobbyist

Please check if this is an: Initial Lobbyist Registration
 Annual or Renewal Lobbyist Registration
 Amendment to Lobbyist Registration

NAMES OF ALL CLIENTS/EMPLOYERS	GOVERNMENTAL ACTION SEEKING TO INFLUENCE <small>(Use a separate row for each governmental action seeking to influence, even if for the same client/employer)</small>	POSITION ADVOCATING <small>(Support, Oppose, Policy Development, or Informational Briefing)</small>

Note that no person shall engage in any activity on behalf of a client as a local governmental lobbyist unless he or she has registered using this form and listed such client with the City Clerk. Lobbyists are further required to file Lobbyist Quarterly Reports no later than 30 days after the end of each calendar quarter.

I declare under penalty of perjury under the laws of the State of California that the information I provided to complete this form is true and correct.

Date: _____ Signature: _____

Please return via email to ethicscommission@oaklandnet.com

Filings sent by mail or fax are also accepted. Send to:
 Public Ethics Commission
 1 Frank H. Ogawa Plaza, 1st Floor, Room 104
 Oakland, CA 94612
 Fax: (510) 238-3315

LOBBYIST NOTICE OF TERMINATION



**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

Date Received RESERVED FOR PUBLIC ETHICS USE

LOBBYIST NOTICE OF TERMINATION

*Type or print clearly in ink. File the original with the City Clerk.
An electronic version of this form is available from the Public Ethics Commission.*

Full name:
Name of Lobbying Firm or Employer:
Lobbying Firm/Employer Business Address, City, State, Zip Code:
Work Phone:
Work Email:
Date Lobbying Activities Terminated:

Please note that you must renew your registration with the City Clerk if you decide to engage in lobbying activities after the above date of termination.

I declare under penalty of perjury under the laws of the State of California that the information I provided above is true and correct.

Date: _____

Signature _____

Please return via email to ethicscommission@oaklandnet.com

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LOBBYIST QUARTERLY REPORT



**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

<p>Date Received</p> <p><i>RESERVED FOR PUBLIC ETHICS USE</i></p>

2018 LOBBYIST QUARTERLY REPORT (Attach disclosure schedules as necessary)

Full Name:	List all clients or employers:
Name of Lobbyist Firm or Employer:	
Lobbyist Firm/Employer Business Address:	
Work Phone:	Reporting Period: Q1: January 1 – March 31, 2018 (Due April 30) Q2: April 1 – June 30, 2018 (Due July 30) Q3: July 1 – Sept. 30, 2018 (Due October 30) Q4: October 1 – Dec. 31, 2018 (Due Jan 30, 2019)
Work Email:	

Please check one.

No, I did not engage in any reportable lobbying activity during the reporting period.

Yes, I did engage in reportable lobbying activity during the reporting period, and I am including the pertinent disclosure documents.

[Schedule A](#) – Statement of Lobbying Activities

[Schedule B](#) – Employment Relationships Arranged By A Lobbyist or A Registered Client at the Lobbyist's Behest

[Schedule C](#) – Employment Relationships between a Lobbyist And An Elected City Officeholder or a Candidate for City Office

[Schedule D](#) – Statement of Solicitations for Campaign Contributions

(If applicable, disclosure schedules must be attached to your quarterly report and be filed with the Office of the City Clerk no later than 30 days after the end of each calendar quarter.)

DECLARATION OF LOCAL GOVERNMENTAL LOBBYIST

I have used all reasonable diligence in completing this form and attachments. I have reviewed the form and any attachments and to the best of my knowledge the information contained herein is true and complete. I declare under penalty of perjury under the laws of the State of California that the information I provided above and on the attached Disclosure Schedules is true and correct.

Date: _____ Signature: _____

Please return via email to ethicscommission@oaklandnet.com

Filings sent by mail or fax are also accepted. Send to:
 Public Ethics Commission
 1 Frank H. Ogawa Plaza, 1st Floor, Room 104
 Oakland, CA 94612
 Fax: (510) 238-3315

<p>Name _____</p> <p>Page ____ of ____</p>

LOBBYIST DISCLOSURE FORM - SCHEDULE A



CITY OF OAKLAND
PUBLIC ETHICS COMMISSION

2018 LOBBYIST DISCLOSURE FORM SCHEDULE A -- Statement of Lobbying Activities

If applicable, Schedule A must be attached to your Quarterly Report and be filed with the Office of the City Clerk no later than 30 days after the end of each calendar quarter.

Please provide the following information for each client or employer on whose behalf you lobbied during the period of time covered by this report. If you lobbied on more than one item of governmental action for any individual client or employer, please complete a separate Schedule A for each item of governmental action lobbied on behalf of that individual client or employer.

(A) Name and address of the client or employer on whose behalf I lobbied:

(B) Item of governmental action on which I lobbied for the above-named client:

(C) In lobbying on the item identified in (B) above, please indicate the name of each city officer you lobbied, the name and title of each city boardmember or commissioner you lobbied, and the job title and office or department of each city employee you lobbied (do not provide the city employee's name):

(D) Please check the box indicating the position advocated on behalf of the client or employer identified in (A) above and provide a brief *narrative description* (no longer than 3 sentences):

Support Oppose Policy Development Informational Briefing

(E) Total amount of economic consideration received, or entitled to receive, from client or employer for lobbying activity during the reporting period:

Amount: _____

Name _____
Page ____ of ____

LOBBYIST DISCLOSURE FORM - SCHEDULE B



**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

2018 LOBBYIST DISCLOSURE FORM SCHEDULE B -- Employment Relationships Arranged By a Lobbyist or a Registered Client at the Lobbyist's Behest

If applicable, Schedule B must be attached to your Quarterly Report and be filed with the Office of the City Clerk no later than 30 days after the end of each calendar quarter.

Please provide the information below for each elected city officeholder, candidate for elected city office, designated employee, or member of the immediate family of one of the foregoing persons, who you – or a registered client at your behest – employed or hired during the period of time covered by this report.

If you or a registered client employed or hired more than one city officer, candidate, designated employee or one of their immediate family members, please complete a separate Disclosure Form/Schedule B for each person you employed or hired.

- (A) Name of elected city officeholder, candidate for elected city office, designated employee, or member of the immediate family of one of the foregoing persons you or your registered client employed or hired:

- (B) A description of the services actually performed by the employed or hired person:

- (C) The total payments made during the reporting period identified only by the following categories: less than \$250; between \$250 and \$1,000; between \$1,001 and \$10,000; greater than \$10,000.

Enter amount category: _____

Name _____
Page ____ of ____

LOBBYIST DISCLOSURE FORM - SCHEDULE C



**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

2018 LOBBYIST DISCLOSURE FORM SCHEDULE C -- Employment Relationships between a Lobbyist and an Elected City Officeholder or a Candidate for City Office

If applicable, Schedule C must be attached to your Quarterly Report and be filed with the Office of the City Clerk no later than 30 days after the end of each calendar quarter.

Please provide the following information for each elected city officeholder or candidate for elected city office who employed or hired you to provide compensated services during the period of time covered by this report.

If you were employed or hired by more than one elected city officeholder or candidate for city office, please complete a separate Disclosure Form/Schedule C for each officeholder or candidate who employed or hired you.

(A) Name of elected city officeholder or candidate for elected city office who employed or hired you:

(B) A description of the services you actually performed:

(C) The total payments made to you during the reporting period identified only by the following categories: less than \$250; between \$250 and \$1,000; between \$1,001 and \$10,000; greater than \$10,000.

Enter amount category: _____

Name _____
Page _____ of _____

LOBBYIST DISCLOSURE FORM - SCHEDULE D



**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

2018 LOBBYIST DISCLOSURE FORM SCHEDULE D -- Statement of Solicitations for Campaign Contributions

If applicable, Schedule D must be attached to your Quarterly Report and be filed with the Office of the City Clerk no later than 30 days after the end of each calendar quarter.

Please provide the following information for campaign contributions you solicited for the benefit of a City officeholder, candidate for City office, or committee or fund controlled by such officeholder or candidate, during the period of time covered by this report.

Contributions Solicited by Lobbyist

Date of Solicitation	Elective City Officer, Candidate, or Controlled Committee	Person/Contributor Solicited	Amount Solicited
Total Amount Solicited			

Note: A solicitation does not include a request for a contribution made (1) in a mass mailing sent to members of the public, (2) in response to a specific request for a recommendation, (3) to a gathering which members of the public may attend, or (4) in a newspaper, on radio or television, or in any other mass media.

If a lobbyist solicits more than fifty (50) individual members or employees of a corporation, union or other association that is a registered client of the lobbyist – or all of the individual members or employees of a corporation, union or other association that is a registered client of the lobbyist – the lobbyist may choose to disclose the name of the registered client instead of the names of the persons whom the lobbyist actually solicited. (See OMC Section 3.20.110(F)).

Name _____
Page ____ of ____

