

# Continuing Ethics Education Series

City of Chicago  
Richard M. Daley, Mayor



Dorothy J. Eng, Executive Director Darryl L. DePriest, Chair

A City of Chicago Board of Ethics Publication

SUBJECT: **LOBBYING**

5<sup>th</sup> ISSUE (May 2003)

## Executive Director's Column

In this issue, we take a close look at the City's lobbying laws. These laws were originally adopted by the Chicago City Council in 1987 to promote openness in City government, a necessary component of good government. Although there have been a number of amendments to these laws, the most significant changes with regard to lobbyists occurred in 2000. The 2000 amendments (indicated herein by an \*) are important because they impact not only lobbyists, but persons who employ lobbyists and persons in City government who are being lobbied. This issue provides a practical guide to understanding the City's lobbying laws. The information below was taken from the lobbyists' filings for 2002.

### Inside . . .

**Executive Director's Column**

**Did You Know That . . .**

**Ethics Rules on Lobbying**

**Gifts from Lobbyists**

**Limits on Campaign Contributions by Lobbyists**

**Contingent Fees Prohibited**

**Filing Requirements**

**Duty to Report Unregistered Lobbyists**

**Fines and Penalties**

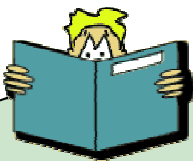
**Opinions on Lobbying**

**Test Your Knowledge**

**Upcoming Ethics Classes**

*Dorothy J. Eng*

## Did You Know That . . .



- ✓ Total compensation lobbyists reported receiving for lobbying in 2002 was \$12,902,000.00
- ✓ Total expenditures lobbyists reported making for lobbying in 2002 was \$143,000.00
- ✓ Total value of gifts to City employees and officials lobbyists reported giving in 2002 was \$29,531.00
- ✓ 275 lobbyists are currently registered with the Board, representing 750 clients
- ✓ The most lobbied City agencies are the City Council, Planning and Development, Aviation, the Mayor's Office, Transportation, Buildings and Law

## Ethics Rules On **LOBBYING**

Under City law, a “lobbyist” is any person, regardless of title (including an attorney, consultant or accountant), who, on behalf of another or while acting as another’s employee, undertakes to influence any City legislative or administrative action.

### **Gifts From Lobbyists**

➤ To ensure compliance with the City’s gift laws, the value of any gift given should not exceed \$50.00, and anonymous gifts, as well as cash gifts, must be avoided.

➤ If a lobbyist gives a City employee or official a gift, the lobbyist must, in his or her activity report filed with the Board, identify the gift, disclose the name of the recipient of the gift, and state the value of the gift.\*

➤ If a City employee or official receives one or more gifts from a lobbyist, or any other person, and the total value of which exceeds \$500 in a calendar year, the employee or official must disclose the gift(s) when filing his or her Statement of Financial Interests.



### **\$\$ Limits on Campaign Contributions by Lobbyists \$\$**

A lobbyist may not make campaign contributions totaling more than **\$1,500** in any “reporting year” (July 1 to June 30) to any City elected official, candidate for City office, or City official or employee seeking election to any other office.\*

**Cash contributions** (i.e., currency, money orders or cashier’s checks) to any candidate in an amount in excess of \$250 are prohibited.\*

Any contribution given anonymously, or made other than in the name of the true donor, is prohibited.



## Contingent Fees Prohibited

Compensation to lobbyists that is dependent in whole or in part on approval or disapproval of a City legislative or administrative matter is not allowed.

## Filing Requirements

All persons who lobby City government must:

- ➔ Register with the Board of Ethics
- ➔ File activity reports every 6 months
- ➔ Amend their registration and file termination notices as necessary



## Duty to Report Unregistered Lobbyists\*

City department heads, or City employees designated by the department head as having policy-making authority, must report to the Board of Ethics any person they believe has lobbied when they know the person is not registered as a lobbyist.



## Fines and Penalties

### Violation

### Possible Fine or Penalty

A lobbyist fails to register	\$500 per day
A registered lobbyist fails to file an activity report	\$500 per day*
A person retains or employs a lobbyist who fails to register	\$2,000 per day*
A person retains a lobbyist on a contingency fee basis; or a lobbyist renders services on a contingency fee basis	Not less than \$500 and not more than \$2,000*
Furnishing information with the intent to mislead	\$1,000 per offense and/or suspension of registration*

In addition, the City may void any City contract entered into with a person who has retained or employed an unregistered lobbyist for the purpose of negotiating, soliciting or otherwise seeking that contract.

## Opinions on Lobbying

The situations summarized below are examples of issues involving lobbying that have been addressed by the Board. Anyone who would like an opinion should contact the Board at (312) 744-9660. Please note that only persons involved in the specific cases, or in situations that are not materially different from them, can rely on Board opinions.

Case Number(s)	Issue(s)	Summary of Opinion
02013.A	<p><b>Permit Expeditors Are “permit expeditors” required to register with the Board as lobbyists?</b></p>	<p>Many persons seeking permits from the City’s Department of Buildings retain “permit expeditors” to assist them in “pulling” their permits. Whether a “permit expeditor” is required to register as a lobbyist depends on what the particular expeditor does. While engaged in the following activities, “permit expeditors” <b>are</b> attempting to influence non-ministerial administrative action, and <b>are</b> thereby acting as lobbyists and required to register:</p> <ol style="list-style-type: none"> <li>1) attempting in any way to persuade City personnel to move the position of a particular permit application ahead in the standard review queue;</li> <li>2) attempting in any way to persuade Building department personnel to adopt a particular interpretation of the code or to influence their decision to approve a particular set of plans submitted; or</li> <li>3) attempting in any way to persuade City personnel outside of the Building department to intercede in, promote, or influence the permit application review process.</li> </ol> <p>However, while engaged in the following activities, expeditors <b>are not</b> required to register, because these actions <b>are not</b> attempts to influence nonministerial action (or they constitute “solely submitting an application for a City permit”):</p> <ol style="list-style-type: none"> <li>1) preparing and submitting permit applications;</li> <li>2) monitoring the progress of these applications as they pass through the various examiners’ reviews;</li> <li>3) meeting with City personnel to clarify what needs to be corrected in the submission in order to conform with code requirements;</li> <li>4) acting as a contact person in an emergency, if listed on the permit application as the contact; or</li> <li>5) inquiring as to the status of submitted permit applications.</li> </ol>

Case Number(s)	Issue(s)	Summary of Opinion
01021.A	<p><b><u>Sales Representatives</u></b>  <b>Is a sales representative who meets with City employees to discuss new items from a manufacturer whose products he is authorized to sell a lobbyist?</b></p> <p><b>Is the sales commission he receives when a sale is made a prohibited contingent lobbying fee?</b></p>	<p>The sales representative in this case was “cold calling” City departments: there was no City Request for Proposals to which he was responding. His compensation for his efforts was paid fully by the company whose product he was selling; it was a sales commission, and he received no compensation unless a sale was made.</p> <p>The Board determined that, because the sales representative’s contacts would be made on behalf of another (namely, the manufacturer), and would be undertaken to influence administrative action (namely, a determination made by City employees to recommend and create or not to recommend or create a contract for the City’s procurement of the products discussed), he would be acting as a lobbyist, and would therefore be required to register as one.</p> <p>Also, if the City does not issue a Request For Proposals, but instead elects to purchase products directly through him, and he receives his compensation as a sales commission (that is, he is paid if and only if the City purchases a particular company’s products through him), that commission is a prohibited contingent lobbying fee, and both he and the manufacturer would be in violation of the Ordinance.</p>
89022.A and 91033.A	<p><b><u>Quasi-Judicial Proceedings</u></b>  <b>Is an attorney lobbying when he represents clients before hearing officers in the Department of Revenue or before the Zoning Board of Appeals?</b></p>	<p>The attorney in these cases represented a client in a tax assessment protest before a hearing officer in the Department of Revenue. He also represented another client before the Zoning Board of Appeals. The Board determined that, because these proceedings were “quasi-judicial,” and thus the attorney’s attempts to influence a governmental decision take place in the context of formal, public proceedings with established procedures, they do <b>not</b> constitute lobbying.</p> <p><b>NOTE:</b> These cases were decided before the definition of “lobbyist” was amended in 2000. That amendment provides, among other things, that “an attorney shall not be considered a lobbyist while representing clients in a formal adversarial hearing,” and in effect codifies the cases summarized.</p>



To view the full text of the City’s lobbying laws, please go to our Web site at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics)



## Test Your Knowledge

### ●●●●● . . . of the Rules Relating to *Lobbyists*



Answer the following questions with either a **YES** or a **NO**, then check your answers.

Yes No

- G G** 1. A salesperson for a company that has a new product in which he/she believes the City will be very interested. He/she would like to approach a number of City departments to show what the product can do, and to suggest that they place an order. If the salesperson were to do this, would he/she have to register with the Board as a lobbyist?

**Answer:** The City's lobbying laws, unlike those in a number of other jurisdictions, do not contain exemptions for salespeople. Therefore, if the salesperson were to undertake any action to influence a City administrative decision—for example, trying to convince a City department that it should purchase the company's product—he/she would be acting as a lobbyist. The answer to Question #1 is YES, the salesperson would have to register with the Board as a lobbyist.

- G G** 2. A company is interested in responding to an RFP issued by the City. It has asked one of its employees to draft and submit a proposal. Would the employee be required to register as a lobbyist if all he/she does is respond to the RFP?

**Answer:** The definition of "lobbyist" specifically states that a person shall not be deemed to have undertaken to influence any legislative or administrative action solely by responding to a City request for proposals or qualifications. Therefore, the answer to Question #2 is NO, solely responding to a City-issued RFP would not obligate the employee to register as a lobbyist.

- G G** 3. John Smith is lobbying before the Chicago City Council on behalf of a manufacturer's organization, urging that the Council pass an ordinance that affects that organization's product. John will be paid \$50,000 by the organization if the ordinance is passed. Is this fee arrangement permissible under City law?

**Answer:** Under City law, compensation to lobbyists that is dependent in whole or in part on approval or disapproval of a legislative or administrative matter is prohibited. Based on the facts presented, it appears that John and the organization have a prohibited contingency fee agreement. Therefore, the answer to Question #3 is NO, the \$50,000 fee arrangement is not allowed under City law.

- G G** 4. In 2002, a City employee received over \$500's worth of baseball tickets from a registered lobbyist whose business he cannot affect in his City job. Does he have to report these tickets on his 2003 Statement of Financial Interests?

**Answer:** All City employees and officials required to file Statements of Financial Interests with the Board are required to disclose the names of all persons (excluding relatives) from whom the filer received, in the previous calendar year, one or more gifts with a total value exceeding \$500. The baseball tickets the employee received would be considered gifts. Since the value of the baseball tickets is over \$500, the answer to Question #4 is YES, he must report the baseball tickets on his Statement of Financial Interests. Furthermore, the lobbyist must disclose these gifts, as well as any other gifts to City employees or officials, on the activity report he/she files semi-annually with the Board.

### **PLEASE NOTE**

The opinions and answers as stated in this publication are for general information only and are NOT intended to provide specific advice to any individual. For specific advice, contact the Board office at (312) 744-9660.

## Upcoming Ethics Training Classes

**Regularly Scheduled Ethics Training Class Dates**

**May 7 and 21, June 4 and 18  
9 AM - 10:30 AM  
740 North Sedgwick, Suite 500**

If you have any questions or need additional information, you can contact us at:

**City of Chicago Board of Ethics  
740 North Sedgwick, Suite 500  
Chicago, IL 60610  
Tel. (312) 744-9660  
TTY (312) 744-5996  
FAX (312) 744-2793  
[www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics)**



To see past issues of *Continuing Ethics Education Series*, see the webpage(s) listed below:

<b><u>Issue Topic</u></b>	<b><u>Date</u></b>	<b><u>Webpage</u></b>
Post Employment	September 2002	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.9.02.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.9.02.pdf</a>
Gifts	November 2002	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.11.02.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.11.02.pdf</a>
Political Fundraising	January 2003	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.01.03.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.01.03.pdf</a>
Public Disclosures	March 2003	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.03.03.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.03.03.pdf</a>

