



CITY OF SAN ANTONIO
LOBBYIST HANDBOOK

NOVEMBER 15, 2010

City of San Antonio

Ethics Code and Lobbying Regulations

I. Introduction

In November 1998, the San Antonio City Council established the city's Ethics Review Board and adopted the Code of Ethics. The code sets out standards of conduct for present and former city officials and employees, persons doing business with the city and lobbyists.

This handbook focuses on the aspects of the code which may affect lobbyists and those doing business with or seeking action from the city. It is intended to assist individuals representing clients before the city. It is recommended, however, that anyone who is subject to the city's ethics regulations review the Code of Ethics in its entirety. The code and other resources for ethics information are posted on the city's website at www.sanantonio.gov/ecfl.

This handbook edition reflects changes made by the City Council on June 25, 2009. Provisions with significant recent changes are marked by this symbol:



City of San Antonio

Ethics Code and Lobbying Regulations

II. Who is a Lobbyist and When is a Lobbyist Required to Register?

With some exceptions, the City of San Antonio Ethics Code does not prohibit lobbying. The code, though, requires some lobbyists under certain circumstances to register with the city, to pay a registration fee and to file activity reports. To determine whether a person is engaging in a type of lobbying activity that triggers the requirement to register, that person should review the following questions:

A) Who is a “lobbyist”?

A “**lobbyist**” is a person who

- 1) **communicates**, either verbally or in writing
- 2) with a **city official**
- 3) in an effort to **influence or persuade** the official
- 4) regarding a **municipal question**.

B) Who are “city officials”?

To constitute lobbying, the communication must be with a “**city official**.” For purposes of lobbying, “**city officials**” are limited to:

- Mayor and Members of the City Council;
- Assistants to City Council and Assistants to the Mayor, including contract assistants;
- Municipal Court Judges and Magistrates;
- City Manager, Deputy City Manager, Assistant City Managers, Assistants to the City Manager, and Secretary to the City Manager;
- City Clerk;
- All Department Heads and Assistant Department Heads;
- Executive Secretaries;
- Members of Bid Committees;
- Market Square Superintendent;
- Community Action Manager;
- Public Utilities Supervisor; and

- Members of the following Boards and Commissions:
 - Board of Adjustment;
 - Board of Appeals;
 - City Public Service;
 - Firefighters and Police Officers Civil Service Commission;
 - Electrical Examining and Supervising Board;
 - Ethics Review Board;
 - Defense Base Development Authorities;
 - Historic and Design Review Commission;
 - Housing Authority of San Antonio;
 - Municipal Civil Service Commission;
 - Planning Commission;
 - Plumbing Appeals and Advisory Board;
 - Public Library Board of Trustees;
 - San Antonio Water System;
 - Urban Renewal Agency (SADA);
 - Zoning Commission;
 - any other board or commission that is **more than advisory** in nature.

C) What is a “municipal question”?

If the person is communicating with a “**city official**,” the next question is whether that person is attempting to persuade or influence the official on a “**municipal question.**” A “**municipal question**” is:

a public policy issue of a discretionary nature pending before City Council or any board or commission, including ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, bids (adoption of specifications, awards, grants or contracts).

“**Municipal question**” does **not** include:

Day-to-day application, administration or execution of existing city programs, policies, ordinances, resolutions, or practices, including matters that may be approved administratively without consideration by a board, a commission or the City Council.

December 18, 2003 Amendment to Ethics Code

Prior to December 18, 2003, the Ethics Code excluded those who were advocating on issues related to permitting, platting and zoning matters from the lobbyist regulations. On December 18, 2003, the City Council amended the Ethics Code to remove that exclusion.

A permitting, platting or zoning matter may still fall outside the meaning of “municipal question.” This depends on whether the matter is a routine, day-to-day matter that can be

approved or handled administratively without consideration by a city official, including department and assistant department directors, members of city boards and commissions, or members of City Council. If the matter is of a discretionary nature pending before City Council or any board and is not a day-to-day application, administration or execution of an existing city program, practice or regulation, the matter may qualify as a “municipal question.”

Questions about the application of this regulation under specific facts or circumstances may be referred to the Ethics Review Board.

D) What is or is not a lobbying “communication”?

If the person is communicating with a “**city official**” on a “**municipal question,**” the next question is whether that communication is part of an effort to “**influence**” or “**persuade.**”

A communication is **not lobbying**, if the person is:

- merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure;
- responding in writing to a request for information by a city official;
- responding to a public notice soliciting communications from the public and directed to the official designated to receive the communications.

A communication is also **not lobbying**, if the communication takes place in an open, public forum. Specifically, a communication is **not lobbying** if:

- the communication is made in a speech, publication or other material that is distributed and made available to the public, or through radio, television, cable television or other mass communication medium;
- the communication takes place at a meeting open to the public under the Open Meetings Act;
- the communication is a written comment filed in the course of a public proceeding.

E) If a person is lobbying, is that person exempt from registration?

If a person determines that he or she is or intends to:

- 1) **communicate**, either verbally or in writing

- 2) with a **city official**
- 3) in an effort **to influence or persuade** the official
- 4) regarding a **municipal question**,

the next issue is whether that person must register as a city lobbyist. Certain individuals and groups, although engaged in lobbying activity, are exempt from registration. The following are **not required** to register:

- Individuals who neither receive compensation nor expend money for lobbying on behalf of a client;
- Mobilizing Entity Constituents and Not-for-Profit Organizations. This exception is intended to apply to neighborhood associations and not-for-profit organizations, but is not a blanket exemption for not-for-profit entities from the city's lobbying regulations. Rather, this exception is limited to an entity's lobbying activity to encourage or solicit the members, employees, or owners (including shareholders) of an entity by whom the person is compensated to communicate directly with one or more city officials to influence municipal questions.
- Journalists, unless a position advocated by the media directly affects or seeks to influence a municipal question in which the media organization has a direct or indirect economic interest.

F) If a person is lobbying and is not exempt from registration, is that person required to register?

If a person is lobbying and that person is not in a category of individuals or part of a group that is exempt from registration, the Ethics Code requires that person to register as a lobbyist if:

- 1) the person engages in the lobbying activities with respect to a client for **compensation**; or
- 2) the person **expends monies** for lobbying activities.

G) What does it mean to be "compensated"?

"Compensation" means money or thing of value received or to be received **in connection with** the lobbying services rendered.

"Compensation" does **not include** payment made to an individual regularly employed by a person if:

- 1) the payment ordinarily would be made regardless of whether the individual engaged in lobbying activities; and
- 2) lobbying activities are not part of the individual's regular responsibilities to the person making the payment.

If the person's compensation is made under these circumstances, no registration is required.

The City Council amended this definition to clarify that compensation for professional services that do not primarily require contact or advocacy with public officials does not constitute compensation in connection with lobbying services, if the contact is incidental to the primary purpose of the employment.

Compensation does not include the financial gain that a person may realize as a result of the determination of a municipal question.

An agent or an employee of a lobbying firm is not required to register as an individual if the firm has registered and has included all relevant information known to the agent or employee in its lobbyist activity reports.

CAUTION: If a person engages in both lobbying activities and other activities on behalf of a client, the person may not structure the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities. Compensation structured in such a way constitutes compensation in connection with lobbying activities.

H) What does it mean to "expend monies"?

"Expenditure" means a payment, loan, or gift of money or anything of value.

"Expenditure" does not include an amount paid to an individual regularly employed by a person if:

- 1) the payment ordinarily would be made regardless of whether the individual engaged in lobbying activities; and
- 2) lobbying activities are not part of the individual's regular responsibilities to the person making the payment.

If expenditures are made under these circumstances, no registration is required.

Also, the Ethics Code specifies that the term "expenditure" for purposes of the registration requirement would not include the cost of photocopying documents or for preparing informational materials incurred by individuals who seek to communicate a personal opinion to a public official on behalf of themselves, their family or members of their household.

A lobbyist's client who would only be required to register because of compensation paid to the lobbyist is not required to register, provided the lobbyist is registered and includes activity on behalf of the client in its activity report.

D) Registration Summary

A “**lobbyist**” is a person who

- 1) **communicates**, either verbally or in writing
- 2) with a **city official**
- 3) in an effort **to influence or persuade** the official
- 4) regarding a **municipal question**.

A person engaged in “**lobbying**” activities must **register** as a lobbyist if:

- 1) that person is not in the category of individuals or organizations exempt from the registration requirement; and
- 2) that person is **compensated** in connection with the lobbying activity; or
- 3) that person **expends monies** for the lobbying activities.

For further information, please consult the City of San Antonio Ethics Code. Individuals may also seek a formal advisory opinion on the application of the Ethics Code from the Ethics Review Board.

City of San Antonio

Ethics Code and Lobbying Regulations

III. Registration and Termination

A. Registration – Initial and Annual

A person or organization that registers is referred to as a “registrant.” Registration can be done either individually or by an organization. Agents or employees of an organization that registers are not required to separately register so long as the organization lists these individuals as its agents.

The registrant must file a separate registration for each client and each registration must be signed under oath. Forms are posted on the city’s website.

An **initial** registration for a new client must be filed:

- within 90 days after the first lobbying communication; or
- before official city action relating to the subject matter of the lobbying contact, if that occurs sooner than the 90-day time period.

The **annual** registration for all of the registrant’s current clients must be filed by January 31st. If January 31st falls on a weekend or city holiday, that deadline is extended to the first business day after that date.

B. Registration Fees

The registrant must pay a fee of \$500 for the registrant, and an additional fee of \$500 for each agent or employee who engages in lobbying activity on behalf of the registrant’s clients..

Example: ABC Firm has two agents and four clients. ABC will register as the registrant and file four separate registrations for its clients. Within each registration, it will list the agents and employees who will lobby on behalf of that client. ABC will pay \$500 to become a registrant and will pay an additional \$1000 for its two agents (\$500 x 2 agents) for a total fee of \$1500.

Example: XYZ Law Firm has four agents and nine clients. XYZ will register as the registrant and file nine separate registrations for its clients. Within each registration, it will list the agents or employees who will lobby on behalf of that client. XYZ will pay \$500 to become a registrant and will pay an additional \$2000 for its four agents for the maximum total fee of \$2500.

C. Registration Disclosures

Each registration requires the following information:

- 1) the full name, telephone number, address and nature of the business of
 - a) the registrant;
 - b) the client;
 - c) any person, other than the client, that has engaged the registrant to lobby for that client;
 - d) any person, other than the client, who is known to the registrant to contribute financially to the compensation of the registrant; or who supervises or controls the registrant's lobbying activities for that client;
 - e) any lobbying firm for which the registrant is an agent or employee with respect to the client;
 - f) **each employee or agent** of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client;
- 2) a statement of all **municipal questions** on which the registrant has lobbied during the preceding year or anticipates lobbying in the year of registration;
- 3) a list of any positions held by the registrant as an official or employee of the City of San Antonio during the preceding two (2) years;
- 4) if the registrant is a former city official or employee, a statement that the lobbying activities have not violated and will not foreseeably violate the ethics code provisions governing former city officials and employees.

Ethics Code provisions applying to former city officials and employees will be discussed in Section X of this Handbook. In short, though, former city officials and employees are prohibited from representing a private interest for compensation for two years after leaving city service.

D. Timeliness of Filing Registrations and Reports

A registration or quarterly report filed by first-class mail or by common carrier is timely if it is properly addressed with sufficient postage and it bears a post office cancellation mark or other receipt mark indicating a time within the applicable filing period.

E. Termination of Registration

A registrant must file a notice of termination of registration with the City Clerk if the registrant is no longer engaged in activities that require registration and reporting. The registrant must still comply with any reporting requirements for activity taking place before termination.

City of San Antonio

Ethics Code and Lobbying Regulations

IV. Quarterly Activity Reports

A. Deadlines

Each registrant must file a quarterly report concerning the registrant's lobbying activities for each client from whom, or with respect to whom, the registrant received compensation from, or expended monies for lobbying during the prior calendar quarter. The report shall be filed between the 1st and 15th day of April, July, October and January, and is filed under oath.

A registrant may file a consolidated quarterly activity report reflecting the activity of all its agents and employees who engaged in lobbying activity during the prior calendar quarter. It is not necessary for quarterly reports to be filed by agents, so long as their activity is reflected in the registrant's reports.

B. Quarterly Activity Report Disclosures

Each quarterly activity report requires the following information:

- 1) the name of the registrant, the name of the client, and any changes or updates in the information provided in the most recent registration (initial or annual) statement;
- 2) a list of the specific issues upon which the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of specific legislative proposals and other proposed, pending, or completed official actions;
- 3) a list of the city officials contacted by the registrant on behalf of the client with regard to a municipal question;
- 4) a list of the employees or agents of the registrant who acted as lobbyists on behalf of the client;
- 5) for registrants engaged in lobbying activities on its own behalf, a good faith estimate of the total expenditures¹ that the registrant and its agents or employees incurred in connection with lobbying activities;

¹ Expenditure means a payment, distribution, loan, advance, reimbursement, deposit, gift or money or anything of value. Expenditure, though, **does not include** an amount paid to any individual regularly employed by a person if

- 1) the amounts paid to the individual are ordinarily paid regardless of whether the person engages in lobbying activities; and

6) each gift, benefit, or expenditure greater than \$50 made to, conferred upon, or incurred on behalf of a city official or his or her immediate family by the registrant or its agents or employees **itemized** by:

- date;
- city official;
- actual cost;
- circumstances of the transaction;

7) each exchange of money, goods, services or anything of value by the registrant or its agents or employees, with any **business entity**

- that the registrant knows or should know that a city official has an economic interest or for which an official serves as a director, officer, or in another policy-making position; and
- the total of such exchanges is \$1000 or more in a calendar quarter; and
- the city official has been
 - lobbied by the registrant or its agents, or
 - the official serves on a board or other city body that has appellate jurisdiction over the subject matter of the lobbying contacts;

8) the name and position of each city official or member of a city official's immediate family who is employed by the registrant.

Where estimates of expenditures are required, the registrant may round to the nearest \$100 for amounts less than \$5000, and may round to the nearest \$1000 for amounts exceeding \$5000. Employment or agreement to lobby on a contingent fee basis must also be disclosed.

C. Report Not Required If No New Activity

No quarterly report is required if there is no reportable activity during the preceding calendar quarter and there are no other changes to items required to be reported.

D. Preservation of Records

The registrant must preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the information disclosed in the activity reports for five (5) years from the date of the report containing the information. These records must be provided to the Ethics Review Board upon request by the board.

2) the lobbying activities are not part of the individual's regular responsibilities to the person making the payment.

The date on which an expenditure is incurred is determined according to generally accepted accounting principals.

City of San Antonio

Ethics Code and Lobbying Regulations

V. Identification of Clients During Contacts with Officials

A lobbyist must identify himself or herself and the clients he or she represents when contacting an official or when appearing before the City Council or one of the city's boards and commissions.

VI. Restrictions on Lobbying Activity

A. Prohibited Contacts During Contract Evaluation – the “Cone of Silence”

A lobbyist or a lobbyist's agent is prohibited from lobbying activities with city officials, including elected officials, and employees regarding a proposed contract from the time a Request for Proposal (RFP), a Request for Qualifications (RFQ) or other solicitation has been released until the contract is posted as a City Council agenda item. If contact is required, such contact will be done in accordance with procedures incorporated into the solicitation document. Violation of this provision by respondents or their agents, including lobbyists, may lead to disqualification of the respondent's offer. There is a parallel no-contact provision for contractors and their agents. The “no contact” provision is sometimes called the “Cone of Silence.”

B. Lobbyists May Not Place City Official Under Personal Obligation

A lobbyist or the client or any of their agents may not do any act or refrain from any act for the express purpose and intent of placing any city official under personal obligation to the lobbyist.

C. False Statements

A lobbyist or the client or any of their agents cannot intentionally or knowingly make any false or misleading statement of fact to any city official, or cause a copy of a document with false information to be received by an official without notifying the official in writing of the truth. Likewise, a registrant who learns that a statement in a registration form or activity report during the previous 3 years is false must correct that statement within 30 days by written notification to the Office of the City Clerk.

D. Use of False Identification

A lobbyist or the client or any of their agents cannot communicate with a city official in the name of any fictitious person or in the name of any real person, without that person's consent.

E. Improper Influence

A lobbyist or the client or any of their agents cannot cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment for the purpose of later being employed as a lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.

F. Improper Representation

A lobbyist or the client or any of their agents cannot represent that the person can control or obtain the vote or action of any city official.

City of San Antonio

Ethics Code and Lobbying Regulations

VII. Disclosures and Requirements for City Contractors

Lobbyists are often retained for the purpose of assisting clients seeking to do business with the city. The standards of conduct applicable to city contractors or other clients of lobbyists are discussed below.

A. Prohibited Contacts During Contract Evaluation – the “Cone of Silence”

A contractor or a contractor’s agent is prohibited from lobbying activities with city officials, including elected officials, and employees regarding a proposed contract from the time a Request for Proposal (RFP), a Request for Qualifications (RFQ) or other solicitation has been released until the contract is posted as a City Council agenda item. If contact is required, such contact will be done in accordance with procedures incorporated into the solicitation document.

Violation of this provision by respondents or their agents, including lobbyists, may lead to disqualification of the respondent’s offer. There is a parallel no-contact provision for lobbyists and their agents. The “no contact” provision is sometimes called the “Cone of Silence.”

B. The City’s Discretionary Contracts Disclosure Form

When seeking a discretionary² city contract, the contractor must submit a form disclosing:

- the identity of all parties to the contract;
- subcontractors;
- partners, parent or subsidiary business entities of any party to the contract;
- any lobbyist, attorney or consultant that has been employed for a purpose related to the contract.

The contractor must also disclose all political contributions³ totaling more than \$100 made by the parties or the other individuals or entities listed on the form made directly or indirectly to:

- any current or former member of City Council, including the Mayor⁴;

² “Discretionary contract” means any contract other than those which by law must be awarded on a low or high qualified bid process. They do not include contracts subject to Section 252.022(a)(7) of the Texas Local Government Code or those contracts not involving an exercise of judgment or choice.

³ Political contributions include both campaign and officeholder contributions.

- any candidate for City Council, including the Mayor;
- any political action committee (PAC) that contributes to City Council elections.

Indirect contributions include contributions made by an individual’s spouse or by the officers, owners, attorneys, or registered lobbyists of the entity.

Indirect contributions do not include contributions by owners of a business entity who hold less than 5% of the fair market value or voting stock of the entity. If a large publicly traded corporation seeks to contract with the city, it will not be required to list contributions made by its shareholders whose holdings are less than 5%.

C. Chapter 176 of the Local Government Code Disclosure Form

Effective January 1, 2006, Chapter 176 of the Local Government Code requires all vendors or those who seek to contract for the sale or purchase of property, goods, or services with a local governmental entity to submit a completed “conflict of interest questionnaire” with the Office of the City Clerk within seven (7) days after the person:

- 1) begins contract discussions or negotiations; or
- 2) submits an application, response to a request for proposal or bids, correspondence, or another writing related to a potential agreement with the local governmental entity.

The questionnaire requires the contractor or contract seeker to disclose business or employment relationships with councilmembers and the city manager. The Texas Ethics Commission is responsible for drafting the questionnaire and a link to the form on the Texas Ethics Commission website is posted on the “Forms” page of the city’s ethics webpage. It is subject to change and anyone subject to the requirement should consult the TEC website to obtain the most up-to-date form.

Violation of Chapter 176 of the Local Government Code is a class C misdemeanor. Please consult your own legal counsel for questions about compliance.

D. The Contribution “Black Out” Period for High-Profile Contracts



Individuals seeking high-profile contracts, the owners or officers of entities seeking high-profile contracts, the legal signatories for high-profile contracts, any spouse of these individuals, or attorneys, lobbyists or other consultants retained to assist in seeking high-profile contracts cannot make campaign or officeholder contributions from 10th day after solicitation is released until 30 days after contract has been awarded.

⁴ Contributions to former councilmembers are not required to be disclosed if the contributions were made to a campaign not associated with a city office, the officeholder had terminated his or her campaign treasurer appointment and filed the terminal campaign finance report with the city and the former member is not or was not serving in city office at the time the contract was in the solicitation process.



Zoning applicants and their spouses are also prohibited from making contributions from the date the application is submitted until 30 days after final action.

The designation of a contract as “high-profile” is determined by the city department originating the contract. At the time of this writing, criteria for designation as a “high-profile” contract are:

- Contract with a value of \$1 million or greater;
- Contracts with high community interest;
- Contracts that are highly complex or technical;
- Contract with terms are non-standard or complex.

These criteria are subject to revision. Please contact the city staff person identified in the solicitation document as the point of contact for receiving communications regarding the status of any particular contract.

City of San Antonio

Ethics Code and Lobbying Regulations

VIII. Liability for Lobbyists under the Ethics Code

Lobbyists must comply with the lobbying regulations under the Ethics Code. They may also be held liable, however, for intentionally or knowingly aiding or assisting a city official or employee or other person in violating provisions of the code. See Ethics Code, Section 2-72. The standards of conduct applicable to city personnel that are most relevant to lobbyists concern conflicts of interest, prohibited contractual interests and gifts. These rules are discussed below.

IX. Ethics Code Standards of Conduct for City Officials and Employees – Conflicts, Contracts and Gifts

A. Conflicts of Interest

A city official or employee cannot take part in a matter on behalf of the city that may affect his or her own financial interests or the interests of the following:

- the official's or employee's parent, child, spouse or other family member within the second degree;
- a member of the official's or employee's household;
- the official's or employee's outside clients;
- a non-city employer of the official or employee;
- the employers of the official's or employee's parent, child (unless the child is a minor), spouse or member of the household (unless member is a minor);
- a business entity in which the official or employee or his or her parent, child, spouse or family member within the second degree holds an economic interest;⁵
- a business or non-profit entity for which the official or employee serves as an officer, director, or in another policy-making position;
- a person or business entity with whom the official or employee is negotiating an employment or business opportunity.

The Ethics Code has a second conflict-of-interest provision which states that an official or employee cannot use his or her position to unfairly advance or impede a private interest. An official or employee may be required to recuse himself or herself under this provision if his or her impartiality or objectivity is impaired by personal involvement with the matter or the individuals associated with the issue.

⁵ Ownership of an interest in a mutual fund is not considered an economic interest for purposes of the Ethics Code, unless the person participates in the management of the fund. Further, ownership of stock in a publicly traded corporation is not considered an economic interest, unless the official or employee owns 10% or more of the voting stock and the value of the stock is \$15,000 or more.

B. Prohibited Contracts

1. Certain City Officials and Employees are Prohibited from Having an Interest in City Contracts

Section 141 of the City Charter and the Ethics Code prohibit city officers and higher-level staff members from having any interest in a contract with the city. The officer or employee is presumed to have a prohibited interest in any contract between the city and:

- the officer or employee;
- his or her spouse, sibling, parent, child or other family member within the first degree;
- a business entity in which the officer or employee, or his or her parent, child or spouse, directly or indirectly, owns ten percent (10%) or more of the voting stock or fair market value;
- a business entity in which any of the individuals or entities listed above is:
 - a subcontractor on the contract;
 - a partner; or
 - a parent or subsidiary business entity.

Any contract that is already in place at the time an individual becomes an officer or employee subject to this prohibition may remain in effect until the contract expires or the transaction is completed.

For purposes of the “prohibited contracts” provision, “city officers” are:

- the Mayor or member of City Council;
- a Municipal Court Judge or Magistrate; or
- a member of any board or commission which is more than advisory in nature.

The employees subject to this provision are:

- City Manager, Deputy City Manager, Assistant City Managers and Assistants to the City Manager;
- Department and assistant department heads;
- Assistant to the Mayor and Assistant to City Council;
- Executive secretaries;
- Internal Auditor and all assistant internal auditors;
- Community Action Manager;
- Public Utilities Supervisor; and
- All other employees who are required to file annual financial disclosure statements pursuant to Section 2-73 of the Ethics Code.

2. Sanction for Violation of “Prohibited Contracts” Provision

The sanction for a willful violation of Section 141 of the City Charter and the Ethics Code prohibition is forfeiture of the officer’s or employee’s position with the city. Further, the contract becomes voidable by the City Council or the City Manager. The

prohibition continues to apply for discretionary contracts for one (1) year after an official or employee leaves city service.

C. Gifts to City Officials and Employees

No city official or employee can accept a gift or benefit that is intended to influence or reward official conduct. See Ethics Code, Section 2-45(a)(1) and Texas Penal Code, Section 36.02 (Bribery).

In addition, lobbyists, persons or entities seeking or doing business with the city, and those seeking action on zoning or platting matters are specifically restricted in giving gifts or benefits to city personnel, except as expressly permitted in the Ethics Code.

These “restricted donors” may offer or provide to city personnel:

- items of nominal value, (\$50 or less in value);
- meals of an individual expense of \$50 or less at any occurrence, with no more than a cumulative value of \$500 in a single calendar year from a single source;
- payment or reimbursement of reasonable expenses for travel in connection with official duties authorized in accordance with city policies;⁶
- admission to a training or education program, if the program is related to the official or employee’s official duties and is in the interest of the city;
- admission to a widely attended event, such as a convention, conference, symposium, forum, panel discussion, dinner, viewing, reception or similar event, offered by the sponsor of the event and unsolicited by the official or employee, if the official is attending or participating in an official capacity, including:
 - the official or employee participates in the event as a speaker or panel participant;
 - the official or employee performs a ceremonial function appropriate to that person’s position with the city; or
 - attendance at the event is appropriate to the performance of the official duties or representational function;
- admission to a charity event provided by the sponsor of the event and unsolicited by the official or employee;



Repeal of “Entertainment” Exception

Previously, the Ethics Code included an exception allowing city officials and employees to accept gifts of entertainment up to \$500 in value. On June 25, 2009, the City Council removed this exception from the Ethics Code. At this time, gifts of entertainment are subject to the general exception allowing the receipt of gifts of nominal value, \$50 or less.

⁶ Officials or employees receiving a travel benefit must disclose its receipt on a Travel Report. Expenses exceeding authorized rates under city policy are treated as personal gifts to the official or employee for purposes of their annual financial reporting requirements.

Sources, Sponsors and Guests

The application of these exceptions to the gift restrictions requires an understanding of several key terms.

A **source** is a person or entity that funds an expenditure(s).

Example. ABC Firm employs three agents to lobby city officials. Agent 1 and Agent 2 on separate occasions invite a department director to lunch to discuss the merits of their client's proposal for a new city project. Agent 1 and Agent 2 both pay for the meals using the firm's account. The department director has received two meals from a single source, the firm. If the director accepts multiple meals paid for at this firm's expense, he must ensure that none of the meals are worth more than \$50 individually and that the total value of all the meals in a calendar year from this source does not exceed \$500.

A **sponsor** of an event is the person or organization primarily responsible for organizing an event or sponsoring a table or tables. A person who simply contributes money or buys tickets to an event is not a sponsor.

Example: The American Society of Meerkats is hosting a fund-raising event. They sell tickets for \$150 per person. An individual or organization may participate in sponsoring the event by purchasing a table of 10 for \$1500. ABC Firm from the prior example sponsors a table for the event and invites a councilmember and the director of the Zoo to attend at its table. The councilmember and the director may accept admission to the event under the "widely attended event" or the "charity event" exceptions.

Example: Joe Smith of the ABC Firm purchases six tickets to the Superbowl and invites a councilmember and a director of a city department and their spouses to attend the event. The official and the director cannot accept these tickets under the "widely attended event" exception because they have no official purpose in attending and because Mr. Smith is not a sponsor of the event. Mr. Smith has merely purchased tickets.

City of San Antonio

Ethics Code and Lobbying Regulations

X. Ethics Code Standards of Conduct for Former City Officials and Employees

After leaving city service, former city officials and employees are subject to several provisions of the Ethics Code which may affect their ability to represent interests before the city on behalf of private sector employers or clients.

Please review the Handbook for Former City Officials and Employees posted on the City's ethics website for additional discussion and examples of the Ethics Code's application to former city personnel.

A. Representation of Private Interests

1. Former City Officials and Employees

A former city official or employee cannot represent a private interest before the city for compensation for two (2) years after leaving city service.

Former city officials and employees are also prohibited from representing any person, group, or entity, other than their immediate family, in any litigation to which the city is a party, if the interests of that client are adverse to the interests of the city and the matter is one in which the former city official or employee personally and substantially participated while still with the city.

2. Former Board or Commission Members

Former board or commission members cannot represent a private interest for two (2) years after leaving their board:

- before the board or commission on which they had previously served;
- before any city staff which makes recommendations or takes action on behalf of the board or commission, unless the body is only advisory in nature;
- before another body which has appellate jurisdiction over the board on which the former member served, if the issue relates to the former member's former duties.

B. City Contracts

1. "Prohibited Contracts"

The "prohibited contracts" provision discussed above on page 17 continues to apply to the same officers and employees for discretionary contracts only for one (1) year after

termination of city service. Contracts for professional services are excluded from this prohibition.

2. Prior Participation in Contract Award, Negotiation or Administration

A former city official or employee may not, within two (2) years of leaving city service perform work for compensation in connection with a discretionary city contract if he or she personally and substantially participated in its negotiation, award or administration. This provision does not apply to former board or commission members.

3. Involvement in City Contract Where There Was No Prior Participation and Notice to the City Clerk

A former city official or employee may engage in private sector employment pertaining to a city contract if that person did not participate in the award, negotiation or administration of that contract while still working for the city. However, that person cannot represent the private sector interest before the city for two years after leaving the city, as discussed on the previous page in Section A.1.

Caution: Former officials and employees must submit notification to the Office of the City Clerk that he or she is performing work for compensation in connection with a discretionary city contract for which he or she did not personally and substantially participate in its negotiation, award or administration.

XI. Violations of the Ethics Code and Sanctions

A person who believes that another has violated the city's Ethics Code may file a complaint with the Ethics Review Board through the Office of the City Clerk. If the board concludes a person or entity subject to the code has committed a violation, the following sanctions may be applied:

- Letter of Notification;
- Letter of Admonition;
- Letter of Reprimand;
- Referral to ethics training;
- Civil fine up to \$500;
- Recommendation that an individual or entity be debarred from lobbying or contracting with the city for up to three years;
- Recommendation to void or ratify a contract with the city;
- Recommendation of a civil suit for injunctive relief.
- Forfeiture of position with the City for willing violation of "prohibited contracts" provision of Section 141 of the City Charter. (See City Charter Section 141)

See Division 8 of the Ethics Code for the rules of procedure regarding the consideration and disposition of ethics complaints.

City of San Antonio

Ethics Code and Lobbying Regulations

XII. Resources and Advisory Opinions

The Ethics Code is posted on the city's website at www.sanantonio.gov/ecfl, with other ethics information such as a manual for former officials and employees and a gift handbook.

Lobbyists, contractors and other non-city personnel may obtain an ethics advisory opinion from the city's Ethics Review Board regarding the application of the Ethics Code. Please note that a person may only ask for an opinion on how the ethics regulations would apply to the person or entity submitting the request. A person cannot request an opinion regarding the actions of another person.

You may send a written request for opinion to the Ethics Review Board through the Office of the City Clerk by:

Ethics Review Board
Office of the City Clerk
City Hall – P.O. Box 839966
San Antonio, Texas 78283-3966

The Ethics Review Board opinions are posted on the city's ethics website, in a manner that does not reveal the identity of the person making the inquiry. You may the Office of the City Clerk at 207-7253 if you have questions or need additional information.

Appendix 1
Schedule of Filing Deadlines

Lobbyist Report Deadlines

| | |
|---------------------------------|---|
| January 31st: | Annual Registration of Clients |
| January 15th: | Quarterly report for October – December activity |
| April 15th: | Quarterly report for January through March activity |
| July 15th: | Quarterly report for April through June activity |
| October 15th: | Quarterly report for July through September activity |

Appendix 2

Forms:

Initial, Annual Lobbyist Registration

Quarterly Report

Termination Notice

Municipal Discretionary Contracts Disclosure
Form

Texas Ethics Commission Vendor Questionnaire
Please see Texas Ethics Commission Website
for latest version of this form at:
www.ethics.state.tx.us.

All forms are available on the City's Ethics Website