

Question:

What constitutes a “nonprofit organization”?

Answer:

For the purposes of the District’s lobbying registration requirements, the term “nonprofit organization” is limited to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986. *See* D.C. Official Code §1-1162.27(b)(2). **Please note that the statutory definition of “nonprofit organization” changed in October 2016, limiting it to only those organizations classified as tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986.**

The IRS defines 501(c)(3) nonprofit organizations as corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. *See* 26 U.S.C. § 501(c)(3).

Many other organizations are exempt from taxation under other sections of the Internal Revenue Code, such as civic leagues, labor organizations, and business groups. However, these other tax-exempt organizations are not eligible to pay the reduced \$50 lobbyist registration fee under D.C. Official Code §1-1162.27(b)(2), and must pay the regular \$250 lobbyist registration fee.

Question:

If I realize that I should have filed a Lobbyist Registration form or Lobbyist Activity Report, but failed to do so, what can I do to remedy that?

Answer:

File as soon as possible. If you have just begun lobbying and are within the 15 days referenced above, you are likely not subject to a fine for failing to register. However, you should contact BEGA to ascertain if there are any outstanding fines for failure to timely file a Registration form or Activity Report.

Question:

When are Lobbyist Registration forms due?

Answer:

Lobbyist Registration forms must be submitted to BEGA by January 15th of each year; or no later than 15 days after becoming a Lobbyist (see definition of “Lobbyist” above). If you fail to register on time you will be subject to a civil penalty of \$10 per day up to 30 days past the deadline. (See, DC Official Code § 1-1162.32(c)).

Question:

How much is the Lobbyist Registration fee?

Answer:

The Registration fee is \$250. Unless, you are a nonprofit organization, or you lobby solely for nonprofit organization, in which case the filing fee is \$50. Please note that this only applies to nonprofits or lobbyists who lobby only for nonprofits. For example, if you lobby for 9 nonprofits and one for-profit entity, you are required to pay the \$250 registration fee for each client, even the nonprofits. The nonprofits would pay \$50 for their own registration.

Question:

Regarding the Lobbyist Registration Form and the Lobbyist Activity Report, who is the Registrant?

Answer:

If you are an independent lobbyist, you are the Registrant.

If you are a lobbying entity (i.e. lobbying firm) who employs lobbyists, you are the Registrant.

If you are a client who compensates a lobbyist or lobbying firm in the amount of \$250 or more in a 3-consecutive calendar month period for lobbying, you are the Registrant.

This means that if you are a business, agency, or other entity that employs lobbyists, the Registrant Name should be the name of your agency or entity, not the name of the lobbyist; individual lobbyists working for lobbying entities do not need to submit individual Lobbyist Registration Forms.

Please also note that the Registrant Name should appear the EXACT SAME WAY on all forms.

You disclose the name of each lobbyist working for a lobbying entity or a client under Question 2 on the Lobbyist Registration Form.

Question:

Why do I need to complete both a Lobbyist Registration form and a Lobbyist Activity Report?

Answer:

The intent of the two forms is different. The Lobbyist Registration form alerts BEGA to your intention to engage in lobbying activities in the District of Columbia or the fact that you have reached the \$250 threshold referenced above, and allows BEGA to input your information into the Lobbyist database.

The Lobbyist Activity Report discloses all lobbying activity for the prior six-month period. The form informs BEGA of your specific lobbying activities and expenditures, including, what types of communications you are engaging in, with whom, the reasons for the communications, on whose behalf and for what purpose, and the funds expended.

Question:

What is “lobbying”?

Answer:

Under the Ethics Act, “Lobbying” is communicating directly with any official in the legislative or executive branch of the District government with the purpose of influencing any legislative action or an administrative decision.

However, the term “lobbying” does not include:

- a) The appearance or presentation of written testimony by a person on his or her own behalf, or representation by an attorney on behalf of any such person in a rulemaking (which includes a formal public hearing), rate-making, or adjudicatory hearing before an executive agency or the Tax Assessor;

- b) Information supplied in response to written inquiries by an executive agency, the Council, or any public official;
- c) Inquiries concerning only the status of specific actions by an executive agency or the Council;
- d) Testimony given before the Council or a committee of the Council, during which a public record is made of such proceedings or testimony submitted for inclusion in such a public record;
- e) A communication made through the instrumentality of a newspaper, television, or radio of general circulation, or a publication whose primary audience is the organization's membership; and
- f) Communications by a bona fide political party.

Question:

Who is required to file a Lobbyist Registration form with the Board of Ethics and Government Accountability?

Answer:

You are required to file a Lobbyist Registration form, and pay the applicable fee, if you:

- a) Receive compensation in an amount of \$250 or more in any 3-consecutive-calendar month period for lobbying;
- b) Receive compensation from more than one source in an aggregate amount of \$250 or more in any 3-consecutive-calendar-month period for lobbying; or
- c) Expend funds in an amount of \$250 or more in any 3-consecutive-calendar-month period for lobbying.

All independent lobbyists, lobbying entities who employ lobbyists, and persons who have others lobbying on their behalf that meet the requirements listed above must submit a Lobbyist Registration form to BEGA.

Question:

What if I am unable to file electronically?

Answer:

You can request a waiver of the requirement to file electronically, under 3 DCMR § 5803.6. Waiver requests must be submitted in writing, to the Director of Government Ethics, Darrin P. Sobin, no later than midnight on January 1st for January Lobbyist Registration and Lobbyist Activity report filings and July 1st for July Lobbyist Activity Report filings.

The Director will grant waivers only where good cause is shown as to why the Lobbyist is unable to file electronically. The Director's decision to grant or deny the waiver will be in writing and provided to the registrant seeking the waiver.

If the waiver is granted, the filings shall be filed in hard copy, in person or by first class mail. The filing shall be deemed timely filed if received in BEGA's offices (441 4th Street NW, Suite 830 South, Washington, D.C. 20001) no later than 5:00 pm on the due date.

You can appeal a denial of your waiver request to the Ethics Board. An appeal is timely filed if it is submitted to the Board Chairperson and the Director of Government Ethics, in writing, no later than two (2) business days after the date of the Director's denial. The decision of the Board is final and will be provided in writing to the registrant seeking the waiver.

Question:

If I want to file the Lobbyist Registration form electronically, can I pay the required registration fee electronically?

Answer:

Yes. You can pay with a credit card at the end of the filing process. After payment is completed you will see a receipt on the screen and a receipt will be emailed to the address you provided.

If you wish to pay by check you can file electronically and send the payment check to BEGA. Once BEGA receives your check the registration will be completed in the electronic filing system. A registration is not considered complete and filed until payment is received.

Question:

When are Lobbyist Activity Reports due?

Answer:

Lobbyist Activity Reports are due twice a year:

January 10—Covers Reporting Period July 1 to December 31

July 10—Covers Reporting Period January 1 to June 30

If you fail to file on time you will be subject to a civil penalty of \$10 per day up to 30 days past the deadline. (See, DC Official Code § 1-1162.32(c)).

Question:

I didn't engage in any lobbying activity this reporting period, do I still have to file a Lobbyist Activity Report?

Answer:

If you register as a lobbyist, lobbying entity, or client for a respective year, you must file a Lobbyist Activity Report for both reporting periods in a calendar year, even if you did not engage in any lobbying activity during the reporting period, unless you have terminated the registration. You would write "0.00", "Nothing" or "No Activity" on all sections of the report.

Question:

Who does not have to register as a lobbyist?

Answer:

The following people are not required to submit a Lobbyist Registration form with BEGA:

- a) A public official, or an employee of the United States acting in his or her official capacity;
- b) A publisher or working member of the press, radio, or television who, in the ordinary course of business, disseminates news or editorial comment to the general public;
- c) A candidate, member, or member-elect of an Advisory Neighborhood Commission; or
- d) Civic leagues or organizations and municipal associations which are devoted exclusively to charitable, educational, or recreational purposes, whose activities do not consist of lobbying, the result of which shall inure to the financial gain or benefit of the entity.

However, if your lobbying activity inures to your benefit or the benefit of your members- you are required to register.

Question:

What do the terms “business relationship” and “professional services relationship” mean?

Answer:

“Business relationship” means a relationship established to provide for business services. “Professional services relationship” means a relationship where the functions are infrequent, technical or unique and, primarily performed by independent contractors or by consultants whose occupation is the rendering of such services.

Question:

How do I disclose bundled campaign contributions?

Answer:

Bundled campaign contributions must be disclosed and should be disclosed on Schedule C, the Campaign Contributions form, because they are not made on behalf of any one specific client or lobbying entity.

When reporting bundled campaign contributions, the registrant must provide the name of each contributor, the address and employer of each person from whom the contributions were received, and the name of the candidate or committee for whom the contributions were collected.

Question:

How are bundled campaign contributions defined?

Answer:

Under the Ethics Act, "bundled" or "bundling" means to forward or arrange to forward two or more contributions from one or more persons by a person who is not acting with actual authority as an agent or principal of a committee.

Question:

I am a lobbyist and made a contribution to an inaugural committee and/or a transition committee for an Executive Branch official. Does this need to be reported on the Lobbyist Activity Report? If so, where?

Answer:

Yes, pursuant to the Ethics Act, you must disclose each political expenditure, loan, gift, honorarium, or contribution of \$50 or more made by the registrant or anyone acting on behalf of the registrant to benefit an official in the legislative or executive branch.

If the contribution was made on behalf of a client, the contribution must be reported on Schedule A-2 of your Lobbyist Activity Report and your client's Lobbyist Activity Report. If the contribution was NOT made on behalf of a client, the contribution must be reported on Schedule C: Campaign Contributions, an additional form.

Question:

What is meant by "terms of compensation" for Question 4 on the Lobbyist Registration Form?

Answer:

If the lobbyist is a salaried employee and is not receiving extra compensation for his lobbying duties, listing "salary" is fine. However, the Registrant must be able to provide that information upon request from BEGA. If the Registrant charges by the hour, the hourly rate should be listed. If the Registrant pays a flat fee, list the flat fee. If the Registrant is on retainer, listing "Retainer" is fine. If the compensation arrangement involves two or more methods of compensation, all methods must be listed.

Question:

Regarding Schedules A and A-1 of the Lobbyist Activity Report, do I need to provide receipts to BEGA?

Answer:

Pursuant to DC Official Code § 1-1162.30(b), as a Registrant, you are required to preserve all accounts, bills, receipts, books, papers and documents used to substantiate the information provided in the Activity Report for five years from the date that you filed the Report. You do not have to provide them with your report, but these documents must be made available to the Director of the Office of Government Ethics if requested with reasonable notice.

Question:

How do I calculate expenditures?

Answer:

Expenditures are reported on a cash basis, meaning Registrants report the expenditure at the time the lobbyist is compensated.

Question:

What do I report regarding my communication with officials in the legislative and executive branch?

Answer:

You must report any written or oral communication, including electronic mail, text messages, or any other form of communication, related to lobbying activities. These communications must be reported separately by date and official, and must identify:

- (i) The official with whom the communication was made;
- (ii) The specific date on which the communication was made to a specific official;
- (iii) The type of communication; and
- (iv) The nature and purpose of communication.