

## 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:

**When are Lobbyist Registration Reports due?**

## Answer:

Lobbyist Registration Reports 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:

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

## Answer:

File as soon as possible. If no more than 15 days have elapsed since you began lobbying, 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 Report or Activity Report.

## Question:

**How much is the Lobbyist Registration fee?**

## Answer:

The annual Lobbyist Registration fee is \$250. However, if you are a 501(c)(3) nonprofit organization, or you lobby solely for 501(c)(3) nonprofit organizations, the annual Lobbyist Registration fee is \$50. **As noted above, 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.** Please note that this only applies to nonprofits or lobbyists who lobby only for nonprofits. For example, if you lobby for nine 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 Report 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 Reports.

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

You must disclose the name of each lobbyist working for a lobbying entity or a client on the Lobbyist Registration Report.

## Question:

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

### Answer:

The information captured in the two reports is different. Submission of your Lobbyist Registration Report alerts BEGA that you intend to engage in lobbying activities in the District of Columbia and that you have reached the \$250 threshold referenced above (or expect to do so during the calendar year). It also causes your information to be added to BEGA's Lobbyist database.

The Lobbyist Activity Report (LAR), on the other hand, discloses all lobbying activity for the preceding three-month period – excepting the January 2019 report, which discloses all lobbying activity conducted between July 1, 2018 and December 31, 2018. The LAR informs BEGA of your specific lobbying activities and expenditures, including the types of communications you utilized, with whom you communicated, the reasons for the communications, on whose behalf and for what purpose those communications were made, and the funds expended for Lobbying purposes.

## 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. The phrase “administrative decision” includes an action to make any contract, grant, reprogramming or procurement of goods and services, issue a Mayor's Order, or cause a rulemaking proceeding to be undertaken.

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 Report with the Board of Ethics and Government Accountability?**

## Answer:

You are required to file a Lobbyist Registration Report, 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 Report with 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, Brent Wolfingbarger, no later than midnight on January 1st for January Lobbyist Registration and Lobbyist Activity report filings; April 1<sup>st</sup> for April Lobbyist Activity Report filings; July 1st for July Lobbyist Activity Report filings; and October 1<sup>st</sup> for October 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 Report 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, the Application screen is updated to show that no payments are due, 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 BEGA receives your payment.

## Question:

**When are Lobbyist Activity Reports due?**

## Answer:

Pursuant to legislative changes enacted by D.C. Council in October 2018, Lobbying registrants are now required to file activity reports four times per year, not semi-annually. However, to ensure there are no gaps in the reporting system resulting from these legislative changes, registrants must include all relevant lobbying activity that occurred between July 1, 2018 and December 31, 2018 on their Lobbying Activity Report (LAR) that is currently due, before switching over to quarterly activity reporting when the next report falls due for the period running from January 1, 2019 until March 31, 2019.

Lobbyist Activity Reports are due four times a year:

January 15 – Covers Reporting Period October 1 to December 31

April 15 – Covers Reporting Period January 1 to March 31

July 15 – Covers Reporting Period April 1 to June 30

October 15 – Covers Reporting Period July 1 to September 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, D.C. 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 all four (4) 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 should enter "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 Report 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 the Campaign Contributions report, 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 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 your Campaign Contributions Report.

### Question:

**What is meant by "terms of compensation" on the Lobbyist Registration Report?**

### 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 expenditures reported in 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. Pursuant to DC Official Code §1-1162.30(a)(5) and (5a), these communications must be reported separately by date and official, and must identify:

- (i) The name, position, and agency or office of each official in the executive or legislative branch and member of the official's staff with whom the registrant has had written or oral communications during the reporting period related to lobbying activities conducted by the registrant; and
- (ii) A precise description of the subject matter, including the title of any bill, proposed resolution, contract, reprogramming, or other legislation, of all written or oral communications related to lobbying activities conducted by the registrant with any official in the executive or legislative branch or member of the official's staff during the reporting period;

### Question:

**Does BEGA have any instructional materials I can review to help me understand how to use the new Lobbyist Registration and Reporting e-filing system?**

### Answer:

Yes. BEGA and OCTO conducted a series of training webinars on the new Lobbyist Registration and Reporting e-filing system, and a raw recording of that training program can be found on BEGA's YouTube channel at:

<https://youtu.be/72QfwpDYAE> (the training program begins around the 10:30 mark of the raw recording.)

### Question:

**What should I do if I experience technical problems or have difficulty accessing the system?**

### Answer:

If you experience any technical difficulties with the new system, please create a support ticket within the application, so that OCTO can better track outstanding issues and note when problems are resolved. Users can create a new support ticket at the following link: <https://efiler.bega.dc.gov/LobbyistAccount/LRR/Support>

### Question:

**Will BEGA be conducting any additional training webinars on the new filing system?**

### Answer:

Yes. BEGA and OCTO will be conducting two additional training webinars on the new filing system to allow any registrants who were unable to participate in the previous webinars another opportunity to benefit from that training. The first session will be held on [Thursday, January 17, 2019 from 10:00 a.m. until 12:00 p.m.](#), and the second session will be held on [Friday, January 18, 2019 from 10:00 a.m. until 12:00 p.m.](#) If you are interested in participating in either of these webinars, please click on the links provided above to register for the training through Eventbrite.