

Lobbyist Compliance



Summary

Our annual audit of lobby registrant compliance indicates that both registered lobbyists and City staff are complying with the City Code requirements. Also, annual compliance audits may not be necessary to address the level of risk identified in lobby registrant filings.

Background

On September 22, 2016, the Austin City Council passed ordinance number 20160922-005, which repealed and replaced Chapter 4-8 (Regulation of Lobbyists) of the City Code. The ordinance took effect on June 1, 2017. These lobbyist provisions require a person to register as a lobbyist with the City Clerk and pay the applicable registration fee if the person:

- receives, or is entitled to receive, compensation or reimbursement of \$2,000 or more in a calendar quarter to lobby and spends 26 hours or more of compensated time in a calendar quarter lobbying; or
- spends \$500 or more in a calendar quarter to lobby, excluding personal travel, food, and lodging expenses.

Registered lobbyists are required to file reports with the City Clerk, including quarterly activity reports, no later than the tenth day of each month in April, July, October, and January, as well as a notice of termination upon ending their lobbying activities. If the City Clerk determines that a report is late, the lobbyist is liable to the City for payment of a late filing fee. Examples include a report that is not filed timely or a registration that is filed without the required fee paid timely. City Code requires the City Auditor to conduct an annual audit of a statistically representative random sample of lobby registrants to ensure that their filings are in compliance. The City Auditor is also directed to notify the City Clerk, City Attorney, and the Ethics Review Commission after finding an “apparent violation.”

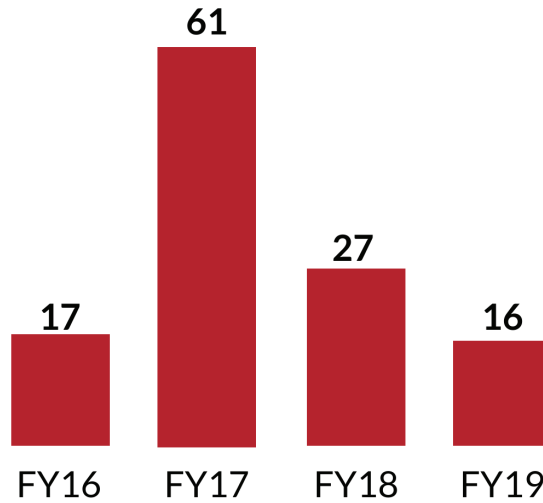
In 2019, City Council amended City Code to adjust and clarify lobbyist requirements including:

- giving business entities flexibility in how they register lobbyists;
- changing the requirement from late registration notifications being sent via certified mail to being sent via email; and
- requiring a late filing fee for both registrations and reports filed late but giving the City Clerk limited discretion to waive the late fee due to a business interruption or personal emergency.

The City Clerk’s staff indicated that they plan to move to an electronic filing and payment system, which should enhance lobbyist registrants’ compliance with Code requirements. That system is estimated to be in place by the end of calendar year 2020.

We reviewed lobbyist compliance for fiscal year 2019. During that time, 16 people registered as a lobbyist with the City and 30 lobbyists terminated their registration. New lobbyist registrations are down from a high of 61 in fiscal year 2017, as shown below.

Exhibit 1: Number of New Registered Lobbyists by Fiscal Year



SOURCE: OCA analysis of Office of the City Clerk lobbyist data, October 2019.

Finding 1

The lobby registrant filings we reviewed are in compliance with City Code requirements.

We reviewed a year of lobbyist quarterly reports for 12 registered lobbyists, constituting 11% of the registered lobbyists in fiscal year 2019 (FY 19). Three of those lobbyists filed termination reports. Our sample included:

- six lobbyists registered as individuals;
- five lobbyists registered by a business entity; and
- one lobbyist registered to lobby on behalf of a non-profit.

Of the 41 quarterly reports we reviewed, one was filed late. The City Clerk's office properly assessed late fees which were remitted to the City. In the first two quarters of FY 19, we found no issues with the quarterly reports, but we identified a possible issue with a registrant's updated filings. Those filings did not include client compensation, which is required in the quarterly reports. Law Department staff clarified that this information is not required in the updated filings. We found no other issues with registrant filings in the last two quarters of FY 19.

In addition, we looked at three registrations from the 16 people who newly registered as lobbyists in FY 19. These filings were also compliant with City Code requirements.

Finding 2

City staff are complying with City Code requirements to make lobbyist sign-in sheets available for visitors.

According to City Code, lobbyists have a duty to disclose their status when they meet with City officials. City Code allows this disclosure to be done via sign-in sheets. We reviewed sign-in sheets for three departments and two Council offices and noted that each of them made lobbyist sign-in sheets available to visitors.

Additional Observation

Annual compliance audits may not be necessary to address the level of risk identified in lobby registrant filings.

In our first lobbyist compliance audit, we noted one minor issue related to non-profit lobbyist fees. City Council addressed and clarified that issue in the most recent update to the lobbyist requirements. In this audit, we found that all tested lobby registrant filings are in compliance with City Code requirements. In addition, the City Clerk's staff indicated that timing issues related to fee payments and filings should be addressed with the implementation of the electronic filing and payment system scheduled by the end of 2020.

We tried to determine the level of public interest in City lobbyist information and one indicator is the number of City website views. However, we could not determine how many views were from members of the public and how many were from City staff. Also, we learned that some views can be generated by automated programs. The City Clerk's staff did note that they have not received a public information request for lobbyist information since 2017.

Based on this information, we propose conducting our next lobbyist compliance audit within a year after the City Clerk's office has implemented their electronic system.

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Scope

Are lobby registrants' filings in compliance with City Code provisions?

Methodology

To complete this audit, we performed the following steps:

- reviewed Chapter 4-8 (Regulation of Lobbyists) of City Code;
- interviewed staff and management in the Office of the City Clerk;
- interviewed staff in the Law Department;
- selected and tested a statistically representative random sample of lobby registrants as of October 2019;
- reviewed a random sample of Council office visitor sign-in sheets for fiscal year 2019;
- reviewed a risk-based sample of department visitor sign-in sheets for fiscal year 2019;
- evaluated IT-related risks related to lobbyist compliance;
- evaluated the risk of fraud, waste, and abuse with regard to lobbyist compliance; and
- evaluated internal controls related to the lobbyist registration and administration process.

Audit Standards

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve City services. We conduct performance audits to review aspects of a City service or program and provide recommendations for improvement.

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