

Background: In 2019, the City Council unanimously passed legislation requiring individuals who are paid to lobby on behalf of nonprofit organizations to register and file regular reports with the Board of Ethics. The State of Illinois and the cities of New York and Los Angeles have similar registration requirements for nonprofit lobbyists.

Initially, the Chicago Board of Ethics postponed elements of this ordinance's implementation due to concerns from nonprofits. After years of conversations, Chicago is ready to finalize updates to the ordinance with changes were shaped by years of direct conversations with nonprofits and industry leaders. The following questions were submitted by nonprofit leaders at a briefing hosted by Forefront.

Outstanding Questions

1. How many total lobbyist registrants are there now?

As of 11/28/23, there are 861 registered lobbyists in total.

2. Of those, how many are nonprofits?

As of 11/28/23, there are 120 registered lobbyists listing their employers as nonprofits, which is about 13% of all currently registered lobbyists.

3. How many new lobbyists do you expect as a result of this ordinance, and how are you preparing for that increased demand?

There are around 4,000 Chicago-area nonprofits with operating budgets or net assets over \$5M. It is not possible to predict with precision how many individuals working on behalf of these nonprofits are lobbying and would be required to register under the new ordinance. For example, many individuals will not meet the compensation or hourly threshold requirements outlined in the ordinance; some organizations have multiple employees who lobby; and some organizations have none. For decades, the Board of Ethics has managed the City's lobbyist registration process for the private sector, and we are confident in their ability to manage registration for nonprofit lobbyists as well.

4. What is the cost to the City for compliance and oversight?

The City expects minimal administrative costs as the Board of Ethics has an existing system for lobbyist registration that has been in use for decades.

5. To what extent does the FY25 budget address any projected change in demand for services as a result of this ordinance?

There are no anticipated increases in demand for services as a result of this ordinance. As stated in question 4, there are no significant direct costs associated with administering this program.

6. Does the definition of "contract" include "MOUs?" (Should be no; MOUs are by nature not legally binding and are not contracts.)

If a memorandum of understanding (MOU) is legally enforceable, then the term “contract” would include that MOU. With this definition of “contract”, negotiating the terms of a binding MOU may be captured in the ordinance depending on the context or issue. For example, it is lobbying if, outside the competitive bidding process, a nonprofit employee seeks to renegotiate an MOU that would require the execution of a revised document. The Board of Ethics is happy to answer follow-up questions if there are specific situations at mind.

7. Does the ordinance apply to City sister agencies like Chicago Public Schools, the Park District, or the CTA?

No.

8. When does the ordinance apply within an administration of a grant?

A nonprofit employee applying for or completing reporting requirements through the regular process is not considered lobbying.

Outside of the City’s regular RFP process, a nonprofit employee scheduled a meeting with City officials to pitch them on why their organization should receive a particular grant, that could be considered lobbying, for example.

9. If we are soliciting contracts for consulting, can you speak to when that would/wouldn’t be lobbying?

The Board of Ethics and Committee staff need more information to answer this question. Attempting to influence the actions of a City employee or official with respect to the solicitation or award of a contract is lobbying. If more details are provided about the situations in mind, we are happy to follow up.

10. If you go over the thresholds even once, you are obligated to register? Or is it on an average or continuing basis?

If an individual exceeds the hourly threshold or compensation/expenditure threshold in a quarter, they must register as a lobbyist and file a report for that quarter. Once registered, the individual must complete quarterly reports until they terminate their registration, even if they do not exceed the thresholds. If an individual does not expect to exceed either threshold in the future, they should terminate their registration.

11. How does the ordinance regulate “direct contact or direct communication with a city official or employee regarding contracts or requests” when a city official initiates the communication?

This is context dependent, and we would need more information about the situations in mind to answer appropriately. Broadly speaking, if a City official reaches out to an individual representing a nonprofit to solicit their advice or expertise, it is not considered lobbying. If the nonprofit representative uses that conversation to advocate specifically for their organization, then it could be considered lobbying. For example, it would be lobbying if the nonprofit representative asked the City official for a new grant for their organization.

12. Are we required to track when agencies initiate engagement as well (or just when nfps orgs initiate engagement?)

Many instances in which the city requests regular engagement from nonprofits are exempted, including serving on an advisory working group and providing public testimony. If the city reaches out to a nonprofit to request feedback on policy, that conversation is not considered lobbying unless the nonprofit representative advocates for their specific organization.

If the city requests feedback on mental health co-responder teams, a nonprofit may provide direct feedback where they see opportunities for programmatic improvements. This is not lobbying. If the nonprofit representative then asks for a new grant for their organization to implement those improvements, that is lobbying.

Individuals who meet the hourly and compensation thresholds for lobbying must file quarterly reports, including information such as salary, money spent on lobbying (such as dinner or gifts), and which City departments they targeted and for what purpose. Nonprofits have flexibility in the best way to track this information for their organization.

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13. Does the lobbying ordinance apply to faith-based institutions, churches, synagogues, mosques etc.?

Yes.

14. How do the lobbying rules treat coalitions?

We need more information to answer this question fully. If more details are provided about the situations in mind, we are happy to follow up.

15. Does the definition of legislative action only apply to interactions with City Council members?

No. For example, if a nonprofit employee asked an employee at the Department of Planning and Development to introduce an ordinance allocating TIF dollars to their organization, that could be considered influencing legislative action.

16. Does the definition of administrative action not apply to City Council members?

No. For example, if a nonprofit employee asks a City Council member to call the DCASE Commissioner to change how they administer special events permits, that could be considered administrative action.

17. Couldn't anyone argue their work is addressing "societal problems and solutions"? Would it have to be directly related to a specific policy?

We need more information to answer this question fully. To provide a broad illustrative example, if a nonprofit employee tells an Alderperson that they "think homelessness is an important issue that needs to be addressed," that would not be considered lobbying. If an employee requests the Alderperson support a pending ordinance appropriating more City funds for preventative homelessness measures, that would be considered lobbying.

If more details are provided about the situations in mind, we are happy to follow up.

18. How would the net asset test for an exemption impact organizations like affordable housing nonprofits that might have significant assets that are part of services, but have much smaller operating budgets that would limit their compliance ability?

The substitute ordinance now contains an exemption for nonprofits with either net assets or operating budgets under \$5 million. The nonprofit need only fall under one of the thresholds to qualify for the exemption.

19. How would the net asset or annual operating budget tests for the exemption treat passthrough dollars that might show up on a 990 but are not contributing to the operating of the organization directly?

The City plans to use 990s to verify net assets or operating budgets. If an organization has concerns about a unique situation, we are happy to discuss follow up.

20. Definition of Legislation. This definition was not revised in the introduced version. Can the City provide context for the changes? What are the intended implications? See 2-156-010 (n), page 2 of 8.

The language was changed to be more concise. There are no practical implications.

21. (D) plays no role in the strategy, planning, messaging, or other substantive aspect of the overall lobbying effort. Is this intended to protect program employees from having to register as a lobbyist due to casual/incidental conversations about community needs, etc?

This exception to the definition of lobbying is already in the law. It's meant to exclude people who may contribute to the work of registered lobbyists but do not actually lobby themselves. Some examples include administrative assistants, staffers who create slide decks or graphics, and staffers who assist with preparation for the meeting but do not participate. If during the meeting with a City official, a nonprofit employee is neither speaking, identifiable, or working behind the scenes to influence communications, then they are not considered lobbying.

22. In Section p, does the exclusion for "formal adversarial hearings" extend to aspects of legal representation outside of a "formal adversarial hearing," like settlement negotiations, contract negotiations, post-settlement compliance proceedings, etc? If so, the ordinance is unclear on this point.

Yes, assuming these other activities are part and parcel of the adversarial proceedings. The Board of Ethics interprets the formal adversarial hearings exclusion as having a broad scope and covers the above activities.

23. In Section (p), the exclusion of an individual who (A) attends a meeting ... simply to provide technical information or address technical questions is ambiguous. When does an engagement become one that has "the ability to influence an outcome" and when is it "to provide technical information or address technical questions?"

Someone solely providing specialized or practical, fact-based knowledge on a subject is not lobbying. Engagement has the ability to influence an outcome when an individual is specifically advocating for one decision to be made over another on administrative or legislative action. If activity is in gray area, the Chicago Board of Ethics can provide an advisory opinion.

24. In subsection (e)(3), is the difference between speaking on behalf of a nonprofit to discuss “broad social, economic, and similar problems and related solutions” and lobbying under the ordinance that the latter requires a speaker to identify a particular aspect of the code or ordinance that needs to be changed? In other words, urging the City or Chicago Housing Authority to build housing on CHA-owned land would not be lobbying, but urging the City to change its policy about how it allocates resources to prioritize that same construction would be lobbying?

The language about “related solutions” was requested by Forefront. This language will protect nonprofits who are engaging in important conversations with City officials about how to resolve problems. For example, a City official at the Department of Transportation is speaking with a nonprofit employee about recent increases in traffic violence. The nonprofit employee suggests that a solution could be adding more concrete-protected bike lanes. This comment does not constitute lobbying. The nonprofit employee then says their nonprofit would be best positioned to conduct a study of the streets that need bike lanes the most, and their nonprofit needs City funding to carry out this study. This comment does constitute lobbying.

In the above-mentioned example, the Chicago Housing Authority is a sister agency and is not covered by this ordinance.