

## Audit Report

# **Lobbyist Compliance Filings Are Largely Compliant, But City Code Does Not Require Reporting Virtual Meetings**

April 2022



City Code requires that our office regularly evaluate the compliance of registered lobbyists' filings. We reviewed a random sample of 11% of 115 lobby registrants. We confirmed the filings were largely compliant but identified an issue related to late fees for one lobbyist. City staff attributed this to early technical problems with their new electronic filing system. We did not see this error in later reporting periods.

In light of the COVID-19 pandemic, we also looked at how Austin's City Code addresses reporting of virtual lobbyist meetings. In Austin, lobbyists are only required to report in-person meetings with City officials. Rules in Dallas and San Antonio require both in-person and virtual lobbyist meetings to be reported. Also, Austin is not using consistent methods to track lobbyist meetings.

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Cover: [Austin City Hall](#), Dion Hinchcliffe, 2019.

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## Objective

Are lobbyists complying with City Code provisions? Have City compliance efforts changed in response to remote working?

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## Background

[Chapter 4-8 of City Code](#) requires that people register with the City as a lobbyist if they meet certain thresholds for compensation and time spent lobbying. Registrants must also file quarterly activity reports and are liable for late fees.

City Code also requires that our office perform an annual audit to check if registered lobbyists' filings are in compliance. This is the third such audit by our office since Code was updated with new lobbyist provisions in 2017. In [our last audit](#) published in November 2019, we proposed doing the next audit within a year after the Office of the City Clerk put in place a new electronic filing system for lobbyists. This system was implemented starting with July 2021 reports and allows for online report filing and payments.

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# What We Found

## Summary

City Code requires that our office regularly evaluate the compliance of registered lobbyists' filings. We reviewed a random sample of 11% of 115 lobby registrants. We confirmed the filings were largely compliant but identified an issue related to late fees for one lobbyist. City staff attributed this to early technical problems with their new electronic filing system. We did not see this error in later reporting periods.

In light of the COVID-19 pandemic, we also looked at how Austin's City Code addresses reporting of virtual lobbyist meetings. In Austin, lobbyists are only required to report in-person meetings with City officials. Rules in Dallas and San Antonio require both in-person and virtual lobbyist meetings to be reported. Also, Austin is not using consistent methods to track lobbyist meetings.

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## Finding 1

Sampled lobbyists' filings were largely compliant with City Code requirements. We identified an issue related to late fees for one lobbyist.

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Late filers are subject to an additional late fee every 10 days until they file the report, up to a \$500 cumulative maximum.

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We selected a random sample of 11% of 115 lobby registrants, including those registered as an individual and an entity. We assessed their compliance in 2021 registration filings and quarterly activity reports for July and October 2021 and January 2022.

We verified 12 of the 13 registrants' filings were compliant with City Code requirements. It appeared that one lobbyist was assessed three \$50 late fees but should have been assessed five late fees for their July 2021 report. Staff in the City Clerk's office said they ran into multiple technical issues while implementing their new electronic filing, or e-filing, system. One of those issues prevented the Clerk's office from issuing the correct number of late fees. As a result of these technical issues, the Clerk's office was unable to issue additional late fees to the lobbyist. Staff said they have not encountered this issue in subsequent reporting periods. In our sample, it appeared late fees were appropriately assessed for the October 2021 and January 2022 periods.

The City's new e-filing system appears to provide added assurance that lobbyists comply with requirements, although late fees are issued manually. City Clerk's office staff said they will continue applying late fees manually to avoid any technical issues noted above. We plan to follow up on this function in any future iteration of this audit.

## Additional Observation

Austin's City Code only requires that lobbyists report in-person meetings with City officials. Also, the City is not using consistent methods to track lobbyist meetings.

Because this is our first audit since the COVID-19 pandemic, we looked at how the City approaches lobbyists' reporting of remote meetings with City officials. City Council offices expressed specific interest in this issue.

[Chapter 4-8-8 of City Code](#) states someone getting paid to meet "in person" with a City official must disclose the meeting and that City departments and offices "shall provide a reasonably practicable method" for reporting it. According to Law Department staff, City Code does not require lobbyists to report virtual or remote meetings with City officials.

We asked three City departments if they were tracking virtual meetings with lobbyists. One department is not tracking these meetings. Two departments do track the meetings but use different methods. One is using an appointment-tracking system. The other uses an email signature that links to a form asking for information such as the lobbyist's name and client and with whom they are meeting.

### Exhibit 1: Example of email signature and linked identification form used by some City officials to document meetings with lobbyists

PER CITY ORDINANCE: All individuals scheduling or accepting a meeting invitation with a City Official are requested to provide responses to the questions at the following link: <https://bit.ly/HPDLobbyingForm>  
Please note that all information provided is subject to public disclosure. For more information please visit: [City of Austin Ordinance 2016-0922-005](#) | [City Clerk's website](#) | [City Clerk's FAQ's](#)

### Housing and Planning Department Lobbying Identification Form

#### HOUSING AND PLANNING DEPARTMENT LOBBYING IDENTIFICATION FORM:

Per City Code 4-8-8(C), visitors who meet the following criteria must answer the questions below:

- 1) Are appearing on behalf of a client or another person for a scheduled meeting on a "Municipal Question" under the terms of the Lobbying Ordinance; AND
- 2) Have received or expect to receive compensation for attending this meeting; AND
- 3) Are not a government employee or official.

Definitions and additional information can be found below in the FAQ and at:

<http://www.austintexas.gov/department/lobbyists>

\* Required

#### Lobbying Identification Form

1. Your Name \*

Enter your answer

2. Your Address \*

Source: Excerpts of the lobbyist meeting reporting method used by the Housing and Planning Department, March 2022

We also reached out to staff in City Council member offices to gain an understanding of how they were tracking virtual meetings with lobbyists. Again, we noted different methods among the nine responses received:

- Four offices link to an online form in email signatures. One of these offices said they stopped using the form at some point but still track meetings via their electronic calendar.
- Four offices maintain lobbyist meetings in their electronic calendars. One of these offices said they transfer the information to a spreadsheet for easier tracking.
- One office uses the paper sign-in sheets traditionally used for in-person meetings to document the virtual meetings.

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Law Department staff noted Austin's lobbyist rules were designed to give departments flexibility in how they gather meeting information.

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Our office [has previously highlighted](#) that the City of Austin does not have a consistent or holistic process to gather lobbyist meeting information and it is not stored in a central place. Doing this would allow the City to collect better information for analysis and other purposes. For example, it would generally improve transparency and may relieve a burden on members of the public and staff related to public information requests.

#### **Lobbyists report virtual meetings in Dallas and San Antonio**

We did limited peer research to get a sense of how other Texas governments approach how lobbyists report virtual or remote meetings.

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Lobbyist rules in Dallas and San Antonio cover fewer city employees and have fewer reporting requirements.

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Dallas and San Antonio require reporting both in-person and virtual meetings. Neither requires lobbyists to provide details about when the meetings took place. Dallas includes "video conference" as an option for contact method, while San Antonio does not require lobbyists to report how they contacted city officials.

Also, the State of Texas treats virtual meetings the same as in-person meetings for reporting purposes. However, lobbyists do not have to report who they meet with unless certain spending thresholds are met.



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## Scope

The audit scope includes lobbyist reports filed under the City's new electronic filing system beginning in July 2021. The scope also includes City efforts related to tracking virtual or remote meetings with lobbyists since the beginning of the COVID-19 pandemic in 2020.

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## Methodology

To complete this audit, we performed the following steps:

- Reviewed past lobbyist compliance audit reports by our office
- Reviewed [Chapter 4-8 of Austin's City Code](#) containing rules for lobbyist registration and reporting
- Interviewed key staff in the Office of the City Clerk and Law Department
- Selected a random sample of lobby registrants and evaluated their compliance since the implementation of the City's new electronic filing system beginning with July 2021 reports (required by City Code)
- Gathered information from the Transportation, Housing and Planning, and Development Services departments as well as City Council offices on their practices for tracking virtual meetings with lobbyists since 2020
- Researched lobbyist activity reporting rules related to virtual meetings in peer jurisdictions
- Evaluated internal controls related to the City's lobbyist registration and reporting program, including the City's new electronic filing system
- Evaluated the risk of fraud, waste, and abuse regarding the City's lobbyist program

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## 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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