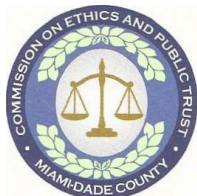


## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST



### Lobbying in Miami-Dade County FAQs

#### **General Information about Lobbying**

##### **Which Miami-Dade County Code Section addresses the issue of lobbying?**

The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1(s) requires persons or entities employed or retained by a principal seeking to influence official County or municipal action, to register as lobbyists with the [Clerk of the Board](#).

- Please note: Section 2-11.1(s) of the Miami Dade Code applies to all County and municipal lobbyists.
- A municipality may impose a stricter standard; may set its own registration fee; and is not bound by the County ordinance's lobbyist training requirement unless it has adopted its own lobbyist training ordinance and has an agreement with the COE to provide the training.
- Individuals who lobby in a municipality should contact the clerk's office for that municipality in order to learn that municipality's lobbying registration requirements.

##### **Who is considered a Lobbyist?**

A lobbyist means all persons, firms, entities, or corporations that are employed, designated, or retained by a principal, *with or without compensation*, or that contract with a third-party for economic consideration to perform **lobbying activities** on behalf of a principal.

- This includes a principal who lobbies or any employee that has been designated by the principal to perform lobbying activities on behalf of the principal.

Lobbying activities include:

- *any attempt to influence or encourage the passage or defeat of, or modification to, governmental actions*, including, but not limited to, ordinances, resolutions, rules, regulations, executive orders, and procurement actions or decisions of the **County Commission, the Mayor, any County board or committee, or any County personnel**.

Lobbying activity includes all forms of communication, whether oral, written, or electronic, during the entire decision-making process on actions, decisions, or recommendations which foreseeably will be heard or reviewed by County personnel.

Lobbying is prohibited if a person is not properly registered!

### **Are Jackson Memorial Hospital (JMH) and Public Health Trust (PHT) vendors subject to the lobbying Ordinance and requirements?**

Yes, registration and ethics training are required for JMH/PHT vendors who appear before a PHT board or employees of JMH/PHT to encourage the board or individual to purchase the product the vendor represents or who seeks approval for clinical trial of new products and services.

- The Policy and Procedures Manual for JMH/PHT vendors can be found at: <http://www.jacksonhealth.org/library/procurement/vendor-access-policy.pdf>

### **Registration**

#### **Where can I find lobbyist registration forms, information, and register as a County lobbyist?**

The [County Clerk of the Board's Lobbyist Online Registration and Information System \(LORIS\)](#).

- If it is the first time you have used this online service, you must create an account.

County Lobbyist forms may also be found at the [County Ethics Commission website](#).

#### **Are all County lobbyists required to register with the County Clerk of the Board?**

Yes, the Miami-Dade Board of County Commissioners adopted legislation, which requires persons or entities employed or retained by a principal seeking to influence official County or municipal action, to register as a lobbyist with the County Clerk of the Board **within 5 business days** of being retained *or before engaging in lobbying*, whichever comes first.

- You can visit the [Clerk of the Board](#) website for more information.

#### **I am a lobbyist in one of the municipalities in Miami-Dade County. Where do I register?**

Individuals who lobby in a municipality should contact the clerk's office of that municipality in order to obtain information about that municipality's lobbying registration requirements.

### **Who is required to register as a lobbyist?**

- A principal of a corporation must register if he or she is lobbying. Note: Principal who lobbies **on behalf of his or her organization** must register, is exempt from paying the registration fee, but must take the ethics training course and pay the \$100 training fee.
- An employee who lobbies is required to register as a lobbyist and pay the required registration and training fee (see below).
- Public Health Trust vendors (for example, sales representatives for pharmaceutical companies) who appear before a PHT board or employees of JMH/PHT to encourage the board or individual to purchase the product the vendor represents or who seek approval for clinical trial of new products and services.
- Architects are lobbyists when engaged in activities intended to influence government decisions, except if appearing at quasi-judicial meetings or performing routine administrative functions on behalf of clients.
- Plan expeditors would be lobbying if they tried to circumvent established departmental procedures in order to persuade officials to take a particular course of action.
- Attorneys meeting with county personnel during the procurement process, unless the communication is strictly limited to legal matters, and not intended to influence the decision.

### **What forms must I submit prior to lobbying?**

Prior to lobbying, a lobbyist must submit registration, authorization to lobby, and joint affidavit with principal stating that there will be no contingency or success fees.

- [Annual Lobbyist Registration](#)
- [Lobbyist Activity Authorization Form](#)
- [Joint Contingency Fee Affidavit](#)

### **What are the registration fees?**

- \$490 registration fee to be paid to the Clerk of the Board:
  - Per year
  - Per company or firm
  - Per employee lobbying for that company or firm

- Registration renewal is due by January 15th of each year.
- Note: some municipalities have different fee structures and may require a payment per client. If you lobby in other municipalities, should contact the clerk's office of that municipality in order to obtain information about that municipality's lobbying registration requirements.

### **Who registers but does not pay the registration fee?**

- Representatives of non-profit or charitable organizations and trade associations appearing on matters *other than grant funding*. Note: Must take Ethics training and pay \$100 training fee.
- The principal of any corporation, partnership or other entity appearing without special compensation or reimbursement.
- Any person who appears as part of an oral presentation team before a County certification, evaluation, selection, technical review or similar committee does not register as a lobbyist, but must be listed on an affidavit (Appendix D of Procurement pack) which must be filed with the Miami-Dade Clerk of the Board at the time the proposal is submitted.

Note: Any communication regarding an RFQ, RFP, or bid with County officials or staff, or presentation before the Board of County Commissioners, County board, or County committee requires lobbyist registration unless the communication is strictly limited to questions of process and procedure.

### **Who is considered a Principal?**

- The President of a corporation.
- The owner, president or chief shareholder of a corporation or an individual who has been designated or who has the apparent authority to make final decisions on behalf of the corporate entity who is engaged in lobbying activities as defined above.
- A member of the corporate board engaged in lobbying, who has been appointed by the corporation to serve as its representative during negotiations or lobbying activities.

### **Does a principal have to pay the registration fee?**

No, a principal of any corporation, partnership or other entity does not have to pay a registration fee when he or she is representing his or her own entity. However, the Principal must attend and pay for ethics training.

**Is there a limit to the number of principals a corporation, partnership or other entity can have?**

No, if the registrant meets the qualifications of a principal, they may register as a principal even if the corporation, partnership, or other entity already has one principal registered.

**Who is not required to register?**

- Any person appearing in his or her individual capacity.
- Attorneys or other representatives appearing at publicly noticed quasi-judicial proceedings where ex-parte communications are prohibited.
- Expert witnesses at public meetings.
- Unpaid representatives of not-for-profit community-based organizations **only seeking grant funding**. Representatives of non-profit or charitable organizations and trade associations appearing on matters other than grant funding must register as a lobbyist, do not pay the lobbyist registration fee, but must take Ethics training and pay \$100 training fee.
- Employees of principals whose normal scope of employment does not include lobbying activities.
- Individuals simply gathering information.
- Individuals performing routine administrative functions for a client.
- **Existing** vendors who are servicing **existing** contracts or providing technical assistance after the product has been purchased.
- A public officer, employee or appointee appearing in his or her official capacity.
- The following public officials are not required to register:
  - Private firm hired by a municipality to represent its interests before the County.
  - Members of the Jackson Memorial Foundation when appearing before the Board of County Commissioners.
  - Union representatives who are County employees but released from duty to tend to union affairs before the County.

## **What are the penalties for failing to register?**

- Failure to register may cause a lobbyist to be suspended from lobbying:
  - 90 days, 1st violation
  - 1 year, 2nd violation
  - 5 years, 3rd violation
- A bidder or proposer may be subject to debarment after 3 or more violations.
- The contract in question is voidable.
- An individual is subject to the penalties prescribed in the Miami-Dade Conflict of Interest and Code of Ethics Ordinance.

## **Training**

### **Are lobbyists required to attend lobbyist training before they lobby?**

- No, but a lobbyist must attend ethics training within 60 days of registering.
- Lobbyists must also complete a refresher course every 2 years thereafter.
- The cost of the Ethics Commission lobbyist training course is \$100.

### **I am an employee of a not-for-profit organization. Do I have to attend lobbyist training and pay the \$100.00 training fee?**

If you appear before the County on behalf of any organization on a matter **other than** grant funding you must register as a lobbyist, you do not pay the registration fee, but you are required to attend lobbyist training and pay the \$100.00 fee.

If you appear before the County on behalf of your organization **only** to seek grant funding, you do not have to register as a lobbyist.

### **I am a Principal. Do I have to pay for lobbyist training?**

Yes.

### **How do I find lobbyist training dates and register for training?**

Information on registration for Lobbyist Training can be found on the [Ethics Commission](#) website.

## **Reporting**

### **Are lobbyists required to file an annual expenditure report?**

Yes, all lobbyists must submit an [annual expenditure report](#) listing all lobbying expenditures in excess of \$25.

### **What if my lobbying expenditures for the preceding year are less than \$25, do I still have to file an annual expenditure report?**

Yes, if there are no reportable expenditures during the reporting period, a statement must be filed indicating no reportable expenditures in the reporting period.

### **I am a lobbyist. What is the deadline for filing the expenditure report and where should I send it?**

The completed form must be sent by July 1 to the Clerk of the Board to: [lobbyist@miamidade.gov](mailto:lobbyist@miamidade.gov).

### **What are the consequences of filing expenditure reports late?**

County Code Section 2-11.1(s)(7)(b)

- \$50 fine per day per client
- Failing to file by September 1st will result in suspension from lobbying activities until the expenditure report is filed **and** all fines are paid, or an appeal of the fine is filed with Ethics Commission.

### **Can I appeal a fine?**

Yes, lobbyists or principal may appeal a fine and request a hearing before the Ethics Commission within 15 days of receipt of notification. The Ethics Commission *may* waive the fine in whole or in part at its discretion for good cause.

### **When is a lobbyist required to complete a Notice of Withdrawal form?**

A [Notice of Withdrawal](#) form must be submitted to the Clerk of the Board's office upon conclusion of the Lobbyist's representation of each principal.

## Contingency Fee Prohibitions

### What is a contingency fee?

“Contingency fee” means a fee, bonus, commission or nonmonetary benefit as compensation which is dependent on or in **any way contingent** on the lobbying activities.

### I am a lobbyist. May I receive a contingency fee?

County Code Section 2-11.1(s)(8)(a)

- No person may in whole or in part, pay, give or agree to pay or give a contingency fee for another person. No person may, in whole or in part, receive or agree to receive a contingency fee.

### Is there an exception to the ban on contingency fees?

- Attorneys who represent a client in a legal dispute with the County on a contingency fee basis.
- Traditional sales commission payments for sales representatives.
- Developers who pay for neighborhood improvements as part of a settlement with an association (when fee is being paid to a third party, not the lobbyist representing the developer).

## Two-Year Rule

### May I lobby a County officer, department personnel, or employee after leaving County employment?

Former County employees may *work* for County vendors and serve as principals of companies as long as they *do not lobby* the County for two years after leaving County employment.

Lobbying by former County officials or employees includes communications intended to influence a County decision even when that decision will not be reviewed by a County Commission, board or committee.

- Exceptions to the Two-Year Rule:
  - If former employee becomes employed by and is representing a non-profit organization or sitting on non-profit board.
  - If former employee becomes employed by and is representing a governmental entity other than the County.



- If former employee becomes employed by and is representing an educational institution or entity.

### **How do I calculate the two-year period?**

The two-year period begins when the County employee has officially separated from County. (Note: The County Ethics Commission has opined that a former employee who was stripped of decision-making authority and took leave before formally separating from County was still considered an employee while on leave.)