

Regulation of Lobbying Entities, City Code 2.12

ADM – 15.03 – Enforcement and Civil Penalties

Administrative Rule Adopted by the City Auditor Pursuant to Rule-Making Authority
ARB-ADM-15.03

A. Purpose

To establish the City Auditor's decision-making criteria for assessing violations and set civil penalties for City Code 2.12 Regulation of Lobbying Entities. This policy is in alignment with the Auditor's Office goals of ensuring open and accountable government.

B. Authority

Code Section 2.12.110 requires the Auditor to establish enforcement criteria with increased fines for repeated violations.

C. Rules

1. Grace Period for New Code Provisions

Until February 1, 2017, enforcement of changes to City Code 2.12, adopted by Ordinance No. 187854, will emphasize education, awareness, and training.

2. Finding of Violation

The Auditor shall produce a written decision, identifying violations, if any; the amount of the penalty, if any; and the basis for the decision. Written decisions may be in the form of a warning or violation notice.

For repeated, similar actions occurring during the same time period that would otherwise be considered distinct violations, the Auditor may elect to consider the actions as aggravating circumstances under a single violation.

For example: A lobbying entity omits a lobbyist from a quarterly report and does not amend the report within the amendment period. The lobbyist was present and engaged in several reportable lobbying contacts during the quarter on behalf of a lobbying entity. This may be considered one violation with aggravating circumstances, rather than a violation for each individual contact in which the lobbyist wasn't disclosed.

3. Civil Penalty Determination

The Auditor may assess civil penalties up to \$3,000 per violation, commensurate with the severity of the violation, according to penalty criteria in Section 4. In lieu of or in conjunction with finding a violation of program requirements, the Auditor may issue a written letter of reprimand, warning, explanation, or suggested training.

4. Penalty Criteria

In determining whether to impose a penalty and the amount of any penalty, the Auditor will consider the nature and extent of the violation. In addition, the Auditor may consider the following mitigating or aggravating factors:

- a. Any benefits to the lobbying entity or City Official, economic or otherwise, as a result of the violation;

Example: City resources awarded or otherwise allocated to a lobbying entity, such as receipt of a tax exemption, in connection with a violation may be considered an aggravating factor.

- b. The budget and overall staff or resources available to an entity;

Example: An entity that engages in lobbying activity with all-volunteer members may be considered a mitigating factor.

- c. Whether the violation was repeated and continuous, or isolated and temporary;

Example: Violations that occur in multiple quarters may be considered continuous and therefore an aggravating factor.

- d. Whether the violation appeared to be willful (characterized primarily by purposeful acts of commission or omission);

Determinations of whether violations are willful or unintentional may be based on relevant circumstances and available records

- e. Whether individuals, their affiliated City office, or the lobbying entity was offered or received training regarding program requirements within the previous year;
- f. Level of cooperation during an investigation, including providing relevant and timely information as requested;
- g. Any other applicable factors the Auditor deems relevant in the particular case.

5. Cost Recovery

Recoverable costs of enforcement of City Code 2.12 to the City Auditor's Office may include, but are not limited to: City Attorney's Office costs, outside attorney's fees, and administrative costs to the City Auditor's Office.

All moneys received in civil penalties for violations of Code Chapter 2.12 shall be paid to the Auditor and credited to the City's General Fund.
