

ORIGINAL DATE: March 12, 1997
REVISED DATE: May 27, 1997



TO: BOARD OF DIRECTORS
FROM: RYAN J. NAKAGAWA, ETHICS OFFICER
SUBJECT: LOBBY REGISTRATION POLICY

Los Angeles County
Metropolitan
Transportation
Authority

One Gateway Plaza
Los Angeles, CA
90012-2932

213.922.6000

Ethics/Lobby
Registration

RECOMMENDATION

Approve revisions to the Lobby Registration Policy.

ORGANIZATIONAL IMPACT

This policy will be applied to and affect all MTA registered lobbyists.

BUDGET IMPACT

It is not anticipated that this policy change will have any significant budget impact in the current fiscal year and the 1998 fiscal year.

ALTERNATIVES CONSIDERED

The Board may choose to leave the policy as it is or direct that a different version of this policy be considered.

BACKGROUND

This Board previously approved revisions to the Lobby Registration Policy. The policy should be amended at §6.0(e) to expand the provisions relating to restrictions on lobbying to include the lobbying of MTA staff.

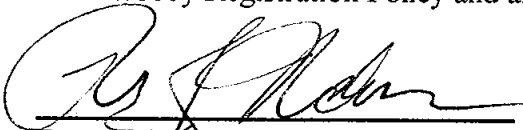
If the Board approves these amendments to the Lobby Registration Policy, the Board Member Code of Conduct should also be amended to incorporate these changes.

This item was originally scheduled for the March Board meeting. The Ethics Committee did not meet in March and April and the item was set for the May Board meeting.

The Ethics Committee amended the definition of "lobbyist" to correct a typographical error.

ATTACHMENTS

MTA Lobby Registration Policy and amendments.



Ryan J. Nakagawa, Ethics Officer

(iv) There is an understanding between the lobbyist and his or her lobbyist employer or lobbying firm that the amount of compensation received by the lobbyist includes a portion to be utilized by the lobbyist to provide gifts of hospitality in the lobbyist's home.

(B) In determining the applicability of subsections (A)(i) through (A)(iv) above, the cost of providing hospitality does not include any part of the value or rental of the home of the lobbyist, nor does it include any depreciation on the premises where the hospitality is extended.

"Lobbying" means influencing or attempting to influence MTA action through direct or indirect communication, other than administrative testimony, with an MTA official.

"Lobbying firm" means any business entity, including an individual lobbyist, which meets either of the following criteria: (1) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing MTA action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a lobbyist; or (2) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any MTA official for the purpose of influencing MTA action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing MTA action.

"Lobbyist" means any individual who receives any economic consideration, other than reimbursement for reasonable travel expenses, for lobbying, including consultants and officers of or employees of any business entity seeking to enter into a contract with the MTA.

"Lobbyist employer" means any person, other than a lobbying firm, who does either of the following:

- (1) Employs one or more lobbyists for the purpose of influencing MTA action, or;
- (2) Contracts for the services of a lobbying firm for economic consideration for the purpose of influencing MTA action.

"MTA action" means the drafting, introduction, consideration, modification, enactment, or defeat of an ordinance, resolution, contract, or report by the governing board of an organizational unit of the MTA, or by an MTA official, including any action taken, or required to be taken, by a vote of the members of the MTA or by the members of the governing board of an organizational unit of the MTA, except those actions relating to Public Utilities Code, Article 10 (commencing with §30750) of Chapter 5 of Part 3 of Division 10.

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ORIGINAL DATE: March 12, 1997
REVISED DATE: May 2, 1997



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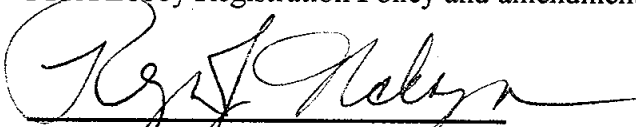
This Board previously approved revisions to the Lobby Registration Policy. The policy should be amended at §6.0(e) to expand the provisions relating to restrictions on lobbying to include the lobbying of MTA staff.

If the Board approves these amendments to the Lobby Registration Policy, the Board Member Code of Conduct should also be amended to incorporate these changes.

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Ryan J. Nakagawa, Ethics Officer

MTA POLICY AND GUIDELINES ON LOBBYING¹

[Amendments are in large boldface type.]

1.0 Registration Requirements.

Lobbyists, lobbying firms, and lobbyist employers shall register with the filing officer within 10 days after qualifying as a lobbyist, lobbying firm, or lobbyist employer. Registration shall be completed prior to the commencement of lobbying by the lobbyist. Registration shall include the filing of a registration statement, and the payment of any fees authorized by this section. Registration shall be renewed annually by January 15 of each succeeding year by the filing of a renewal statement and the payment of a fee. Each lobbyist, lobbying firm, and lobbyist employer required to register under this section may be charged a fee by the MTA that shall be in an amount necessary to pay the direct costs of implementing this section.

2.0 Contents of Registration Statements.

- a. The *lobbyist* registration statement shall include all of the following:
 1. The name, address, and telephone number of the lobbyist.
 2. For each person from whom the lobbyist receives compensation to provide lobbying services, all of the following:
 - A. The full name, business address, and telephone number of the person or company.
 - B. The time period of the contract or employment agreement.
 - C. The lobbying interests of the person or company.
 - D. A written authorization signed by the person.
 3. A statement signed by the lobbyist certifying that he or she has read and understands the prohibitions contained in this chapter.
- b. The registration statement of a *lobbying firm* shall include all of the following:
 1. The full name, business address, and telephone number of the lobbying firm.

¹ Pursuant to California Public Utilities Code §130051.18, as amended by the MTA Board.

2. A list of the lobbyists who are partners, owners, officers, or employees of the lobbying firm.
 3. For each person or company with whom the lobbying firm contracts to provide lobbying services, the following:
 - A. The full name, business address, and telephone number of the person or company.
 - B. The time period of the contract.
 - C. Information sufficient to identify the lobbying interests of the person or company.
 - D. A written authorization signed by the person.
 4. A statement signed by the designated responsible person that he or she has read and understands the prohibitions contained in this chapter.
- c. The registration statement of a *lobbyist employer* shall include all of the following:
1. The full name, business address, and telephone number of the lobbyist employer.
 2. A list of the lobbyists or lobbying firms who are employed by the lobbyist employer.
 3. The lobbying interests of the lobbyist employer, including identification of specific contracts or MTA actions.
 4. A statement signed by the designated responsible person that he or she has read and understands the prohibitions contained in this chapter.
- d. The registration statement must be amended within 10 days of a change in the information included in the statement. However, if the change includes the name of a person by whom a lobbyist or lobbying firm is retained, the registration statement shall be amended to show that change prior to the commencement of lobbying by the lobbying firm or the lobbyist.

3.0 Record retention and audit.

Lobbyists, lobbying firms, and lobbyist employers which receive payments, make payments, or incur expenses or expect to receive payments, make payments, or incur expenses in connection with activities which are reportable pursuant to this section shall

keep detailed accounts, records, bills, and receipts for a period of 4 years and make them reasonably available for inspection for the purposes of auditing for compliance with, or enforcement of, this section.

4.0 Contents of quarterly reports.

- a. A *lobbyist* shall complete and verify a quarterly report, and file his or her report with the filing officer, and a copy of the report with his or her lobbying firm or lobbyist employer. The quarterly report shall contain all of the following:
 1. A report of all activity expenses by the lobbyist during the reporting period.
 2. The full name, business address, and telephone number of each person or company who contracted with the lobbyist for lobbying services including the true party in interest², a description of the specific lobbying interests of the person or company, and the total payments, including fees and the reimbursement of expenses, received from the person or company for lobbying services during the reporting period. If the lobbyist lobbied on a specific contract, the lobbyist shall disclose the contract number and describe in detail the nature of the contract. The lobbyist shall also disclose payments received for lobbying on a specific contract.
 3. A report of all contributions of one hundred dollars (\$100. or more made or delivered by the lobbyist to any MTA official during the reporting period.
- b. A *lobbying firm* shall file a quarterly report containing all of the following:
 1. The full name, address, and telephone number of the lobbying firm.
 2. The full name, business address, and telephone number of each person or company who contracted with the lobbying firm for lobbying services, a description of the specific lobbying interests of the person or company, and the total payments, including fees and the reimbursement of expenses, received from the person or company for lobbying services during the reporting period. If the lobbying firm contracts with a lobbyist to lobby a specific contract, the lobbying firm shall disclose the contract number and describe in detail the nature of the contract.
 3. A copy of the quarterly report completed and verified by each lobbyist in the lobbying firm pursuant to this chapter.

² "True party in interest" is defined as the person or entity on whose behalf the lobbyist attempts to influence MTA action, even if the lobbyist is compensated by another person.

4. Each activity expense incurred by the lobbying firm including those reimbursed by a person or company who contracts with the lobbying firm for lobbying services.
 5. The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an MTA official.
- c. A *lobbyist employer* shall file a quarterly report containing all of the following:
1. The name, business address, and telephone number of the lobbyist employer.
 2. The total amount of payments to each lobbying firm.
 3. The total amount of all payments to lobbyists employed by the filer.
 4. A description of the specific lobbying interests of the filer. If the lobbyist employer has contracted a lobbying firm or lobbyist to lobby a specific contract, the lobbyist employer shall disclose the contract number and describe in detail the nature of the contract. The lobbyist employer shall also disclose the amount of money paid to a lobbying firm or lobbyist to lobby the specific contract.
 5. A quarterly report, completed and verified by each lobbyist employed by a lobbyist employer pursuant to this chapter.
 6. Each activity expense of the filer and a total of all activity expenses of the filer.
 7. The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an MTA official.
 8. The total of all other payments to influence MTA action.
- d. The quarterly reports required pursuant to this chapter shall be filed within thirty (30) days after the end of each calendar quarter. The period covered shall be from the beginning of the calendar year through the last day of the calendar quarter prior to the thirty day period during which the report is filed, except that the period covered by the first report a person or company is required to file shall begin with the first day of the calendar quarter in which the filer first registered or qualified.
- e. When a person or company is required to report activity expenses pursuant to this section, all of the following information shall be provided:

1. The date and amount of each activity expense.
2. The full name and official position, if any, of the beneficiary of each expense, a description of the benefit, and the amount of the benefit.
3. The full name of the payee of each expense if other than the beneficiary.

5.0 Report Retention by MTA.

The original and one copy of each report required by §4.0 of this policy shall be filed with the filing officer, shall be retained by the MTA for a minimum of four years, and shall be available for inspection by the public during regular working hours.

6.0 Limitations on Lobbying.

- a. It is unlawful for a lobbyist, a lobbying firm or a lobbyist employer to make gifts to an MTA official aggregating more than ten dollars (\$10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.
- b. It is unlawful for any MTA official knowingly to receive any gift which is made improper by these regulations. For the purposes of this chapter, "gift" means: Except as provided in subsection (c), any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason or receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

The term "gift" *does not include*:

1. Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."
2. Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.
3. Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, or significant other; provided that a gift from any such person shall be considered a gift if

the donor is acting as an agent or intermediary for any person not covered by this paragraph

4. Campaign contributions as defined in the Appendix to these policies.
5. Any devise or inheritance.
6. Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).
7. Hospitality involving food, beverage or lodging provided by an individual in his/her home.

c. No lobbyist or lobbying firm shall do any of the following:

1. Do anything with the purpose of placing an MTA official under personal obligation to the lobbyist, the lobbying firm, or the lobbyist's or the firm's employer.
2. Deceive or attempt to deceive any MTA official with regard to any material fact pertinent to any MTA action.
3. Cause or influence any MTA action for the purpose of thereafter being employed to secure its passage or defeat.
4. Attempt to create a fictitious appearance of public favor or disfavor of any MTA action, or cause any communications to be sent to any MTA official in the name of any fictitious person or in the name of any real person, except with the consent of that real person.
5. Represent falsely, either directly or indirectly, that the lobbyist or the lobbying firm can control any MTA official.
6. Accept or agree to accept any payment that is contingent upon the outcome of any MTA action.

d. Commencing with the issuance of an RFP, RFIQ or IFB and ending on the date the staff recommendation for award is made public, no lobbyist representing a person or entity submitting a proposal in response to the RFP, RFIQ or IFB shall contact by any means or engage in any discussion concerning the award of the contract with any Board Member/Alternate or his/her staff, **OR ANY MTA STAFF**. Any such contact shall be grounds for the disqualification of the proposer.

- e. **During price negotiations of non-low bid contracts, lobbyists shall not contact, lobby or otherwise attempt to influence MTA staff, other than negotiation team members, or Board Members/Alternates and their staff, relative to any aspect of the contract under negotiation. This provision shall apply from the time of award until the recommendation for execution of the contract is made public. Any concerns relative to any contract under negotiation shall be communicated only to the CEO for resolution**
- f. A lobbyist representing a person or entity who submitted a proposal or bid in response to the RFP, RFIQ, or IFB shall not contact a Board Member/Alternate or his/her staff regarding a protest submitted regarding the recommended contract award or any lawsuit or potential lawsuit regarding the recommended contract award or any issue relating to the underlying procurement.
- g. Any person or entity who receives compensation pursuant to a contract or subcontract to lobby on behalf of, or otherwise represent, the MTA shall be prohibited from lobbying the MTA on behalf of any person or entity for compensation.
- h. No former MTA official shall become a lobbyist for a period of one year after leaving the MTA.

7.0 Terminations.

- a. Lobbying firms and lobbyist employers upon ceasing all lobbying activity which required registration shall file a notice of termination within 30 days after the cessation.
- b. Lobbyists and lobbying firms shall remain subject to §6(d) of this policy for twelve (12) months after filing a notice of termination.

8.0 Enforcement Provisions.

- a. The provisions of this section are not applicable to any of the following:
 - 1. An elected public official who is acting in his or her official capacity to influence MTA action.

2. Any newspaper or other periodical of general circulation, book publisher, radio or television station which, in the ordinary course of business, publishes or broadcasts news items, editorials, or other documents, or paid advertisement, that directly or indirectly urges MTA action, if the newspaper, periodical, book publisher, radio or television station engages in no further or other activities in connection with urging MTA action other than to appear before the MTA in support of, or in opposition to the MTA action.
- b. The provisions of this Lobby Registration Policy are enforced by the MTA Inspector General.
 - c. The MTA shall reject any bid or other proposal to enter into a contract with the MTA by any person or entity who has not complied with the registration and reporting requirements of this section.
 - d. Furthermore, the MTA may impose additional sanctions which may include one or more of the following options:
 1. Disqualification from lobbying on the matter related to the violation.
 2. Suspension from all MTA lobbying activities for a period of time.
 3. Permanent prohibition from all MTA lobbying activities.
 4. A monetary fine.
 - e. The sanctions imposed for violations of the Lobby Registration Policy will depend upon the severity of the violation and may be progressive unless the violation is determined to be so egregious as to warrant more severe action initially.
 - f. Any person who knowingly or willfully violates any provision of these regulation of lobbying provisions is guilty of a misdemeanor.
 - g. The District Attorney of the County of Los Angeles is responsible for the prosecution of violations of these regulation of lobbying provisions.
 - h. Any person who violates any provision of these lobbying guidelines is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction of the MTA for an amount up to five hundred (\$500), or three times the amount of an unlawful gift or expenditure, whichever is greater. In addition, the MTA Board may impose additional sanctions pursuant to the procedures set forth in §8.0(I) of this policy.

- i. The following procedures should be followed prior to the imposition of any sanction(s) for violation of this Lobby Registration Policy:
 1. All information relating to the alleged violation shall be forwarded to the Inspector General for investigation.
 2. Upon completion of the investigation, the Inspector General shall submit his/her findings to the MTA Board for review.
 3. The MTA Board, or its designee, shall hold an administrative hearing relating to the alleged violation. Any entity may submit evidence in support of or in opposition to the allegations.
 4. If the MTA board, or its designee, finds that a violation of the Lobby Registration Policy has occurred, it shall decide appropriate sanctions. The MTA Board shall have final approval over the findings and sanctions imposed by its designee.
 5. The imposition of sanctions by the Board shall not preclude any penalties which may accrue pursuant to any civil action relating to the violations.

9.0 Effective Dates.

These regulations shall be effective as of April 23, 1997, as amended.

APPENDIX

DEFINITIONS

For the purposes of these policies, the following definitions shall apply:

"Activity expense" means any expense incurred or payment made by a lobbyist, lobbying firm, or lobbyist employer, or arranged by a lobbyist, lobbying firm, or lobbyist employer, which benefits in whole or in part any MTA official, or a member of the immediate family of an MTA official.

"Administrative testimony" means influencing or attempting to influence MTA action undertaken by any person or entity who does not seek to enter into a contract or other arrangement with the MTA by acting as counsel in, appearing as a witness in, or providing written submissions, including answers to inquiries, which become a part of the record of any proceeding of the MTA which is conducted as an open public hearing for which public notice is given.

"Authority" means the Los Angeles County Metropolitan Transportation MTA and all of its organizational components, affiliates, and subsidiaries.

"Board Member/Alternate" includes Board Members and their Alternates of the Metropolitan Transportation Authority.

"Consultant" means an individual who, pursuant to a contract with a state or local agency:

- a) Makes a governmental decision whether to:
 - 1) Approve a rate, rule, or regulation
 - 2) Adopt or enforce a law;
 - 3) Issue, deny, suspend, or revoke any permit, license, application, certification, approval, order, or similar authorization or entitlement;
 - 4) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires Agency approval;
 - 5) Grant Agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such contract;
 - 6) Grant Agency approval to a plan, design, report, study, or similar item;
 - 7) Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof; or

- b) Serves in a staff capacity with the agency and in that capacity performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code.

"(Campaign) Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the behest of a candidate, committee, or elected officer is a contribution to the candidate, committee, or elected officer unless full and adequate consideration is received for making the expenditure.

"Contribution" also includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate's own money or property used on behalf of his or her candidacy; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

"Contribution" also includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

"Contribution" does not include amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution. However, the fact that such amounts have been received shall be indicated in the appropriate campaign statement.

"Contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

"Contribution" does not include volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

"Designated Authority or MTA employee" means any officer, employee, member, or consultant of the MTA whose position with the MTA entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest. Such employees are designated in the MTA's Conflict of Interest Code.

"Filing officer" means the individual designated by the MTA with whom statements and reports by these regulations shall be filed.

"Financial interest" means, with regard to a Board Member/Alternate or MTA employee or a member of his or her immediate family, a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, or on:

- (a) Any business entity or real property in which the Board Member/Alternate or MTA employee has a direct or indirect investment worth one thousand dollars (\$1,000) or more; or
- (b) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the general public without regard to official status aggregating two hundred fifty dollars (\$250) or more, provided to, received by, or promised to the Board Member/Alternate or MTA employee within twelve (12) months prior to the time the decision is made; or
- (c) any business entity in which the Board Member/Alternate or MTA employee is a director, officer, partner, trustee, or holds any management position; or
- (d) any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to a Board Member/Alternate or MTA employee within twelve (12) months prior to the time when the decision is made; or employee knows or has reason to know that a party to the contract is a person with whom the Board Member/Alternate or MTA employee, or any member of his or her immediate family, has engaged in any business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property, or the rendering of goods or services totaling in value on thousand dollars (\$1,000) or more within twelve (12) months prior to the time the official action is to be performed.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

"Gift" means:

- (a) except as provided in subdivision (b), any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is

not a gift by reason or receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(b) The term "gift" **does not include**:

- (1) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."
- (2) Gifts that are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.
- (3) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, or significant other; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.
- (4) Campaign contributions as defined in this Appendix.
- (5) Any devise or inheritance.
- (6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).
- (7) Hospitality (including food, beverages, or occasional lodging) provided by an individual in his or her home when the individual or member of the individual's family is present, to an official.
 - (A) Hospitality provided by a lobbyist in accordance with the above is also not a gift unless:
 - (i) Any part of the cost of such hospitality is paid for by the lobbyist's employer or lobbying firm directly; or
 - (ii) The lobbyist is reimbursed by his or her lobbyist employer or lobbying firm for any part of the cost of such hospitality; or
 - (iii) The lobbyist deducts any part of the cost of such hospitality as a business expense on any tax return, either State or Federal; or

(iv) There is an understanding between the lobbyist and his or her lobbyist employer or lobbying firm that the amount of compensation received by the lobbyist includes a portion to be utilized by the lobbyist to provide gifts of hospitality in the lobbyist's home.

(B) In determining the applicability of subsections (A)(i) through (A)(iv) above, the cost of providing hospitality does not include any part of the value or rental of the home of the lobbyist, nor does it include any depreciation on the premises where the hospitality is extended.

"Lobbying" means influencing or attempting to influence MTA action through direct or indirect communication, other than administrative testimony, with an MTA official.

"Lobbying firm" means any business entity, including an individual lobbyist, which meets either of the following criteria: (1) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing MTA action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a lobbyist; or (2) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any MTA official for the purpose of influencing MTA action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing MTA action.

"Lobbyist" means any individual who receives any economic consideration, other than reimbursement for reasonable travel expenses, for lobbying, including consultants and officers of employees of any business entity seeking to enter into a contract with the MTA.

"Lobbyist employer" means any person, other than a lobbying firm, who does either of the following:

- (1) Employs one or more lobbyists for the purpose of influencing MTA action, or;
- (2) Contracts for the services of a lobbying firm for economic consideration for the purpose of influencing MTA action.

"MTA action" means the drafting, introduction, consideration, modification, enactment, or defeat of an ordinance, resolution, contract, or report by the governing board of an organizational unit of the MTA, or by an MTA official, including any action taken, or required to be taken, by a vote of the members of the MTA or by the members of the governing board of an organizational unit of the MTA, except those actions relating to Public Utilities Code, Article 10 (commencing with §30750) of Chapter 5 of Part 3 of Division 10.

"MTA employee" means any individual, including a consultant who receives compensation from the MTA for full or part-time employment. The term MTA employee includes a "designated MTA employee".

"MTA official" means any Board member, Alternate, member of an organizational unit of the MTA, or employee of the MTA.

"Official responsibility" means the direct administrative or operating duties for the MTA, whether intermediate or final, and whether exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct MTA action.

"Participation in the making of an MTA decision" means a Board Member/Alternate or MTA employee who:

- (a) acting within the MTA of his or her position:
 - (1) Votes or engages in discussion on a matter;
 - (2) Appoints a person;
 - (3) Obligates or commits his or her agency to any course of action;
 - (4) Enters into any contractual agreement on behalf of the MTA;
 - (5) Determines not to act, within the meaning of subparagraphs (1), (2), (3), or (4), unless such determination is made because of his or her financial interest. When the determination not to act occurs because of his or her financial interest, the official's determination must be accompanied by disclosure of the financial interest, made part of the MTA's official record or made in writing to the official's supervisor, appointing power or any other person specified in a conflict of interest code adopted pursuant to Government Code §87300.

- (b) A public official or designated employee "participates in the making of an MTA decision" when, acting within the MTA of his or her position, he or she:
 - (1) Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or
 - (2) Advises or makes recommendations to the decision-maker, either directly or without significant intervening substantive review, by:

- (A) Conducting research or making any investigation which requires the exercise of judgment on the part of the official or designated employee and the purpose of which is to influence the decision; or
 - (B) Preparing or presenting any report, analysis or opinion, orally, or in writing, which requires the exercise of judgment on the part of the official or designated employee and the purpose of which is to influence the decision.
- (c) Making or participating in the making of an MTA decision shall not include:
- (1) Actions of public officials which are solely ministerial, secretarial, manual or clerical;
 - (2) Appearance by a public official as a member of the general public before a governmental agency in the course of prescribed governmental function to represent himself or herself on matters related solely to his or her personal interests; or
 - (3) Actions by public officials, employees, or employee representatives relating to their compensation or the terms or conditions of their employment or contract.

"Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.

"Public official" means every member, officer, employee or consultant of a state or local government agency, but does not include judges and court commissioners in the judicial branch of government. "Public official" also does not include members of the Board of Governors and designated employees of the State Bar of California, members of the Judicial Council, and members of the Commission on Judicial Performance, provided that they are subject to the provision of Article 2.5 (commencing with §6035) of Chapter 4 of Division 3 of the Business and Professions Code as provided in §6038 of that article.

"Significant other" means an individual with whom a Board Member/Alternate or MTA employee participates in a dating relationship.