



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 616

December 3, 2024

ISSUE

Whether the generally applicable lobby registration and disclosure requirements apply to a person who lobbies on behalf of a tribal nation. (AOR-718)

SUMMARY

The generally applicable lobby registration and disclosure requirements apply to a person who lobbies on behalf of a tribal nation.

FACTS

The requestor receives compensation from the tribal nation for making lobby communications in excess of the compensation threshold set by Section 305.003(a)(2) of the Government Code and Sections 18.31 and 34.43 of the Texas Ethics Commission rules.

ANALYSIS

A person is required to register as a lobbyist with the TEC if the person receives, or is entitled to receive compensation or reimbursement of more than a threshold amount “*from another person to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.*” Tex. Gov’t § 305.003(a)(2) (emphasis added).

The registration must include, among other things, the full name of each “person who reimburses, retains, or employs” the registrant to make a lobby communication. *Id.* § 305.005(f)(3).

“Person” is defined in Chapter 305 as “an individual, corporation, association, firm, partnership, committee, club, organization, or group of persons who are voluntarily acting in concert.” *Id.* § 305.002(8)

The requestor asks the TEC to assume that she crossed the compensation threshold for making lobby communications on behalf of a tribal nation. Consequently, the requestor is required to register as a lobbyist if a tribal nation meets the Chapter 305 definition of a “person,” absent another exemption in law.

The term “person” is broad enough to include a tribal nation or other unit of government. A government meets common definitions of an “organization” or “association,” which are included in the definition of a “person” *Id.* For example a dictionary definition of an “association” is “an organization having a common interest.” MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/association>. The Texas Penal Code’s definition of “association” includes “a government.” Tex. Penal Code § 1.07(6). Moreover, Chapter 305 carves out a registration exemption for members of the “judicial, legislative, or executive branch of state government or an officer or employee of a political subdivision of the state to register.” Tex. Gov’t Code § 305.003(b-1). Such an exemptions would be unnecessary if the term “person” did not reach governments. *In re Tex. Educ. Agency*, 619 S.W.3d 679, 688 (Tex. 2021) (a court “endeavor[s] to afford meaning to all of a statute's language so none is rendered surplusage”).

It is a common practice in Texas and other states for lobbyists to disclose tribal nations as clients on state lobby disclosures or for tribal nations and related entities to file lobby registrations. *See* Frederick J. Boehmke & Richard Witmer, *State lobbying registration by Native American tribes*, 3 Pol., Groups, and Identities 1, 7 (2015) (identifying 506 registrations by tribal and tribal-related entities in a 50-state survey of lobby registrations). The requestor presented no authority and the TEC has found none that would clearly exempt a person who is employed or compensated by a tribal nation from the generally applicable lobby registration and disclosure regulations.