

# Influence

## The Business of Lobbying

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### Inside Story

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#### Lobbying the OMB: The Inside Game

There are myriad ways to shape public policy in Washington, but few pack the punch of a well-timed visit to the Office of Management and Budget. Yet lobbying the OMB—one of K Street's more esoteric skills—is neither easy nor obvious.

The city's two dozen or so OMB practitioners are almost always veterans of the agency, which takes part in every policy decision an administration makes.

"If you know OMB, you know the process and you know the players," says David Tornquist, a former OMB branch chief who is now a principal at PodestaMattoon. "It's the intersection of regulation, legislation, and money."

As part of the Executive Office of the President, the OMB's 200-plus professionals vet agency budgets and review all federal regulations. They also clear statements of administration policy (SAPs) and approve administration testimony to Congress.

"OMB is the roadblock for everything," says one D.C. regulatory expert. "They can stop anything dead in its tracks."

For lobbyists, the OMB's budget role means it can convince an agency to fund a particular program that might benefit a corporate client. The OMB's regulatory powers give it the authority to revise an agency's interpretation of a rule that might be detrimental—or helpful—to a company.

So how does one influence the agency that wields influence over everyone else?

With a light touch, diligent preparation, and a bevy of facts.

Bringing in a corporate executive to plead the company's case—as one frequently does on Capitol Hill—is not the way to do business there. "Haul in some CEO and the people at OMB will just freeze you out," says a former top-ranking official at the agency.

That's not to say that the OMB is unreceptive to a properly framed pitch. Far from it.

"I think OMB unjustifiably has a reputation as being aloof or outside the realm," says Robert Dawson, a former



**BIG STEP:** Former OMB appointee Robert Dawson says getting the agency to recognize an appropriations priority is an important head start for clients.

OMB political appointee who oversaw the budgets for the Interior, Energy, and Agriculture departments.

"Maybe there's a mystique, but heck, it's part of the U.S. government and open like everything else," adds Dawson, now president of the lobbying firm Dawson & Associates.

It's just that to really understand the place, it helps to have worked there—to know, for example, the difference between a PAD and a DAD. (PADs, or program associate directors, are political appointees such as Dawson who head up one of four major budget areas. DADs, or deputy associate directors, are career employees in charge of a specialty, such as natural resources or energy and science, within each of the four program areas.)

And while any savvy lobbyist can learn the acronyms and decipher an OMB flowchart, there is a club-like atmosphere to the agency, where staffers often stay for decades.

"If you haven't really worked at OMB, you can't really make a dent in the place," says Jim Tozzi, a former OMB civil servant who was the first deputy chief of the agency's politically sensitive Office of Information and Regulatory Affairs (OIRA), which provides cost-benefit analyses of agency regulations.

A spry man with a spacious office and an expansive view of Dupont Circle, Tozzi started his firm, Multinational Business Services, in 1983 after an 11-year career at OMB. He also runs the Center for Regulatory Effectiveness, a regulatory lobbying group.

Tozzi refuses to discuss his clients or his fees, although lobbying records at the Senate show he received the most money in 2000 from the Goodyear Tire and Rubber Co., which paid his firm \$60,000, and the pharmaceutical company Aventis, which paid \$40,000.

Tozzi says he doesn't take clients on a permanent basis. Instead, they hire him "when some regulation is about to erupt and the client says, 'We're about to get screwed.'"

"We change regulations," he says. "We have a pretty good track record."

It's impossible to substantiate Tozzi's claims, but it's safe to say he is something of a godfather in the OMB lobbying field.

Twenty-five years ago, four young budget examiners—Michael O'Bannon, Joseph Hezir, Ernest Robson, and David Gibbons—were all working for Tozzi in OMB's environmental branch.

In the late 1980s, O'Bannon and Robson joined Tozzi's lobby shop. They left in 1992, and along with Hezir and Gibbons opened the EOP Group, the only lobby firm besides Tozzi's that specializes in the OMB. (See "Shop Keeps Eye on OMB, Quietly," Page 6.)

As former OMB staffers, they provide a truly rare commodity: personal relationships with those still at the agency, where longevity is a matter of course.

"Part of the job is to stay in touch with people who are doing things at OMB that your client is interested in," says one former staffer.

"Look, OMB is a very open place. And there are still plenty of people at OMB I know, and I know well. And I can go to them, and say, 'Hey, would you introduce me to your young new analyst in this area.' You use that if you need to."

Adds the D.C. regulatory expert: "People like O'Bannon and Tozzi know how the government works, that some human has to make a decision. They have relationships there that have been developed over many years. You can't just walk in and start doing this."

There have been a handful of other career OMBers, such as PodestaMattoon's Tornquist, who left for more lucrative work on K Street.

But rarely do young staffers go to lobby; most OMBers who leave end up in similarly technical posts at the Congressional Budget Office or a Hill appropriations committee.

A few firms hire veteran OMBers at or near retirement age. Donald Gessaman, the former division chief for national security, and Norman Hartness, from the natural resources division, do occasional work for the EOP Group. Donald Crabill, a former deputy associate director of natural resources and 30-year OMB veteran, is now at Dawson & Associates as a senior adviser.

Other OMB lobbyists were one-time political appointees at the agency, including Robert Kyle at Hogan & Hartson, the national security and international affairs PAD who left earlier this year; Charles Konigsberg of Ungaretti & Harris, who was at OMB from 1995 to 1999 as the agency's deputy director for legislative affairs; and Bryce "Larry" Harlow of Timmons and Co., who served as OMB's associate director of legislative affairs in the mid-1980s.

Randall Davis of Stuntz, Davis & Staffier succeeded Dawson in 1985 as associate OMB director for natural resources, energy, and science, a position he held for two years.

"The knowledge I gained about who's likely to be a player, whose voice will likely be given more weight—these things I use every day," says Davis. "I can't say I've hit a home run

while lobbying the OMB," he adds, "but I tell people it's an essential stop."

Among this year's new crop of political appointees at OMB: Marcus Peacock, a former senior staff member on the Railroads Subcommittee of the House Transportation Committee, who heads up the natural resources program; Robin Cleveland, the former clerk for the Senate Appropriations Subcommittee on Foreign Operations, who is now the national security PAD; and former Senate Budget Committee senior analyst Jim Capretta, who runs the human resources program area.

The new boss at OIRA is John Graham, a professor at the Harvard School of Public Health whose nomination stirred controversy because of his analyses of the business costs of various regulatory efforts.

And while it's important to know key OMB officials to help push for a budget item or regulatory interpretation, OMB staffers are also valuable sources of lobbying intelligence.

"I'll have a talk with a junior analyst or branch chief or division chief and I'll find out what they're thinking—if they'll tell me," says the former OMB staffer. "That might help me to know whether a particular program will make it into the budget, whether there's any funding being contemplated, whether there's a possible business opportunity for a client."

Having the OMB imprimatur gives a program an automatic head start when an agency budget starts to wend its way through the congressional appropriations process.

"If your client needs federal dollars, and you can get this into OMB's analysis of the budget, it just makes it that much easier on the agency that's carrying the item forward," says Dawson.

Adds the former OMB official: "The leverage can sometimes be very large, because if you can get OMB on board, you don't have to fight your way through the appropriations process and 50 members."

That's the budget side. But the OMB also plays a crucial role in the regulatory world. There, a savvy lobbyist can use the OMB to challenge an agency's interpretation of a rule.

For example, explains the former high-level OMB official, if the Environmental Protection Agency proposes a particular rule, and the EPA tells the OMB that during the comment period, 98 people supported the rule and only two opposed it, the OMB will likely go ahead with the regulation.

"But suppose the company and its lobbyists go through every one of those damn comments and it realizes that actually, a lot more people than two were opposed to the rule, but the agency selectively chose the comments and didn't give them all equal weight. This you pass on to the OMB.

"Or say you're a big corporation and you have a competitor who is a little upstart company, and these guys are eating your lunch. So you think: 'How can we squeeze them?' Well, you already have a very good record-keeping system, so you say to the agency and to OMB, 'This is a new process, and we need more record-keeping and reporting on it.'

"For you, that's a relatively easy adjustment. But it's a huge cost to the little guys. And then you make the reporting requirement quarterly or semiannually, instead of once a year. That's a subtle difference, but it can be a huge difference to a small company."

Ultimately, though, every good OMB lobbyist knows that at the end of even the most arcane regulatory chain is a calculation based on ideology and politics.

The difficulty, says Tozzi, is that "OMB examiners can make issues so technical that the political guys can't play the game."

The lobbyists' job, he adds, is to "tee up the agency so that the regulation gets out of the nerd level.

"There are always value judgments made in a rule making," he notes. "But if you can't find out where they are and tee them up in a policy sense, you aren't going to be effective." ■