



New York City Campaign Finance Board

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**Testimony of Amy Loprest
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**New York City Lobbying Commission
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Good evening members of the Lobbying Commission, and thank you for inviting me here to address you tonight. I am Amy Loprest, Executive Director of the New York City Campaign Finance Board (CFB). I am here today to share with you the CFB's history with the lobbying law, and hopefully lay some groundwork for the commission's deliberations. The lobbying law has helped to provide the public with important information about the political process, and I hope our experiences in administering aspects of the law can help the commission analyze how best to approach its deliberations.

Since 1988, the CFB has administered the city's public financing program, which matches New Yorkers' small contributions with public funds. Participation in the matching funds program is voluntary, and candidates who qualify have the first \$175 of contributions matched at a rate of \$6 to \$1. However, all candidates in city elections are required to disclose their financial activity to the CFB. Our staff conducts pre-election audits to determine if candidates are eligible to receive public matching funds, and full post-election audits to ensure campaigns have complied with our rules and spent their funds appropriately.

In June 2006, the lobbying law was enacted, requiring lobbyists to register with the City Clerk and disclose the targets and subjects of their lobbying activity to the public. The law also prohibited city candidates from receiving public matching funds for contributions made by registered lobbyists. The prohibition on matching contributions extends to all individuals listed on the lobbyist registration, including employees and immediate family members of registered lobbyists.

Prior to the law's passage, we regularly reviewed each contribution and supporting documentation submitted by candidates to determine whether a contribution was eligible to be matched with public funds, based on residence and other factors. The lobbying law created a new class of people whose contributions were not eligible to be matched. To enforce this prohibition, we compared campaign records with information provided by the City Clerk's office to determine which contributions were ineligible to be matched with public funds.

The passage of Local Law No. 34 in 2007, the "Doing Business" law, resulted in new restrictions on lobbyist contributions. The "doing business" law names a broad range of individuals who are considered to be engaged in business dealings with the city: those holding or bidding on city contracts, franchises, or concessions; recipients of city grants; parties to economic development agreements, pension fund investment agreements, real property transactions, or land use actions; and—most significantly for this discussion—registered lobbyists.

Like the lobbying law, the "doing business" law prohibits matching funds payments for contributions from individuals covered by the law. The "Doing Business" law also places strict, low limits on contributions from these individuals. For example, a City Council candidate can receive individual contributions up to \$2,750, but can receive only \$250 from someone "doing business" with the city.

While lobbyists are covered, employees and immediate family members of registered lobbyists are *not* included in the law's definition of those "doing business" with the city. Because registered lobbyists are covered by the "doing business" law, they are a) ineligible to have their contributions matched with public funds and b) subject to the lower contribution limit. However, under the lobbying law, employees and family members of lobbyists cannot have their contributions matched, but they are not subject to the lower contribution limits.

Both the lobbying law and the "doing business" law serve to reduce the potential for influence-seeking through the political process by people who have a clear and narrowly-defined

interest in government business. A more uniform approach to lobbying and doing business would further the goals of these important laws by simplifying compliance. We highlighted some of these issues in our post-election report, and I want to briefly summarize them today.

Legal Issues

As mentioned previously, by including lobbying as a covered category of business dealings, the doing business law resulted in a second mandate to withhold matching funds for lobbyist contributions. The lobbying law is more inclusive than the doing business law: it applies the matching funds restrictions to all people listed on the lobbyist registration (*e.g.*, family members), while the doing business law applies the restrictions only to lobbyists themselves. On the other hand, the lower contribution limits in the doing business law apply only to registered lobbyists, and not to their employees or family members.

The discrepancies between the two have created confusion for campaigns and contributors alike. During the campaign, we received many calls for guidance from campaigns, contributors, lobbyists, and their clients, many of whom were confused about the law and their ability to contribute to campaigns.

Administrative Issues

Information about those doing business with the city is collected in a central Doing Business Database (DBDB). Data about contractors and those in most other categories of “doing business” are collected in a uniform manner by the Mayor’s Office of Contracts (MOCS). This information is collected for the express purpose of complying with the “doing business” law. To meet the requirements of the lobbying law, information is collected under the authority of the City Clerk’s office through the e-Lobbyist system, created by the Department of Information Technology and Telecommunications (DOITT). For purposes of administering the “doing business” limits, that information is passed through to the DBDB. Because it is collected in a different format, through a different system, lobbyist registration information is generally less

consistent, less reliable, and more duplicative than other data in the DBDB, which obscures public disclosure and presents challenges for our work.

Timing is a key concern as well. Most “doing business” dealings are tied to the initiation of a process (*e.g.*, an application or a proposal) and run for a fixed period of time that governs the individual’s inclusion in the DBDB. On the other hand, lobbyist registration is tied to the calendar year, starting every January. Extensions to file lobbying registrations are routinely granted, but retroactive coverage in the DBDB cannot extend more than 30 days. As a result, there are instances when a lobbyist’s contribution might be covered under the lobbying law (*i.e.*, not matched with public funds) but at the same time, is not restricted under the doing business law — particularly if a registration is filed late.

These inconsistencies in the law and the way it is administered create difficulties in conducting our regular reviews. The overlap and inconsistency between the two laws treats one group of people unequally. There are two potential solutions. One simple approach would be to remove those provisions of the lobbying law that deal with public matching funds, ensuring there is a single authoritative treatment of contributions from lobbyists and others under the Campaign Finance Act. Another solution might be to seek to create a more seamless administration of the two laws. We are happy to provide greater detail on these proposals at your convenience.

We thank the mayor and City Council for appointing the commission to review the lobbying law’s administration and enforcement, and hope you will consider our experience with the issues outlined above as you embark on your review of the lobbying law.