



New York Farm Bureau • 159 Wolf Road P.O. Box 5330 • Albany, New York 12205 • (518) 436-8495 Fax: (518) 431-5656

February 7, 2013

NYS Joint Commission on Public Ethics
540 Broadway
Albany NY 12207

RE: Comments on New Disclosures Required by Source Funding Disclosure Requirements
I.D. No. JPE-37-12-00006-ERP

My name is Julie Suarez and I serve as Director of Public Policy for New York Farm Bureau ("NYFB"), a not-for-profit membership organization serving the interests of New York's farmers. On behalf of NYFB, I would like to thank you for providing NYFB with the opportunity to comment on the revised proposed Source of Funding regulations.

NYFB is registered as a lobbyist pursuant to the Lobbying Act (the "Act") and is anticipated to meet the threshold described in §1-h (c) (4) of the Act, triggering source funding disclosures. NYFB also reports as a lobbying "client" under the Lobbying Act, and therefore would also need to report qualifying sources of funding under the Lobbying Act, §1-j (c) (4). NYFB's public policy work and lobbying activities are solely intended to further NYFB's farmer-member-developed policies. NYFB does not represent any other organizations. NYFB the "lobbyist" is identical to NYFB the "client," because NYFB employs its lobbyists and does not utilize outside lobbyists.

As a membership organization, NYFB has a variety of membership dues categories, sponsorships, and business relationships that bring in revenue to NYFB. This revenue is applied to NYFB's menu of programs, including, but not limited to, promotion and education, legal advocacy, leadership development and legislative affairs. No income that NYFB receives is directly allocated to "lobbying" and is included in NYFB's "general fund."

The proposed regulations define "contribution" as "any payment to, or for the benefit of, the Client Filer and which is intended to fund, in whole or in part, the Client Filer's activities or operations." This definition is substantially broader than the statute approved by the Legislature which reads in pertinent part Client Filer "...shall report to

the commission the names of each source of funding over five thousand dollars from a single source that were used to fund the lobbying activities reported and the amounts received from each identified source of funding.” The proposed definition includes all activities and operations, not only those related to legislative affairs.

NYFB does not receive specific contributions for lobbying purposes. The definition of contribution also relates to payments “intended to fund” the Client Filer’s “activities and operations.” Our members and business partners do not state the intent behind their payments, and the requirement that a Client Filer presume that intent is unreasonable.

While the revised proposed regulations changes the reportable amount of the “payment” “intended to fund” lobbying activity to the percentage of the Client Filer’s overall expenditures, which is attributable to state lobbying activities, the same infirmities of the original proposal remain. With regard to the entities with which NYFB does business, NYFB does not know what the intent behind a payment related to such business relationship is. Requiring a Client Filer, like NYFB, to assume or presume the intent behind a payment from a business partner or even a member goes far beyond the plain language of the statute. Since NYFB cannot know the intent in all circumstances, it is possible that a portion of any funding NYFB receives would require disclosure because a percentage of its budget may be used for lobbying purposes, and NYFB does not designate its income upon receipt for any specific purpose. If NYFB receives a contribution (i.e. donation) to pursue its lobbying agenda, clearly this would need to be disclosed under the statute, unlike business or dues-related payments where the intent is unknown.

NYFB is concerned that this extremely broad reporting requirement will muddy the waters with non-relevant information, rather than create more transparency. In disclosing all sorts of payments, the payments that are truly related to lobbying will be obscured.

Organizations, like NYFB, are placed at a competitive disadvantage by these broad guidelines because they are required to disclose at least a portion of all payments they receive over \$5,000.00, regardless of any connection with their lobbying activities. All non-profits compete for grants funding, sponsorship monies, and royalties. The requirement is that NYFB disclose the companies that we do business with if the business relationship results in payments of \$5,000.00 annually. For NYFB, these financial relationships are important to pursuing the menu of programs and services described above. In addition, some of the arrangements have been in place under multi-year agreements, which prohibit disclosure of the terms of the agreements. While these arrangements have nothing to do with lobbying, the funding they provide exceeds \$5,000.00, and we have no way to know the intent of the other parties in doing business with NYFB. Did these businesses intend to support NYFB’s mission by

contracting with it, or did it do business with NYFB entirely of its own business reasons? The onus is on NYFB to report or not report based on its speculation on the intent of our business partners.

The above scenario also highlights another factor of concern to NYFB. Since the proposed definition grossly exceeds the actual statutory language, Client Filers were unable to put members, sponsors or other business partners on notice that their payments would require disclosure under the revisions to the Lobbying Act. By requiring the reporting of transactions that occurred prior to the adoption of the language, the proposed regulations potentially damage organizational relationships by changing the playing field mid-game, as well as creating the erroneous impression that such relationships are premised on, or related to, lobbying activities.

Another point that bears noting is the fact that the "expenditure threshold" test laid out in the regulations only counts lobbying expenditures and compensation. In contrast, a portion of all payments exceeding the \$5,000.00 threshold that are received must be disclosed. This mandate makes the regulation more intrusive and burdensome than it was intended to be.

NYFB is writing to encourage the Commission to further revise the proposed regulations to clarify that only funding sources, which specifically designate the funds given to the lobbying organization to be used for "lobbying," must be disclosed. Otherwise, organizations such as NYFB would need to report all of its sources of funding over \$5,000.00, simply because the funds enter the NYFB bank account. As a result, groups like NYFB would be burdened with additional disclosures, and ultimately would not provide any other meaningful information to the public because there is no lobbying intent behind these funding sources.

Again, on behalf of New York Farm Bureau, thank you for the opportunity to comment on the revised regulations relating to the Source Fund Disclosure provisions of the Act. If I can be of any assistance, please do not hesitate to contact me at (518) 431-5607.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie C. Suarez". The signature is written in dark ink on a light-colored background.

Julie Suarez
Director of Public Policy