New York State Joint Commission on Public Ethics

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What You Need to Know About Filing 2019-2020 Biennial Statements of Registration and Reportable Business Relationship Forms in the new Lobbying Application

December 14, 2018 – Next week, JCOPE will open the next phase of its new Lobbying Application ("LA"), the ability to file a biennial Lobbyist Statement of Registration ("Registration"). Lobbyists will be able to begin entering and filing Registrations, including Reportable Business Relationship forms, and any related amendments, in the new application.

This is also part of the implementation of the Commission's Comprehensive Lobbying Regulations, which take effect on January 1, 2019 and begin with the 2019-2020 biennial registration period. Registrations and other required filings will need to be filed according to the requirements and disclosures outlined in the new regulations.

What follows is general information regarding Statements of Registration and Reportable Business Relationships as well as creating and filing related reports in the new system. More specific information will come in future emails.

Statements of Registration

A biennial Lobbyist Statement of Registration ("Registration") is a required filing under the Lobbying Act. It is generally a forward-looking document that captures the actual and anticipated lobbying activities, including public officials that you expect to lobby, for a two-year (biennial) period. Registrations must be filed by a Lobbyist who is retained, employed, or designated to lobby, and who meets or reasonably anticipates meeting the combined Reportable Compensation and Expenses of more than $5,000 for Lobbying Activities on a State and/or Municipal Level, in any calendar year. Lobbyists who have met or anticipate meeting that threshold must file a Statement of Registration for every Client on whose behalf the Lobbyist lobbies, regardless of the Compensation or Expenses paid by each Client individually.

For purposes of determining whether the thresholds have been met, the amounts incurred, expended, or received shall be **cumulative** for **all** Lobbying Activities. Lobbyists must report information for both the Contractual Client and Beneficial Client, as defined in the regulations; the Contractual and Beneficial Clients can be the same party or entity.

Lobbyist Statement of Registration Filing Due Dates

Registration deadlines for the 2019-2020 biennial period	
ALL STATEMENTS OF REGISTRATION ARE FILED ON A BIENNIAL BASIS	**FILING DEADLINE**
The date on which the Lobbyist has agreed to – or been authorized to – begin Lobbying Activity **IF** the Lobbyist reasonably anticipates combined Reportable Compensation and Expenses in excess of $5,000 for Lobbying Activities to be undertaken in the calendar year	Within 15 days of the date, *but no later than 10 days after actually exceeding $5,000 in compensation and expenses*
If a Lobbyist is providing services under an agreement that is in effect **both** before December 15th of the year preceding the first year of a biennial registration period and after January 1st of the first year of a biennial registration period **AND** the Lobbyist reasonably anticipates combined Reportable Compensation and Expenses in excess of $5,000 for Lobbying Activities to be undertaken in the calendar year	On or before January 1st of the first year of the biennial period

Each Statement of Registration must be accompanied by a copy of an executed contract or Lobbying Agreement form (if a contract exists), or a signed, written lobbying authorization to lobby from the Client (if a contract does not exist). The Lobbying Agreement form is a new option for filers that can be submitted in lieu of a contract. **Note:** A written authorization may only be submitted if a contract does not exist.

Any contract, agreement form, or authorization must specify the start and termination dates, and must disclose the terms and amount of compensation to be paid for lobbying services. If the Lobbyist is retained by the organization, the actual compensation must be reported. If the retainer is based on a daily or hourly rate, the fee *per* day or *per* hour must be reported. If the Lobbyist is a salaried employee of the organization, the Lobbyist's prorated salary for lobbying activity must be reported.

NOTE: For Filers who have already received signed authorizations from their Clients, those will be accepted by the Commission if they contain all of the criteria set forth in the new sample written authorization form, including specific Compensation information.

Overlapping Contract Considerations: If you have a lobbying agreement that began in the 2017-2018 biennial period and continues into the 2019-2020 biennial period, and the terms of the agreement **have not changed**, you will be required to upload/attach that 2017-2018 agreement to your 2019-2020 Biennial Registration in the new Lobbying Application (online filers) or mail (paper filers only) the agreement to JCOPE.

The agreement or authorization start date is the first date the Lobbyist has agreed to or been authorized to lobby. The termination (end) date is the last date the Lobbyist has agreed to or been authorized to lobby. These dates do not have to coincide with the beginning or end of a calendar year or a biennial registration period. For open-ended agreements, you must show the beginning and end of the biennial period for which you are registering.

Filing Fees

Lobbyists must submit a non-refundable $200 filing fee with each Statement of Registration, payable in U.S. dollars. However, no registration fee is required to be submitted with a biennial Statement of Registration if the Lobbyist will not exceed $5,000 in compensation and expenses for that particular Client, but the fee will be required if that threshold is exceeded later. No filing fee is required of any Public Corporation required to file a biennial Public Corporation Statement of Registration.

Reportable Business Relationships

Also required to be disclosed in the Registration is any Reportable Business Relationship ('RBR'), which is a relationship in which a formal or informal agreement exists in which a Lobbyist or Client pays, has paid, or promises Compensation over $1,000 in a calendar year to a State person or an entity in which a State Person has Requisite Involvement. The disclosure of a RBR is considered to be part of a Statement of Registration, Client Semi-Annual Report, or an amendment of such form.

A RBR is required to be disclosed if a Lobbyist, Public Corporation, or Client has at least one active lobbying relationship in a calendar year, and has a business relationship with a State Person, or an Entity in which a State Person has the Requisite Involvement, at any time during that calendar year. In addition to RBRs of the Lobbyist or Client as an entity, RBRs of certain individuals of a Lobbyist or Client organization must be disclosed by the Lobbyist or Client, as applicable.

The Commission has created a Reportable Business Relationship questionnaire to help filers determine if they have such a relationship to disclose. A Lobbyist organization may send this to every person listed on its Statement of Registration and any equity partners, officers, or directors of its lobbying firm or organization who operate out of the same geographic office as any person listed on such Statement of Registration. A Client organization may send this to its High-Level Individuals employed by the Client Organization.

> **NOTE:** *Clients who Lobby on their own behalf (considered both a Lobbyist and a Client) are **not** required to file as both a Lobbyist **and** a Client. Instead, they are required to submit RBR information as part of their Statement of Registration; it will then populate to all of the*

Organization's corresponding filings for that calendar year. RBR forms can also be accessed via the Dashboard, Organization Profile, or corresponding filings in the Lobbying Application.

Going Forward

Lobbyists will also be able to file Amended Statements of Registration if any of the information filed in the original Registration changes, including changes in terms in the written agreement or authorization with the Client. An amended Registration must be filed within 10 days of a change.

Termination of a Registration must be reported to the Commission, in writing, by both the Lobbyist and Client **if** that termination occurs before the date specified in the agreement or authorization.

NOTE: If you find there are duplicate Organization Profiles to choose from for a Contractual Client or Beneficial Client while you are creating a Statement of Registration, select the Profile with a green checkmark in front of the name, which indicates that the Profile has been verified. If you do not see a green checkmark, stop immediately and contact the JCOPE Helpdesk at 518-474-3973.

Resources to Help You

When the Registration area of the new LA goes live, the Commission will also be updating its website with new and helpful resources for filers. Those include:

- **JCOPE Lobbying Agreement Form** – ***If*** a lobbying contract exists, Lobbyists may either submit a copy of the contract *or* an executed Lobbying Agreement form provided by JCOPE with its Statement of Registration. The form includes relevant information relating to Lobbying Activities in a user-friendly format and may be submitted instead of a copy of the contract.

- **Sample Authorization Form** - If (*and **only** if*) a contract does not exist, a written authorization authorizing the Lobbyist to lobby on its behalf, signed by the Client, may be submitted.

- **RBR Questionnaire** – A document to assist Lobbyists (and eventually Clients) to determine if they have a relationship with a State Person or an entity in which a State Person has Requisite Involvement.

- **Coalition Questionnaire** – A document to assist Lobbyists connected to a Coalition to determine whether individual Coalition members have exceeded the $5,000 threshold and therefore need to be listed as a Beneficial Client on the Statement of Registration and other lobbying filings.

Notes

Additional information, including comprehensive instructions, will be sent out when the Statement of Registration piece of the new LA goes live.

If you have any questions regarding reporting requirements, or the online filing system, please contact the Commission at **518-408-3976**.