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May 21, 2007

## **Changes to New York State and City Laws & Policy Affect Nonprofits That Are Engaged in Lobbying and/or Are Requesting Member Items or Discretionary Funds**

The New York State Lobbying Act and New York City Lobbying Act define lobbying broadly, as attempts to influence decisions by elected and appointed officials and government employees on matters such as legislation, rules and regulations, procurement contracts and executive orders. Individuals and entities, including not-for-profit corporations, must register and report as lobbyists if they spend more than \$5,000 on lobbying (in the case of the NYS Act) or \$2,000 on lobbying (in the case of the NYC Act), within a calendar year.

Many nonprofits request funding from their local elected representatives, and for years this funding has been granted at the sole discretion of the State or City politician without legislative review. These grants have traditionally been made from a block of money allocated to each legislator and have been delivered to nonprofits through contracts with State or City agencies.

### **Member Items and Discretionary Funds**

Nonprofits seeking member items and discretionary funds should note the following:

- Pursuant to a state budget reform act, beginning in 2006, member items are to be approved by the legislature as line items in the budget, which means that *all* requests for member item funding should be treated as lobbying communications.
- For purposes of reporting lobbying activity to New York City, note that the New York City Clerk's office treats all requests for discretionary funds from City Council members as lobbying communications. For purposes of reporting to New York State, nonprofits should treat all requests for discretionary funds from local politicians in amounts greater than \$15,000 as lobbying communications.
- New York State requires entities that receive member item funding to deliver certain certifications as a prerequisite to receiving the funds.
- The NYS Act imposes an additional periodic report specifically for lobbying expenditures incurred in pursuit of public monies, including member item funding and discretionary grants greater than \$15,000.

### **Changes in Law & Policy:**

The **NYS Act** was recently amended (most provisions were effective as of April 25, 2007) by the Public Employees Ethics Reform Act of 2007. Highlights include:

- Elimination of the New York Temporary State Commission on Lobbying (eff. mid-September 2007) and assumption of its functions by the newly formed Commission on Public Integrity.

- Additional disclosure (eff. April 1, 2007) on registration statements relating to employees not engaged in lobbying and officers of the organization lobbying on its behalf.
- A new, additional reporting requirement for disclosing lobbying efforts to obtain disbursement of public monies, such as member items and discretionary funds.
- A prohibition on individuals or entities listed on lobbyist registration statements giving gifts of more than nominal value, with certain exceptions.

Recent amendments to the **NYC Act** address privacy concerns raised by the amendments to NYC Act in late 2006. Among other changes, the amended law eliminates the requirement that lobbyists list the names and address of unemancipated children on registration statements, unless they make a campaign contribution in the name of the child.

Lawyers Alliance has written three separate memoranda providing more detail on each of the above changes. These can be accessed on Lawyers Alliance's website, [www.lawyersalliance.org](http://www.lawyersalliance.org), and are also attached to this legal alert.

*This alert is meant to provide general information only, not legal advice. The Public Employees Ethics Reform Act contains specific requirements and details not included here, and the full text of the Act can be found at: <http://assembly.state.ny.us/leg/?bn=A03736&sh=t>. The recent amendments to the New York City Lobbying Act can be found at: <http://nycmarriagebureau.com/LobbyingBureau/index.htm>. Information relating to member item certifications is available at: [http://www.oag.state.ny.us/press/2007/mar/mar22a\\_07.html](http://www.oag.state.ny.us/press/2007/mar/mar22a_07.html).*

*Lawyers Alliance for New York advises nonprofits on compliance with federal, New York State and New York City lobbying laws. Nonprofits seeking guidance on these and other business and transactional legal matters can contact Sunita Subramanian at (212) 219-1800, ext. 232, or Viva Obioha at ext. 276, for further information.*

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys work together, delivering expert corporate, tax, real estate, employment and other legal services to community organizations. By connecting lawyers, nonprofits and communities, we help nonprofits to develop affordable housing, stimulate economic development, and operate vital programs for children and young people, the elderly, recent immigrants, and other low-income New Yorkers.