TITLE 19 NYCRR PART 943

COMPREHENSIVE LOBBYING REGULATIONS

(Effective 02/19/2025)

Title 19 NYCRR Part 943 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

PART 943: LOBBYING

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943.1 Purpose and Effect of Regulations.

(a) The purpose of these regulations is to provide those regulated by Commission on Ethics and Lobbying in Government ("Commission"), as well as the public, a consolidated resource for understanding and complying with the requirements of Article 1-A of the Legislative Law (the "Lobbying Act"), as authorized by section 94 of the Executive Law and the Lobbying Act. These regulations also serve to codify the constitutional authority to regulate grassroots lobbying that was recognized in United States v. Harriss (347 U.S. 612) in 1954, and exercised by the Commission's predecessor agencies in accordance with the 1982 decision in New York State Temporary Commission on Lobbying v. CICU (534 F. Supp. 489).

(b) These regulations consider, reflect and, in part, are based upon and in many instances codify this Commission's and its predecessors' earlier advisory opinions, guidelines, instructions, and practices. They also set forth the Commission's positions on issues not previously addressed by those authorities. Thus, individuals and entities subject to the Lobbying Act should consider any earlier precedents as superseded by these regulations in the event any such prior guidelines, opinions, instructions or practices are inconsistent with this Part.

943.2 General Provisions.

(a) The Commission has jurisdiction over Lobbyists, Clients of Lobbyists, and Public Corporations pursuant to section 1-d of the Lobbying Act and section 94 of the Executive Law.

(b) Pursuant to section 1-s of the Lobbying Act, all documents submitted as part of a Lobbyist or Client Statement or Report are available for public inspection.

943.3 Definitions.

The following definitions are applicable throughout Part 943, unless otherwise specified:

(a) ***Advisory Board*** means a board, task force, commission, or other body that carries out a governmental or quasi-governmental function, but is not empowered to make binding recommendations or take actions that carry the force and effect of law.

(b) ***Affiliated*** means two or more corporations, partnerships, organizations, or other entities that have any of the following relationships: parent/subsidiary; subsidiaries with the same parent entity; or national or regional organization.

(c) ***Attempt to Influence*** means an activity intended to support, oppose, modify, delay, expedite, or otherwise affect an action enumerated in sections 1-c(c)(i)-(x) of the Lobbying Act.

(d) ***Beneficial Client*** means the specific individual or organization on whose behalf and at whose request or behest Lobbying Activity is conducted.

(1) Members of the general public, for example, would not constitute a Beneficial Client.

(2) If an organization engages in Lobbying for the benefit of the members of a population or class, the members of the population or class are not Beneficial Clients.

(3) An individual or organization that lobbies on its own behalf is the Beneficial Client.

(4) While a Contractual and Beneficial Client must be identified for every lobbying arrangement, the Contractual Client may also be the Beneficial Client.

(e) ***Client*** means a person or organization that retains, employs or designates a person or organization to lobby; and includes both Contractual Clients and Beneficial Clients.

(f) ***Contractual Client*** means an individual or organization that retains the services of a Lobbyist for the benefit of itself or another.

(1) A Contractual Client is the individual or organization that signs and/or enters into a lobbying agreement with a Lobbyist;

(2) Compensation and Expenses are typically, but not necessarily, paid for or incurred by the Contractual Client.

(g) ***Designated Lobbyist*** means a person who is selected, appointed, named or otherwise chosen to Lobby on behalf of a Client, and is not Retained or Employed as defined in this subsection. This includes:

(1) A person Lobbying on behalf of themself; and

(2) A board member, director, or officer of a Client, whether compensated or uncompensated, selected, appointed, named or otherwise chosen to Lobby on such Client's behalf.

(h) ***Employed Lobbyist*** means a person who lobbies on behalf of the organization by which they are employed.

(1) A person who is paid by a Lobbying Organization as an independent contractor may be considered an Employed Lobbyist if such person meets the following criteria:

(i) The independent contractor's only source of Lobbying compensation is the Lobbying Organization;

(ii) The independent contractor's Lobbying Activities are supervised by the Lobbying Organization; and

(iii) The independent contractor is not otherwise identified as an Individual Lobbyist on any other Statement of Registration.

(2) A person who is paid by a Lobbying Organization as an independent contractor but does not meet the criteria in paragraph (1) above is a Retained Lobbyist.

(i) ***Individual Lobbyist*** means a person who is an Employed, Retained or Designated Lobbyist.

(j) ***Lobbying or Lobbying Activity*** means an Attempt to Influence activity set forth in Section 1- c(c) of the Lobbying Act, and includes both Direct and Grassroots Lobbying.

(k) ***Lobbying Act*** means Article 1-A of the Legislative Law.

(l) ***Lobbying Organization*** means a company, firm, entity, or other organization (including a Coalition, as described in section 943.9(h)) that utilizes Employed or Designated Lobbyists to Lobby on its behalf, or incurs Lobbying Expenses on its own behalf.

(1) Lobbying Organization can include a corporate entity, e.g., a limited liability company, formed by an individual for advocacy purposes.

(m) ***Lobbyist*** means a person or organization who engages in Lobbying Activity and includes Retained, Employed, and Designated Lobbyists. Lobbyist includes officers, directors, trustees, employees, counsels, or agents of colleges, as defined by section two of the education law, but does not include any other officer, director, trustee, employee, counsel or agent of the State of New York, or any municipality or subdivision thereof when discharging their official duties.

(n) (1) ***Municipal Officers and Employees*** include:

(i) An officer or employee of a Municipality, whether paid or unpaid;

(ii) Local elected officials; and

(iii) Members of a board (other than an Advisory Board), commission, or other agency of a Municipality; and

(iv) In the case of a county, an officer or employee paid from county funds.

(2) No individual shall be deemed a Municipal Officer and Employee solely based on service on an Advisory Board.

(3) No person shall be deemed to be a Municipal Officer or Employee solely by reason of being a volunteer fireman or civil defense volunteer, except a fire chief or assistant fire chief.

(o) ***Municipality*** means a jurisdictional subdivision of the State, including:

(1) Counties, cities, towns, villages, improvement districts, and special districts with a population of more than 5,000;

(2) Industrial development agencies in jurisdictional subdivisions with a population of more than 5,000;

(3) Public authorities;

(4) Public Corporations, except for those types of entities referenced in paragraphs (1) and (2) of this subdivision with a population of 5,000 or less; and

(5) School districts of any size.

Note: Additional discussion of the activities of industrial development agencies can be found in Section 943.9(j) below.

(p) ***Principal Lobbyist*** includes:

(1) In the case of a Retained Lobbyist, the entity that has entered into an agreement with a Client to provide Lobbying services;

(2) In the case of an Employed Lobbyist, the name of the employer Lobbying Organization; and

(3) In the case of a Designated Lobbyist, the individual who has designated themself or the Lobbying Organization that has designated the Lobbyist.

(q) ***Public Corporation*** shall have the same meaning as provided in Section 66 of the General Construction Law.

(r) ***Public Official*** means:

(1) The governor, lieutenant governor, comptroller, or attorney general;

(2) Members of the State legislature;

(3) Officers and employees of the legislature;

(4) State officers and employees; and

(5) Municipal officers and employees.

No individual shall be deemed a Public Official solely based on service on an Advisory Board.

(s) ***Responsible Party*** means the Lobbyist or Client's Chief Administrative Officer, or a designee, who is responsible for filing the Statements or Reports required under the Lobbying Act.

(1) If a Lobbyist or Client is an organization, the Responsible Party must be an employee, partner, or owner of the organization or must be an officer employed by the organization, and must have legal authority to bind the Lobbyist or Client.

(2) If a Lobbyist or Client is a Structured Coalition, the Responsible Party is the person designated to serve as its President, Treasurer, or other such officer, as set forth in section 943.9(h)(3)(iii)(a) of this Part, and must have legal authority to bind the Lobbyist or Client.

(3) If a Lobbyist or Client is a person, the Responsible Party is such person.

(4) The Responsible Party does not include an individual whose sole responsibility or authority is to prepare such Statements or Reports for a Lobbyist or Client.

(t) ***Retained Lobbyist*** means a person or organization engaged to lobby for the benefit of an unaffiliated Client, and any person who is paid by a Lobbying Organization as an independent contractor but does not meet the criteria in paragraph (h) of this subpart.

(u) ***Social Media*** means any mobile or internet-based platform designed to enable and facilitate communication and sharing of information among multiple users.

(v) ***State Agency*** shall mean:

(1) A department, board, bureau, commission, division, office, council, committee, or officer of the State, whether permanent or temporary, a public benefit corporation or a public authority at least one of whose members is appointed by the governor, authorized by law to make rules or to make final decisions in adjudicatory proceedings.

(2) State agency does not include the judicial branch or agencies created by interstate compact or international agreement.

(w) ***State Officers and Employees*** includes:

(1) Heads of State departments and their deputies and assistants, other than members of the board of regents of the university of the State of New York who receive no compensation or are compensated on a per diem basis;

(2) Officers and employees of statewide elected officials;

(3) Officers and employees of State departments, boards, bureaus, divisions, commissions, councils, or other State agencies; and

(4) Members or directors of public authorities (other than multi-state authorities), public benefit corporations and commissions at least one of whose members is appointed by the governor, and employees of such authorities, corporations, and commissions.

No individual shall be deemed a State Officer and Employee solely based on service on an Advisory Board.

943.4 Statutory Exceptions.

The following activities are not Lobbying Activities:

(a) Non-lobbying legal services.

(1) Services by persons engaged in drafting, advising clients on or rendering opinions on proposed legislation, rules, regulations or rates, municipal ordinances and resolutions, executive orders, Procurement Contracts, or tribal-state compacts, memoranda of understanding, or any other tribal-state agreements or other written materials related to Class III gaming as provided in 25 U.S.C. § 2701, when such professional services are not otherwise connected with State or municipal legislative or executive action on such legislation, rules, regulations or rates, municipal ordinances and resolutions, executive orders, Procurement Contracts, or tribal-state compacts, memoranda of understanding, or any other tribal-state agreements or other written materials related to Class III gaming as provided in 25 U.S.C. § 2701.

(i) For example, a lawyer who provides a Client with an analysis of a pending piece of legislation, but does not otherwise attempt to influence such legislation, has not performed reportable Lobbying Activity, per this exception. If the lawyer subsequently meets at the Client's request with a member of the legislature to advocate for or against such legislation, both the preliminary bill analysis and the subsequent advocacy meeting constitute reportable Lobbying.

(2) If an organization or firm provides both Lobbying and non-lobbying legal services to a Client, the Statement of Registration should only identify as Individual Lobbyists those persons who performed Lobbying services, however, all services related to the Lobbying Activity provided by the organization or firm are reportable expenses.

(b) News gathering and publication.

Newspapers and other periodicals and radio and television stations, and owners and employees thereof, provided that their activities in connection with proposed legislation, rules, regulations or rates, municipal ordinances and resolutions, executive orders, tribal- state compacts, memoranda of understanding or other tribal-state agreements related to Class III gaming as provided in 25 U.S.C. § 2701, or Procurement Contracts by a State Agency, Municipal Agency,

Local Legislative Body (as defined in section 943.8), the State legislature, or the Unified Court System, are limited to the publication or broadcast of news items, editorials or other comments, or paid advertisements.

(c) Contacts with the media.

Communications with a professional journalist, or newscaster, including an editorial board or editorial writer of a newspaper, magazine, news agency, press association or wire service, relating to news, as these terms are defined in section seventy-nine-h of the civil rights law, and communications relating to confidential and non-confidential news as described in subdivisions (b) and (c) of section seventy-nine-h of the civil rights law respectively and communications made pursuant to community outreach efforts for broadcast stations required by federal law.

(d) Participation at certain public proceedings.

Persons who participate as witnesses, attorneys or other representatives in public proceedings of a State or Municipal Agency (as defined in Section 943.8 of this Title) with respect to all participation by such persons which is part of the public record thereof and all preparation by such persons for such participation.

(e) Adjudicatory Proceedings.

Persons who attempt to influence a Public Official in an adjudicatory proceeding, as defined by section one hundred two of the state administrative procedure act.

(f) Response to requests for information/comments.

(1) Persons who prepare or submit a response to a specific request for information or comments by the State legislature, the governor, or a State Agency or a committee or officer of the legislature or a State Agency, or by the Unified Court System, or by a legislative or executive body or officer of a Municipality or a commission, committee or officer of a municipal legislative or executive body.

(2) This exception applies only if the person did not urge the requesting party to make the request.

(3) This exception applies to and includes, but is not limited to, participation in legislative hearings.

(g) Local lobbying by IRC Section 6033(a) religious organizations.

Any attempt by a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a federal income tax return under paragraph 2(A)(i) of section 6033(a) of Title 26 of the United States Code or a religious order that is exempt from filing a federal income tax return under paragraph (2)(A)(iii) of such section 6033(a) to influence passage or defeat of a local law, ordinance, resolution or regulation or any rule or regulation having the force and effect of a local law, ordinance or regulation.

(h) Licenses and Permitting.

(1) Applications for licenses, certificates, and permits authorized by statutes or local laws or ordinances.

(2) This exception includes applications for special permits, variances, and revocable consents.

943.5 Lobbying Activities – General Provisions and Restrictions.

(a) General Provisions

(1) All Lobbying Activities are either Direct or Grassroots Lobbying.

(2) All Lobbying Activity is conducted by a Lobbyist for the benefit of a Beneficial Client, but a Lobbyist and Beneficial Client can be the same person or organization.

(3) All Lobbying Activity is conducted by a Lobbyist that has been retained, employed, or designated by a Client. This includes the person or Lobbying Organization that designates themselves to lobby on their own behalf.

(4) Reporting requirements under the Lobbying Act are not necessarily triggered by engaging in Lobbying Activity alone, but rather when the criteria established in subsection 943.9(a)(1) have been satisfied.

(b) Online Ethics Training for Lobbyist and Clients

(1) All Lobbyists (Principal Lobbyists and Individual Lobbyists) and all Clients (Contractual Clients and Beneficial Clients) listed on a Statement of Registration commencing with the biennial period 2023-2024 and thereafter, must complete the online ethics training course for Lobbyists and Clients, as provided by the Commission.

(i) For organizations that engage in lobbying activity as either a Lobbyist or Client, the Responsible Party for the organization is responsible for completing the training on behalf of the organization.

(ii) In addition, all Individual Lobbyists must complete the training.

(2) Such training must be completed once every three years, as follows:

(i) Complete the training within 60 days of the submission of the initial Statement of Registration commencing with the 2023-2024 biennial period;

(ii) Complete the training again within three years of the date the Lobbyist or Client first or subsequently completed the training, if such Lobbyist or Client is still listed on an active Statement of Registration at such time; and/or

(iii) If there is a lapse in a Lobbyist or Client being listed on an active Statement of Registration, such Lobbyist or Client must complete the training again within 60 days of either being listed on a Statement of Registration or three years from the date such Lobbyist or Client last completed such training, whichever is later.

(iv) The 60-day period for completing training will be measured from the earliest submission date listing a Lobbyist or Client on a Statement of Registration, commencing with the 2023-2024 biennial period and thereafter.

(3) The Responsible Party of Lobbyists and Clients must enter training compliance information on behalf of themself, their organization and/or their organization's Individual Lobbyists, as applicable, into the Commission's online lobbying application, as directed by the Commission.

(i) For each Individual Lobbyist who has completed the online ethics training course, the Responsible Party for the Lobbyist must retain, for a period of three years, an executed training completion certification on forms prescribed by the Commission.

(c) Restrictions

(1) All individuals or entities required to be listed on a Statement of Registration are subject to the Gift restrictions set forth in Part 934 of this Title.

(i) This prohibition applies to both the Contractual Client and Beneficial Client.

(2) Pursuant to section 1-k of the Lobbying Act prohibiting contingent retainers, no Client may pay and no Lobbyist may receive Compensation in which the amount or rate is contingent on the outcome or terms of any Attempt to Influence an activity listed in sections 1-c(c)(i)-(x) of the Lobbying Act.

(i) This prohibition applies to both the Contractual Client and Beneficial Client.

(3) Stock or equity payments for Lobbying Activity are presumed impermissible when paid to Retained Lobbyists, and, absent a showing in (i), below, are *per se* a violation of the contingent retainer prohibition in Section 1-k of the Lobbying Act.

(i) Except as provided in (ii), below, this presumption can be overcome by a showing that the value of stock or equity is not directly dependent on the outcome of the governmental action.

(ii) The presumption cannot be overcome if:

(a) the number of shares or the size of the equity interest offered depends on the outcome of the lobbying; or

(b) any aspect of the retained lobbyist's shareholder rights- including seniority, conversion and other options- depend on the outcome of the lobbying.

(iii) Application to the Commission is required to approve any such stock or equity payments for Lobbying Activity. The Commission shall respond to an application within 30 days or soon thereafter and, in rendering a decision, consider factors including:

(a) The diversity of product or business lines in the Beneficial Client's operations and the relative size or importance- to the Beneficial Client- of the product or business that will be impacted by the governmental action;

(b) The specific governmental action in Lobbying Act section 1-c(c) that the Lobbyist is attempting to influence;

(c) If the Lobbying Activity includes any attempt to influence a state or municipal Governmental Procurement:

(1) the value of the procurement relative to the total capitalization of the Beneficial Client;

(2) any history of being awarded similar procurements.

(d) Whether stock is publicly traded or closely held;

(e) Whether the Lobbying Activity addresses a Lobbying firm's entry or continued access to a geographic, demographic or product market;

(f) The impact of the governmental action on the Beneficial Client versus on similarly-situated competitors;

(g) Any significant trading activity or changes in price, appraisal, or valuation over the preceding 12 months; and

(h) Other such factors as determined by the Commission.

(4) Stock or equity compensation to Employee or Designated Lobbyists is permissible, unless the number of shares, relative size of the equity interest offered, or any aspect of the lobbyist's shareholder rights – including seniority, conversion and other options – depend on the outcome of the lobbying.

943.6 Direct Lobbying

(a) Principles.

(1) While Grassroots Lobbying attempts to influence a Public Official indirectly, or through another, Direct Lobbying attempts to influence a Public Official through Direct Contact.

(2) Direct Lobbying generally requires the identification of an Individual Lobbyist(s) on the filings of an organization or person.

(b) **Definitions.** All definitions in section 943.3 are in effect unless otherwise noted below.

(1) Direct Contact

(i) Means any communication or interaction directed to a Public Official, including, but not limited to:

(a) Verbal communications;

(b) Written communications;

(c) Electronic communications, including electronic mail, Social Media communications, and Internet communications;

(d) Attendance at a meeting with a Public Official; or

(e) Presence on a phone call with a Public Official, when the Official is aware of such presence;

(ii) Direct Contact with a Public Official also includes direct contact with the members of the Public Official's staff.

(iii) Direct Contact does not include any communication that is directed to a group of which a Public Official is incidentally a member, or is intended for the public. For example, the following generally will not constitute Direct Contact:

(a) An opinion piece published in a newspaper;

(b) A statement made to a reporter that is published or broadcast by a media outlet;

(c) A blog post;

(d) Attendance at a speech or public meeting; or

(e) A speech to a group or at a public meeting.

(iv) Mere attendance by a person at a lobby day does not constitute Direct Contact unless they speak to a Public Official or their staff on behalf of an organization or employer.

(2) ***Preliminary contact*** includes any of the following, when the Lobbyist knows or has reason to know that the Client will Attempt to Influence a Public Official on a matter covered by the Lobbying Act:

(i) Scheduling a meeting or telephone call with a Public Official and a Client;

(ii) Introducing a Client to a Public Official; or

(iii) Any other contact with a Public Official on behalf of a Client.

Note: A person who schedules a meeting or places a call in a purely administrative capacity is not required to be identified as an Individual Lobbyist; such activity is attributable to the person who directed that the call be made or that the meeting be set up.

(c) Direct Lobbying.

(1) A person is engaged in Direct Lobbying and must be listed as an Individual Lobbyist on a lobbying filing when the person:

(i) Has Direct Contact with a Public Official to Attempt to Influence an action enumerated in section 1-c(c)(i)-(x) of the Lobbying Act; or

(ii) Has Direct or Preliminary Contact with a Public Official to enable or facilitate an Attempt to Influence.

(2) A person is not engaged in Direct Lobbying when the person:

(i) Attends a meeting with a Public Official simply to provide technical information or address technical questions;

(ii) Attends a meeting to provide clerical or administrative assistance (including audio/visual, translation or interpretation, and sign language); or

(iii) Attends a meeting to observe for educational purposes; and

(iv) Plays no role in the strategy, planning, messaging or other substantive aspect of the overall lobbying effort.

(3) Direct Lobbying can include Direct Contact with a Public Official who supports the position being advocated by the Lobbyist or their Client.

(4) Direct Lobbying of a Public Official can occur in a variety of settings, including but not limited to, face-to-face interaction, direct written communication, social media posts (subject to the limitations set forth in subsection (d) of this section), and at a lobby day coordinated by an organization or person lobbying on their own behalf.

(5) Any Individual Lobbyist who engages in Direct Lobbying must be listed on lobbying filings. This would not include volunteers or mere members of a Lobbying Organization.

(6) Examples of Reportable Expenses of Lobbying Organizations or Individuals Lobbying on their Own Behalf:

(i) A Lobbying Organization or individual must disclose reportable Expenses, as defined in subdivision (e) of section 943.9, related to Direct Lobbying, which may include, as applicable, but are not limited to:

(a) time spent by employees engaging in Lobbying Activities (even if such employees are not required to be identified as Individual Lobbyists) if such employees are compensated for their time;

(b) staff time allocated to planning Lobbying Activities;

(c) expenses related to placards, signs, t-shirts or other advocacy paraphernalia;

(d) expenses related to Social Media activities, as set forth in subdivision (d) of this section; and

(e) expenses related to transportation of volunteers and other individuals not identified as Lobbyists, including, for example, transportation of volunteers to a lobby day.

(d) Direct Lobbying through Social Media

(1) A Social Media communication that Attempts to Influence an action enumerated in section 1-c(c)(i)-(x) of the Lobbying Act constitutes Direct Contact for purposes of Direct Lobbying if such communication:

(i) Is directly sent to a Social Media account known to be owned or controlled by a Public Official; or

(ii) Creates a direct electronic link to any Social Media account known to be owned or controlled by a Public Official.

(2) Direct Contact with a Public Official through a Social Media communication also includes contact that is targeted and directed to members of the Public Official's staff through a Social Media communication and done with the knowledge that such persons are members of the Public Official's staff.

(3) When Direct Contact with a Public Official through a Social Media communication is undertaken by an organization, *through the organization's Social Media account(s)*, such activity is reportable Lobbying Activity by the organization.

(i) An Individual Lobbyist, however, need not be listed based on this activity alone.

(4) When Direct Contact with a Public Official through a Social Media communication is undertaken by an individual, *through their personal social media account(s)*, this activity is

not reportable Lobbying Activity unless such individual is specifically retained by a Client for such Social Media activity.

(i) In this case, the individual should register as a Lobbyist on behalf of the paying Client, listing themselves as an Individual Lobbyist;

(ii) Any expenses incurred to create, promote, place or otherwise highlight an individual's *personal* Social Media activity that are reportable pursuant to paragraph (4) above, are reportable by the party incurring the expenses.

(5) Reportable Expenses related to Direct Lobbying via Social Media.

(i) Reportable expenses attributable to a Principal Lobbyist's Social Media activities that constitute Direct Lobbying may include, but are not limited to: consulting services, staff time allocated to planning and posting, search engine optimization and sponsoring, and advertising.

(ii) A reasonable methodology used by a Principal Lobbyist in good faith to calculate lobbying expenses related to Direct Lobbying via Social Media is acceptable.

(6) Examples

(i) Any of the following could be Direct Lobbying through Social Media:

(a) A direct message sent to a Public Official through Social Media (e.g., through Facebook Messenger, Twitter Direct Message);

(b) A post on a Public Official's Social Media page;

(c) A post on a person's own Social Media page that tags a Public Official if such person has specifically been hired by a Client for their personal Social Media activity; or

(d) A tweet tagging a Public Official, using the organization's twitter handle.

943.7 Grassroots Lobbying

(a) Principles.

(1) While Direct Lobbying attempts to influence a Public Official through a Direct Contact by the Lobbyist, Grassroots Lobbying attempts to influence a Public Official indirectly, or through another.

(2) A Grassroots Lobbyist is a person or organization who solicits another to deliver a message to a Public Official; the audience or recipients of grassroots communications who voluntarily (and without compensation) subsequently deliver the message to the Public Official are not Grassroots Lobbyists.

(3) Every Grassroots Lobbying Communication is attributable to a Lobbyist, which may be the organization as a whole.

(4) Grassroots Lobbying does not require the identification of an Individual Lobbyist(s) on lobbying reports unless the individual engaged in Grassroots Lobbying is a Retained Lobbyist, as set forth in subdivision (e) of this section, or is retained or compensated specifically for their social media activities, as set forth in subdivision (f)(2)(ii) of this section.

(b) Definitions.

(1) ***Grassroots Lobbying*** means an attempt to indirectly influence an action enumerated in section 1-c(c)(i)-(x) of the Lobbying Act through a Grassroots Lobbying Communication, which may be communicated via various forms, including, but not limited to, those listed in subsection 943.7(g).

(2) ***Grassroots Lobbying Communication*** means a communication that:

(i) References or otherwise implicates an action enumerated in section 1-c(c)(i)-(x) of the Lobbying Act;

(ii) Takes a clear position on that action; and

(iii) Includes a Call to Action.

(3) ***Call to Action*** means:

(i) A solicitation, exhortation, or encouragement to the public, a segment of the public, or an individual to: (1) directly contact a Public Official; or (2) solicit, exhort, or encourage others to directly contact a Public Official. To qualify as a Call to Action, the communication need not specify the form the contact must take;

(ii) The inclusion of an address, email address, website address, phone number or similar contact information for a Public Official even if the communication does not specifically exhort the public to contact the Public Official; or

(iii) The inclusion of a paper or electronic petition, text message, social media communication, or similar material (or electronic link to such petition or material) for the recipient to use to communicate with a Public Official even if the communication does not specifically exhort the public to use such material.

(c) Grassroots Lobbying and the Individual

(1) A person who publishes a Grassroots Lobbying Communication is engaged in Grassroots Lobbying on their own behalf and acting as their own Designated Lobbyist.

(i) For example, a person who buys billboard space that includes a Grassroots Lobbying Communication is engaging in Grassroots Lobbying on their own behalf.

(2) A person who engages in Grassroots Lobbying on their own behalf acting as their own Designated Lobbyist is the Principal Lobbyist but is not required to list themselves as an Individual Lobbyist unless such person also engages in Direct Lobbying.

(d) Grassroots Lobbying and the Lobbying Organization

(1) An organization engages in Grassroots Lobbying on its own behalf when a Grassroots Lobbying Communication is issued by the organization, including when an employee or Designated Lobbyist of the organization delivers a Grassroots Lobbying Communication at the direction of the organization.

For example, an organization that includes a Grassroots Lobbying Communication on its website is engaging in Grassroots Lobbying on its own behalf.

An organization that issues a press release on its own letterhead that includes a Grassroots Lobbying Communication is engaging in Grassroots Lobbying on its own behalf.

(2) Employed and Designated Lobbyists are not required to be listed as Individual Lobbyists by organizations based on Grassroots Lobbying.

(3) Expenses incurred by an organization acting as its own Grassroots Lobbyist shall be attributable to such organization.

(e) **Grassroots Lobbying and the Retained Lobbyist**.

(1) A Retained Lobbyist's activities on behalf of a Client constitute Grassroots Lobbying and an Individual Lobbyist must be listed on lobbying reports if the Retained Lobbyist delivers a Grassroots Lobbying Communication and can be identified as speaking for, representing, or endorsing the position of the Client.

(i) A person is not required to be identified as an Individual Lobbyist solely by being included as a contact person on a Client's Grassroots Lobbying Communication on Client letterhead.

(ii) For example, the owner of a billboard is not speaking for, representing, or endorsing the position taken by the Client that has rented space on the billboard.

However, an individual who is paid to speak on behalf of a Client and delivers a Grassroots Lobbying Communication should be identified as an Individual Lobbyist.

(f) **Grassroots Lobbying through Social Media**.

(1) A Social Media communication constitutes a Grassroots Lobbying Communication when it satisfies the criteria set forth in subpart 943.7(b)(2).

(2) Attribution of Social Media activities and expenses to Principal Lobbyists.

(i) When Grassroots Lobbying through a Social Media communication is undertaken by an organization, *through the organization's Social Media account(s),* this activity is reportable Lobbying Activity by the organization.

(a) No Individual Lobbyists are required to be listed on lobbying filings based on this activity alone.

(ii) When Grassroots Lobbying through a Social Media communication is undertaken by an individual, *through their personal social media account(s),* this activity is ***not*** reportable Lobbying Activity unless such individual is specifically retained by a Client for such Social Media activity.

(a) In this case, the individual should register as a Lobbyist on behalf of the paying Client, listing themselves as an Individual Lobbyist.

(b) Any expenses incurred to create, promote, place or otherwise highlight an individual's *personal* Social Media activity that are reportable pursuant to subparagraph (ii) above, are reportable by the party incurring the expenses.

(iii) Reportable expenses attributable to an organization's or individual's Grassroots Lobbying via Social Media may include, but are not limited to: consulting services, sponsoring posts, staff time allocated to planning and posting, search engine optimization and sponsoring, and advertising.

(iv) A reasonable methodology used in good faith to calculate lobbying expenses related to Grassroots Lobbying via Social Media is acceptable.

(g) **General Grassroots Lobbying Examples**.

(1) Any of the following could involve Grassroots Lobbying, as defined herein, if the required elements of a Grassroots Lobbying Communication are otherwise present:

(i) Rallies;

(ii) Billboards;

(iii) Print media advertisements;

(iv) Websites;

(v) Social Media communications;

(vi) Television and radio commercials;

(vii) Letter writing campaigns; or

(viii) Personal requests by a Lobbyist for another person to contact a Public Official.

(2) The following functions or roles, standing alone, would not constitute Grassroots Lobbying:

(i) Owners of billboards or signs;

(ii) Copy editing;

(iii) Advertisement writers;

(iv) Storyboard artists;

(v) Film crews;

(vi) Photographers;

(vii) Video editors;

(viii) Website managers, hosts, or internet service providers;

(ix) Media outlets or broadcasters;

(x) Media buyers or placement agents;

(xi) Delivery services; or

(xii) Secretaries, clerical, and ministerial staff.

943.8 Procurement Lobbying

(a) Definitions.

(1) ***Procurement Lobbying*** means an Attempt to Influence a determination related to a Governmental Procurement by:

(i) A Public Official, or a person or entity working with a Public Official; or

(ii) An officer or employee of the Unified Court System, or a person or entity working with an officer or employee of the Unified Court System.

(2) ***Procurement Contract*** means a contract or other agreement, including an amendment, extension, renewal, or change order to an existing contract (other than amendments, extensions, renewals, or change orders that are authorized and payable under the terms of the contract as it was finally awarded or approved by the comptroller, as applicable), for an Article of Procurement involving an estimated annualized expenditure of more than $15,000, but does not include:

(i) Grants;

(ii) Article XI-B State Finance Law contracts;

(iii) Program contracts between not-for-profit organizations, as defined in article XI-B of the State Finance Law, and the Unified Court System;

(iv) Intergovernmental agreements;

(v) Railroad and utility force accounts;

(vi) Utility relocation project agreements or orders;

(vii) Contracts governing organ transplants;

(viii) Contracts allowing for State participation in trade shows; or

(ix) Eminent domain transactions.

(3) ***Governmental Procurement*** means any activity that occurs during the:

(i) public announcement, public notice, or public communication to any potential vendor of a Determination of Need for a procurement, which shall include, but not be limited to, the public notification of the specifications, bid documents, request for proposals, or evaluation criteria for a Procurement Contract;

(ii) solicitation for a Procurement Contract;

(iii) evaluation of a Procurement Contract;

(iv) award, approval, denial or disapproval of a Procurement Contract; or

(v) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the Procurement Contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a Procurement Contract, or any other material change in the Procurement Contract resulting in a financial benefit to the Offerer.

(4) ***Article of Procurement*** means a:

(i) commodity;

(ii) service;

(iii) technology;

(iv) public work;

(v) construction;

(vi) revenue contract;

(vii) purchase, sale, or lease of real property; or

(viii) granting or acquisition of other interest in real property that is the subject of a Governmental Procurement.

(5) ***Determination of Need*** means a public communication of a decision by a governmental entity to procure an Article of Procurement. A governmental entity may also communicate a Determination of Need privately, but only the recipient of private communication is subject to lobbying regulation until the public announcement occurs. Determination of Need may be indicated by the governmental entity's preparation of one or more of the following:

(i) specifications;

(ii) bid documents;

(iii) requests for proposals;

(iv) evaluation criteria; or

(v) statements of intent to proceed with a Procurement.

In the event a party seeks to extend or amend an existing procurement contract, the fact that a governmental entity is discussing terms is an indication of a Determination of Need.

(6) ***Local Legislative Body*** means the board of supervisors, board of aldermen, common council, council, commission, town board, board of trustees, or other elective governing board or body of a Municipality now or hereafter vested by State statute, charter, or other law with jurisdiction to initiate and adopt local laws and ordinances, whether or not such local laws or ordinances require approval of the elective chief executive officer or other official or body to become effective.

(7) ***Municipal Agency*** means: (i) a department, board, bureau, commission, division, office, council, committee, or officer of a Municipality, whether permanent or temporary; or (ii) an industrial development agency located in a jurisdictional subdivision of the State with a population of more than 50,000, or a local public benefit corporation, as that term is defined in section 66 of the general construction law.

(8) ***Offerer*** means the individual or entity, or employee, agent, or consultant of such individual or entity, that contacts a State Agency, either house of the State legislature, the Unified Court System, a Municipal Agency or Local Legislative Body about a Governmental Procurement.

(i) Offerer does not include a governmental agency or its employees that communicate with the procuring agency regarding a Governmental Procurement in the exercise of the governmental agency's oversight duties.

(9) ***Restricted Period*** means the period of time commencing with the earliest posting, on a governmental entity's website, in a newspaper of general circulation, or in the procurement opportunities newsletter in accordance with article four-c of the economic development law of a written notice, advertisement, or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract with a State Agency, either house of the State legislature, the Unified Court System, or a Municipal Agency, and ending with the final contract award and approval by the State Agency, either house of the State legislature, the Unified Court System, or a Municipal Agency, and, where applicable, the State comptroller.

The Restricted Period is not identical to the longer time frame of a Governmental Procurement as defined in this subpart.

(10) ***Revenue Contract*** means a written agreement between a State or Municipal Agency or a Local Legislative Body and an Offerer, whereby the State or Municipal Agency or Local Legislative Body gives or grants a concession or a franchise.

(11) ***Unified Court System*** means the unified court system of the State of New York, or the office of court administration, where appropriate, other than town and village justice courts in jurisdictions with a population under 50,000, when it acts solely in an administrative capacity to engage in Governmental Procurements. Unified Court System does not include the Unified Court System or any court of the State judiciary when it acts to hear and decide cases of original or appellate jurisdiction or otherwise acts in its judicial, as opposed to administrative, capacity.

(b) **Restricted period**.

(1) Prohibited contacts

During the Restricted Period, no Lobbying Activity is permitted in relation to the governmental procurement except as authorized in paragraph (3) below. This prohibition includes contact with the following in connection with such lobbying:

(i) A person within the procuring entity who has not been designated pursuant to section 139-j of the State Finance Law to receive communications relative to the Governmental Procurement; or

(ii) A person in a State Agency other than the State Agency conducting the Governmental Procurement.

(2) The prohibitions set forth in paragraph (1) apply to municipal agencies only when the municipal agency meets the definition in paragraph (a)(7)(ii) of this subdivision.

(3) Nothing contained in this section shall be deemed to prohibit a person engaged in Procurement Lobbying from contacting a member of the State legislature concerning a Governmental Procurement by a State Agency, the unified court system, or a Municipal Agency. Such Lobbying must be disclosed in accordance with these regulations.

(c) Exceptions. The following do not constitute Procurement Lobbying or Lobbying Activities:

(1) ***Pre-determination of need.*** Contacts that occur before a governmental entity has made a Determination of Need, including:

(i) A contact intended to generate interest in an Offerer's product or service that occurs before the governmental entity has made a Determination of Need for the product or service; and

(ii) An inquiry as to whether a governmental entity has made a Determination of Need.

(2) ***Commission Salespersons.*** The activities of persons who are commission salespersons with respect to Governmental Procurements.

(i) ***Commission Salesperson*** means a person who meets the following criteria:

(a) The primary purpose of the person's employment is to cause or promote the sale of, or influence or induce another to make a purchase of, an Article of Procurement;

(b) The person is an employee (as that term is defined for tax purposes) of a vendor, or an independent contractor for a vendor, pursuant to a written contract for a term of not less than six months or an indefinite term;

(c) The person is compensated or intended to be compensated, in whole or in part, by the payment of a percentage amount of all or a substantial part of the sales of an Article of Procurement that the person has caused, promoted, influenced, or induced.

(1) The term "substantial part of the sales", as used in subsection 943.8(c)(2)(i)(c) above, means at least 50 percent of the number of sales the person has caused, promoted, influenced, or induced;

(d) The percentage amount of commissions payable to the person for sales or purchases to a State Agency, either house of the State legislature, the Unified Court System, a Municipal Agency, or Local Legislative Body, is not substantially greater than any commission payable for comparable sales by another purchaser; and

(e) The person is not otherwise required to file a statement or report by virtue of engaging in lobbying activities set forth in section 1-c(c)(i)-(iv) and (vi)-(x) of the Lobbying Act.

(3) Complaints and Appeals.

(i) Complaints by an Offerer regarding the failure of the person or persons designated by the procuring entity pursuant to section 139-j of the state finance law to respond in a timely manner to authorized Offerer contacts, provided that such

complaints are made in writing and addressed only to the office of general counsel of the State Agency, either house of the State legislature, or the Unified Court System that is conducting the procurement;

(ii) Contacts by Offerers in protests, appeals, or other review proceedings (including the apparent successful bidder or proposer and that person's representatives) before the procuring entity seeking a final administrative determination, or in a subsequent judicial proceeding;

(iii) Complaints of alleged improper conduct in a Governmental Procurement to the Attorney General, inspector general, district attorney, or court of competent jurisdiction; or

(iv) Protests, appeals, or complaints to the State Comptroller's office during the process of contract approval, where the State Comptroller's approval is required by law, provided that such protests, appeals, or complaints are made in writing and are required to be entered in the procurement record pursuant to section 163 of the state finance law; or

(v) Complaints of alleged improper conduct in a Governmental Procurement conducted by a Municipal Agency or Local Legislative Body to the State comptroller's office.

(4) State Finance Law Section 162 preferred service provider contracts.

(i) Any activity relating to Governmental Procurements made under section one hundred sixty-two of the state finance law undertaken by:

(a) the non-profit-making agencies appointed pursuant to paragraph e of subdivision six of section one hundred sixty-two of the state finance law by the commissioner of the office of children and family services, the commission for the blind and visually handicapped, or the commissioner of education; and

(b) the qualified charitable non-profit-making agencies for the blind, and qualified charitable non-profitmaking agencies for other severely disabled persons as identified in subdivision two of section one hundred sixty-two of the state finance law.

(ii) Any attempt to influence the issuance or terms of the specifications that serve as the basis for bid documents, requests for proposals, invitations for bids, or solicitations of proposals, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract with a State Agency, the State legislature, the Unified Court System, a Municipal Agency or Local Legislative Body *shall not be exempt* from the definition of 'Lobbying' or 'Lobbying Activities' under this subpart.

(5) ***Bidders' Conferences***. Participants, including those appearing on behalf of a Client, in a conference provided for in a request for proposals, invitation for bids, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract.

(6) Post-award Negotiations.

(i) Offerers who have been tentatively awarded a contract and are engaged in communications with a State Agency, either house of the State legislature, the Unified Court System, a Municipal Agency or Local Legislative Body solely for the purpose of negotiating the terms of the Procurement Contract after being notified of such award or, when a State Agency, either house of the State legislature, the Unified Court System, a Municipal Agency or Local Legislative Body is purchasing an Article of Procurement pursuant to an existing State Procurement Contract;

(ii) Offerers who are engaged in communications with the procuring entity solely for the purpose of negotiating terms applicable to that purchase; or

(iii) Persons who currently hold a franchise and who are engaged in negotiating the terms of a tentative franchise renewal contract with a Municipality, but such negotiations, which do not constitute Lobbying, do not include communications to the Local Legislative Body that must approve the contract.

(7) Submission of bids.

(i) The submission of a bid or proposal (whether submitted orally, in writing or electronically) in response to a request for proposals, invitation for bids or any other method for soliciting a response from Offerers intending to result in a Procurement Contract.

(ii) This exclusion applies to preparation and associated costs with the bid. Any activity beyond what is required to submit a bid will not qualify for the exclusion.

(8) ***Public communications to agencies***. Offerers submitting written questions to a designated contact of a State Agency, either house of the State legislature, the Unified Court System, a Municipal Agency or Local Legislative Body set forth in a request for proposals, or invitation for bids or any other method for soliciting a response from Offerers intending to result in a Procurement Contract, when all written questions and responses are to be disseminated to all Offerers who have expressed an interest in the request for proposals, or invitation for bids, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract.

(9) ***Technical Experts***. Contacts during Governmental Procurements between designated staff of a State Agency, either house of the State legislature, the Unified Court system, a Municipal Agency or Local Legislative Body involved in Governmental Procurements and officers or employees of bidders or potential bidders, or officers or employees of subcontractors of bidders or potential bidders, who are charged with the performance of functions relating to contracts and who are qualified by education, training or experience to provide technical services to explain, clarify or demonstrate the qualities, characteristics or advantages of an Article of Procurement.

(i) Such authorized contacts shall:

(a) be limited to providing information to the staff of a State Agency, either house of the State legislature, the unified court system, a Municipal Agency and Local Legislative Body to assist them in understanding and

assessing the qualities, characteristics or anticipated performance of an Article of Procurement;

(b) not include any recommendations or advocate any contract provisions; and

(c) occur only at such times and in such manner as authorized under the procuring entity's solicitation or guidelines and procedures.

(ii) For the purposes of this paragraph, the term 'technical services' shall be limited to analysis directly applying any accounting, engineering, scientific, or other similar technical disciplines.

(10) Post-award communications.

(i) Communications made by an officer or employee of the Offerer after the award of the Procurement Contract when such communications are in the ordinary course of providing the Article of Procurement provided by the Procurement Contract and in the ordinary course of the assigned duties of the officer or employee; provided, however, that nothing herein shall exempt:

(a) an officer or employee whose primary purpose of employment is to engage in Lobbying Activities with regard to Governmental Procurements, or

(b) an agent or independent contractor hired by an Offerer and whose primary duty is to engage in Lobbying Activities with regard to Governmental Procurements.

(ii) This exception does not apply to an officer, employee, agent, or independent contractor who is registered as a Lobbyist because of that person's Procurement Lobbying Activity.

(11) ***Benefits and Incentives.*** Persons who communicate with Public Officials where such communications are limited to obtaining factual information related to benefits or incentives offered by a State or Municipal Agency and where such communications do not

include any recommendations or advocate governmental action or contract provisions, and further where such communications are not otherwise connected with pending legislative or executive action or determinations; provided, however, that any person who is otherwise required to file a statement or report pursuant to this article by virtue of engaging in Lobbying Activities as defined in this section shall not be deemed to fall within the exception provided for under this paragraph.

The exceptions set forth in the preceding paragraphs (1) - (11) shall not be construed as recognizing or creating any new rights, duties, or responsibilities or abrogating any existing rights, duties, or responsibilities of any governmental entity as it pertains to implementation and enforcement of Article 11 of the State Finance Law or any other provision of law dealing with the Governmental Procurement process.

(d) RESERVED.

943.9 Reportable Lobbying Activity

(a) **General Reporting Obligations**.

(1) The Lobbying Act requires public disclosure of the identities, activities and expenditures of Lobbyists and Clients. To constitute reportable Lobbying, there must be (1) an attempt to influence an activity listed in §1-c(c) of the Lobbying Act, and (2) the cumulative Compensation and Expenses received, expended or incurred for any such activities must exceed $5,000 in any calendar year during a biennial period.

(2) Lobbying Activity is either Direct or Grassroots Lobbying.

(3) Lobbying Activity that includes only Grassroots Lobbying does not require the identification or disclosure of any Individual Lobbyists except as set forth in subdivisions (e) and (f) of section 943.7.

(4) Once a person or entity has triggered the requirement to register and file reports as a Lobbyist, both Direct and Grassroots Lobbying Activities are reportable, even if expenditures were only incurred for one type of lobbying.

(5) An organization lobbying on its own behalf has designated itself as its own Lobbyist and, if it meets the requirements in subsection (1), must register and file applicable lobbying reports.

(6) A person lobbying on their own behalf has designated themself as their own Lobbyist and, if they meet the requirements in subsection (1), must register and file applicable lobbying reports.

(b) Obligations of the Responsible Party.

(1) All Statements or Reports required under the Lobbying Act or set forth in the Commission's regulations must be signed and attested to by the Responsible Party for the Lobbyist or Client, as applicable.

(c) **Cumulative threshold.** For purposes of calculating total Compensation and Expenses received, expended or incurred by a Lobbyist or Client, the $5,000 annual threshold shall be computed cumulatively for all Lobbying Activities undertaken by the Lobbyist or Client (whether as a Beneficial Client or Contractual Client).

(d) Accounting Methods.

(1) All Compensation and Expenses associated with Lobbying Activity should be accounted for using accrual basis accounting, i.e., costs are reported in the period in which they are incurred.

(2) A Lobbyist or Client has a duty to amend a Bi-Monthly or Client Semi-Annual Report after a previously reported payment is written down, written off, or otherwise modified for bookkeeping purposes.

(e) Expenses.

(1) Definition

An ***Expense*** is any cost of Lobbying Activity that is not Lobbyist Compensation.

(i) An Expense can only be incurred in connection with a Lobbying Activity.

(2) Types

(i) Non-lobbying staff salaries. Non-lobbying staff salaries include Compensation paid to those professional and clerical employees who do not engage in Direct or Grassroots Lobbying Activity.

(a) Salaries of non-lobbying staff should be reported in the aggregate.

(b) Lobbyist filer should have a good faith methodology that demonstrates how the allocation of non-lobbying staff time was reached.

(ii) Aggregated. Expenses of $75 or less may be reported as a single aggregate total.

(iii) Itemized. Expenses valued at more than $75 must be itemized – reporting the payee, the nature of the expense, and the value.

(a) Client Filer should indicate if the Expense was a reimbursement to the Lobbyist.

(b) Lobbyist filer should indicate whether the Expense was reimbursed by the Client.

(iv) Reimbursed. Lobbyist should report the aggregate value of all Expenses (regardless of value of the individual Expenses) that were reimbursed by the Client.

(3) Exclusions. The following are not reportable Expenses:

(i) State or local lobbying filing fees;

(ii) Printing and/or postage that does not exceed $500 in the aggregate;

(iii) Travel, lodging, or meals for a Lobbyist;

(iv) Any expense that is incurred in the ordinary course of business, regardless of the nature of business - for example, rent, utilities, telephones, computers; and

(v) Any amount reportable as a contribution under article fourteen of the election law.

(f) **Compensation**. ***Compensation*** means all direct or indirect payments of salaries or other things of value provided to a Lobbyist in exchange for Lobbying or services that are otherwise in furtherance of Lobbying Activity, including year-end or other bonuses but not fringe benefits.

(g) **Record Keeping**.

(1) All expenditures of $50 or more related to Lobbying Activity must be paid by check or supported by receipt.

(2) Such checks or receipts must be maintained for three years from the date the expense was required to be reported.

(h) Filing Requirements for Contractual and Beneficial Clients, Multi-Party Lobbying Relationships and Coalitions.

Some Lobbyist/Client relationships include multiple Lobbyists, multiple Clients, or multiple entities comprising a single Client, and all of these entities must be disclosed in Lobbying reports filed with the Commission.

(1) Requirements relating to Contractual vs. Beneficial Clients.

(i) All reports requiring disclosure of the Client must include both the Contractual and Beneficial Client(s).

(ii) The Contractual Client is responsible for filing Client Semi-Annual Reports, except for the Source of Funding Disclosure section of such Report, as set forth in subparagraph (iii) of this paragraph and Part 938 of this Title.

(iii) The Beneficial Client is responsible for the Source of Funding Disclosure section of the Client Semi-Annual Report, as set forth in Part 938 of this Title.

(iv) Contractual Clients and Beneficial Clients are each responsible for disclosing Reportable Business Relationships, as set forth in section 943.14 of this Part.

(2) Multiple Lobbyists. All reports must disclose all Lobbyists performing services, whether on a single contract or through a subcontracting relationship.

(i) Subcontracting.

(a) A Lobbyist who, after entering into a Lobbying agreement with a Contractual Client, retains the services of another to perform a portion of the services within the scope of the agreement, is a Prime Lobbyist.

(b) A Lobbyist who is engaged to perform services by a Prime Lobbyist, as part of an agreement between the Prime Lobbyist and the Contractual Client, is a Sub-Lobbyist.

(c) A Prime Lobbyist and Sub-Lobbyist are both subject to the reporting requirements of the Lobbying Act, to be filed on forms provided by the Commission, but are only required to disclose the Lobbying Activity and Compensation and Expenses related to the services they each provided, respectively.

(d) On any Bi-Monthly Report or Statement of Registration, the Prime Lobbyist must identify the Client, itself and all Sub-Lobbyists engaged on behalf of the Client.

(e) On any Bi-Monthly Report or Statement of Registration, the Sub- Lobbyist need only identify itself, the Prime Lobbyist and the Beneficial Client.

(ii) Co-Lobbyist.

All Lobbyists who are retained by a Client on the same single retainer agreement or contract are Co-Lobbyists, and must file individual Lobbying reports with the Commission. Co-Lobbyists must identify other Co-Lobbyists but need disclose only their own Lobbying Activity and Compensation and Expenses.

(3) Coalitions.

(i) Policy. This paragraph sets forth the filing requirements for groups that qualify as a Coalition. Depending on the nature of a Coalition, as set forth in subparagraph (iii) below, a Coalition (that spends more than $5,000 on lobbying) must file its

own Lobbying reports or its members (who spend more than $5,000 on lobbying) must disclose their Coalition Contributions in their own lobbying reports.

(ii) Definition.

(a) ***Coalition*** means a group of otherwise-unaffiliated entities or members that pool funds or resources for the primary purpose of engaging in Lobbying Activities on behalf of the members of the Coalition and have not incorporated or otherwise created a legal entity.

(b) ***Member*** of a Coalition includes any person or entity that makes a Contribution, as defined in subparagraph (d) of this subdivision, to the Coalition.

(c) ***Affiliated*** has the meaning described in section 943.3 of this Title.

(d) ***Contribution*** to a Coalition means the provision of funds or resources to the Coalition, including, but not limited to, the donation of services, and the incurrence of expenses on behalf of the Coalition.

(iii) *(a)* A Coalition that designates an individual to serve as its President, Treasurer, or in such capacity, is considered a Structured Coalition and must file its own lobbying reports, as set forth in subparagraph (iv) below. One such designated individual(s) shall serve as the Responsible Party for the Coalition's filings.

(b) A Coalition that has not designated such an individual to serve as its President, Treasurer, or in such capacity, is considered an Unstructured Coalition and shall not file its own lobbying reports; instead, its Members shall disclose their Contributions to the Coalition in their own lobbying reports as set forth in subparagraph (v) below.

(iv) A Structured Coalition shall comply with the following:

(a) The Structured Coalition shall file a Lobbying report with the Commission identifying itself as a Lobbyist and/or a Client and report all of the Coalition's Lobbying Activity.

(b) The Structured Coalition must adhere to the reporting requirements set forth in this Part, including disclosing Compensation and Expenses related to the Structured Coalition.

(1) In addition to all Expenses incurred by the Structured Coalition on its own behalf, the Structured Coalition must disclose any Expenses incurred by a Member on behalf of the Structured Coalition.

(c) Any associated filings involving the Structured Coalition (including filings by Lobbyists retained by the Structured Coalition and/or filings by the Structured Coalition itself) shall list the Structured Coalition as the Contractual Client and Beneficial Client.

(d) Members of a Structured Coalition are not required to be listed as Beneficial Clients.

(e) A Structured Coalition Member's Contribution(s) is not considered a Lobbying Expenditure for purposes of the Member determining whether it has met the $5,000 threshold triggering reportable lobbying.

(f) Members of a Structured Coalition shall not report any Contributions to the Coalition on their own filings.

(g) A Structured Coalition must disclose a Member of its Coalition as a source of funding if the requirements set forth in Part 938 of this Title are otherwise met, including if the Coalition meets the Expenditure Threshold as defined in such Part.

(v) A Member of an Unstructured Coalition shall disclose their Coalition Contribution(s) in their own Lobbying reports and comply with the following:

(a) A Member's Contribution(s) is considered a Lobbying Expenditure for purposes of the Member determining whether it has met the $5,000 threshold triggering reportable lobbying.

(b) Each Member who meets the $5,000 threshold (either through their Contribution(s) to such Unstructured Coalition(s) and/or other Lobbying Activity engaged in by the Member) and who is thereby required to file a Lobbying report, must disclose in such report any Unstructured Coalition Contributions.

(c) If a Member currently files a Lobbying Report, it shall disclose its Unstructured Coalition Contributions in that report. If a Member does not currently file a Lobbying Report and its Contribution to such an Unstructured Coalition triggers reportable Lobbying, it must register as its own Lobbyist and file Bi-Monthly and Client Semi-Annual Reports that disclose the Member's Unstructured Coalition Contributions in accordance with this subparagraph, and identify itself as the Contractual Client and Beneficial Client.

(d) Members shall disclose the following in the Expense section of their Lobbying reports:

(1) the name of the Unstructured Coalition;

(2) all Contributions made by the Member to the Unstructured Coalition; and

(3) any Expenses incurred by the Member on behalf of the Unstructured Coalition, which can be from the Member's own direct Contributions and/or from the Unstructured Coalition's pool of funds. Members must include the following information related to such incurred Expense:

(i) the purpose of the incurred Expense; and

(ii) whether it was incurred using 100% of such Member's own funds (also considered a direct Contribution) or whether it was incurred using part of such Member's funds (such portion also considered a direct Contribution) and part of the Unstructured Coalition's pooled funds.

(e) Lobbyists retained, by a Member of an Unstructured Coalition, to lobby on behalf of a Coalition pursuant to this subparagraph shall disclose such Member as the Contractual Client and the Beneficial Client.

(f) Each Member's Contribution to an Unstructured Coalition is considered a Lobbying expenditure for purposes of determining whether the Member is subject to the Source of Funding disclosure requirements set forth in Part 938 of this Title.

(i) Except as otherwise provided in this Part, all references to Lobbyists and Clients include Public Corporations.

(j) Industrial Development Agencies Representing Populations Exceeding 5,000.

(1) Real property purchase, sale, or lease agreements, including purchase- leaseback, lease-leaseback, and other hybrid agreements by Industrial Development Agencies representing populations exceeding 5,000 are Procurement Contracts, and as a result, Attempts to Influence a determination by a Public Official regarding such a Procurement Contract constitute Reportable Lobbying. This includes the inclusion of or terms to an agreement for Payments in Lieu of Taxes.

(2) Resolutions of an Industrial Development Agency (representing a population of more than 5,000) are covered activities under Section 1-c(c) of the Lobbying Act, and as a result, attempts to influence such a resolution can constitute Reportable Lobbying. This includes the inclusion of, or terms to an agreement for Payments in lieu of Taxes.

943.10 Lobbyist Statement of Registration

(a) Purpose. The purpose of the Statement of Registration is to memorialize the engagement of the Lobbyist by the Client, and should reflect the then-current terms of the engagement at any point in time.

(b) Reporting Threshold.

(1) Pursuant to section 1-e of the Lobbying Act, every Lobbyist that incurs, expends, or receives or reasonably anticipates incurring, expending, or receiving more than $5,000 in combined Reportable Compensation and Expenses for Lobbying Activity on a State and/or local level, in any calendar year during the biennial period, must file a biennial Statement of Registration with the Commission.

(2) For purposes of determining whether the thresholds have been met, the amounts incurred, expended or received shall be computed cumulatively for all Lobbying Activities.

(c) For purposes of this section, "biennial" shall mean every two-year period commencing with the January 1, 2005 – December 31, 2006 period, and so on thereafter.

(d) Once a Lobbyist meets or anticipates meeting the cumulative $5,000 threshold, a Lobbyist must file a Statement of Registration for every Client for whom the Lobbyist lobbies, regardless of Compensation or Expenses paid by each Client individually.

(1) A Statement of Registration must be filed for each Lobbyist/Client relationship emanating from the same lobbying agreement or authorization to lobby for the same purpose.

(e) Due Dates. All Statements of Registration must be filed on a biennial basis by the following deadlines ("Due Dates"):

(1) January 1st of the first year of the biennial period if:

(i) the Lobbyist is providing services under an agreement that is in effect both before December 15th of the year immediately preceding the first year of a biennial registration period and after January 1st of the first year of a biennial registration period; and

(ii) the Lobbyist reasonably anticipates combined Reportable Compensation and Expenses in excess of $5,000 for Lobbying Activities to be undertaken in the coming year.

(2) Within 15 days of being retained, employed, or designated to Lobby, if:

(i) the Lobbyist has been retained, employed, or designated to Lobby after December 15th of the year preceding the first year of the biennial period, for activity in either year of the biennial period.

(a) Such Statement of Registration should be filed within 15 days of the date on which the Lobbyist has agreed to – or been authorized to – begin Lobbying Activity.

(b) The Commission considers such date to be the start date provided in the Lobbying Agreement or authorization, not the date of execution.

(c) No later than 10 days after exceeding the $5,000 threshold, if the Lobbyist actually incurs or receives combined Compensation and Expenses in excess of $5,000 before filing a Statement of Registration.

(f) A Statement of Registration is not deemed to be received unless and until the Statement is complete and includes the filing fee and all the required elements set forth in subsection 943.10(j).

(g) (1) Any submitted Statement of Registration that is not timely filed will be subject to the late fee schedule set forth in section 943.15.

(2) Un-Executed Lobbying Agreement Form. A lobbyist who is prepared to register, but is awaiting the return of an executed lobbying agreement back from a Client may avoid the statutory late fees, provided the following criteria are met:

(i) A Statement of Registration or amendment is otherwise filed completely and timely with: *(a)* a copy of the un-executed Agreement that was provided to the Client for signature; and *(b)* a completed Un-Executed Lobbying Agreement form, as provided by the Commission;

(ii) No lobbying occurs and no compensation is received or billed until the executed Agreement is provided to the Commission;

(iii) The Agreement is executed within 30 days of the original submission of the Statement of Registration or amendment.

(a) An amended Statement of Registration that includes the executed Agreement must be submitted within 10 days of the execution date; and

(iv) The lobbyist has not previously received an extension from the Commission related to that particular Statement of Registration or amendment.

(h) If the Commission determines that the Lobbyist had access to the information that was not filed, and knowingly and willfully failed to include the information, the Lobbyist may be subject to a civil penalty not to exceed $25,000 for a failure to timely file a complete and accurate statement.

(i) Filing Fee.

(1) A $200 filing fee (payable in U.S. dollars) must be submitted with each Statement of Registration for the biennial period that the Lobbyist reasonably anticipates exceeding $5,000 in combined Reportable Compensation and Expenses for any year in the biennial period. A Statement of Registration submitted without such a filing fee shall be deemed incomplete.

(2) No fee is required if the Lobbyist will not exceed $5,000 in such Compensation and Expenses for that Client, however, a fee is required if the Lobbyist later exceeds the $5,000 threshold.

(3) Any biennial Statement of Registration submitted to cover Lobbying conducted only during the second year of the biennial period shall be accompanied by a prorated registration fee of $100.

(4) Statement of Registrations that are filed late and cover either the entire biennial period or a portion of both years within the biennial period shall not be prorated.

(5) No filing fee is required of any Public Corporations required to file a biennial public corporation registration statement.

(6) Filings fees are non-refundable.

(j) **Required Contents of a Statement of Registration**.

Every Statement of Registration filed shall include the following:

(1) An executed Lobbying Agreement form, as provided by the Commission, or a copy of a signed, written Lobbying agreement or written authorization.

Note: When a Lobbying contract or agreement exists, a Lobbyist may either submit such contract/agreement with a Statement of Registration or use the Lobbying Agreement form provided by the Commission; in such a case, however, a Lobbyist may not submit a written authorization in lieu of the contract/agreement.

(i) Copies of Lobbying agreements or written authorizations must contain the following:

(a) A start date, which is the first date the Lobbyist has agreed to or been authorized to Lobby;

(b) Signatures of the Responsible Party for the Contractual Client and Lobbyist, or another person with the authority to enter the Lobbyist into a binding contract;

(c) The date(s) of execution;

(d) A statement indicating that other services will be provided in addition to Lobbying, if applicable;

(e) A termination date, which is the last date the Lobbyist has agreed to or been authorized to Lobby;

(1) in the case of a month-to-month agreement, the termination date shall be presumed to be the end of the current biennial period, unless otherwise specified; and

(f) The Compensation to be paid specifically for Lobbying services, including pay frequency and/or rate of pay.

(1) If the Lobbyist is retained for Lobbying, the actual Compensation must be reported.

(2) If the retainer is based on a daily or hourly rate, the fee per day or per hour must be reported.

(3) If multiple parties with multiple hourly rates will be covered by the retainer, all rates shall be disclosed.

(4) If the Lobbyist is an Employed Lobbyist, as defined in Part 943.3(h), the Lobbyist's prorated salary for Lobbying Activity must be reported.

(ii) If the Lobbyist is retained under terms of an oral agreement, a written summary of such terms may be submitted with a Statement of Registration. In addition to the requirements listed in subsection 943.10(j)(1) such authorization must be signed by Responsible Party.

(2) The name of the Principal Lobbyist.

(i) If an individual Lobbyist is an employee or partner of an organization or firm, the organization or firm should always be identified as the Principal Lobbyist unless the individual has been retained in their individual capacity.

(ii) The Principal Lobbyist should only be listed as an individual if the Lobbyist conducts business in their own name.

(iii) A Public Corporation that lobbies on its own behalf is the Principal Lobbyist.

(3) The name of all Individual Lobbyists to perform lobbying services on behalf of the Client; provided, however:

(i) in the case of a Lobbying Organization that incurs no Compensation for Individual Lobbyists and only Expenses, no Individual Lobbyists need be identified on the Statement of Registration;

(ii) in the case of a Statement of Registration by a Public Corporation, in addition to any Individual Lobbyists, list any officer or employee of such Public Corporation who engages in any Lobbying Activities.

(iii) an independent contractor may only be identified as an Employed Lobbyist if the person meets the criteria established in subsection 943.3(h);

(4) The subject matter on which the Lobbyist expects to Lobby;

(5) The target(s) of the expected Lobbying, including the person, organization, entity, or legislative body before which the Lobbyist intends to Lobby;

(6) The government activity on which the Lobbying is expected to occur, which shall include the following, as known at the time of filing:

(i) bill, rule, regulation, rate number or brief description relative to the introduction or intended introduction of legislation or a resolution;

(ii) the title and identifying numbers of Procurement Contracts/documents or a general description of the Procurement;

(iii) the number or subject matter of an Executive Order of the Governor or Municipality; and

(iv) the subject matter of and tribes involved in tribal-state compacts;

(7) Client information for all Contractual and Beneficial Clients, which shall include the Clients' names, business addresses, phone and email contacts, the nature of business, and the Chief Administrative Officers' names and titles.

(i) if the Registration relates to Lobbying on behalf of a Structured Coalition or a Member of an Unstructured Coalition, the Client information for Contractual and Beneficial Clients shall be governed by the rules set forth in Section 943.9(h)(3)(iv) and (v).

(8) The level of government expected to be lobbied which shall indicate whether the expected Lobbying will be State lobbying, local Lobbying or both;

(9) The identities of any Co-Lobbyists or Sub-Lobbyists, as described in subsection 943.9(h), if applicable; and

(10) Any Reportable Business Relationships in accordance with and as defined in section 943.14.

(k) **Amendments to Lobbyist Statement of Registration**.

(1) Except as provided in subsection 943.10(k)(3), any change – permanent or temporary – to the terms of an agreement or authorization for Lobbying requires an amended Lobbyist Statement of Registration form, which must be completed and filed with the Commission within 10 days of such change. Such amendment must include:

(i) The name of the Lobbyist and Client;

(ii) The new or changed information; and

(iii) The signature of the Responsible Party, if applicable.

(2) A Lobbyist must, within 10 days of the change, amend a Statement of Registration to reflect any changes to the:

(i) Individual Lobbyists authorized to Lobby for the Client;

(ii) Level of Lobbying (State vs. local);

(iii) Terms of Compensation; or

(iv) Engagement start and termination dates, including when the parties wish to continue the lobbying arrangement beyond the termination date.

Failure to make such amendments are subject to the imposition of late fees as set forth in section 943.15.

(3) Changes to the subject matter or targets of Lobbying do not require an amended Statement of Registration.

(4) No filing fee is required for a Registration Amendment provided the original Statement of Registration filing fee has already been paid for the applicable biennial period.

(5) *After* the termination of the Agreement, any decision by a Lobbyist to waive, write- down, or otherwise reduce the prior Compensation and Expenses owed to the Lobbyist by the Client does not require an Amended Statement of Registration.

(l) **Termination of Lobbying Agreement/Authorization**.

(1) If a Lobbying agreement or authorization terminates on the date specified in the agreement or authorization, then neither the Lobbyist or the Client must notify the Commission in writing of such termination. Likewise, if the termination takes effect at the end of the biennial registration cycle, written notification of termination is not required. However, if the agreement or authorization is terminated before the termination date, both the Lobbyist and the Client must notify the Commission in writing within 30 days after the Lobbyist ceases Lobbying Activity.

(m) **Withdrawals**.

(1) A Lobbyist may request that a Statement of Registration be withdrawn, provided the request is made consistent with and meets the criteria set forth in procedures implemented by the Commission.

(2) A Statement of Registration that has been withdrawn pursuant to this subpart is not considered information provided by a Lobbyist under Section 1-s of the Lobbying Act.

943.11 Lobbyist Bi-Monthly Reports

(a) **Purpose**. Lobbyist Bi-Monthly Reports record all actual Lobbying Activity during the relevant filing period.

(b) Any Lobbyist who files a Statement of Registration for a Client for any biennial period must also file Bi-Monthly Reports in accordance with this section, regardless of Compensation, Expenses, or Lobbying Activity.

(c) Due date.

(1) Lobbyists must file a Bi-Monthly Report by the 15th of the month following the end of the bi-monthly reporting period in which the Lobbyist was first required to register. A schedule of the bi-monthly reporting periods is set forth below:

(i) January/February, Due March 15th

(ii) March/April, Due May 15th

(iii) May/June, Due July 15th

(iv) July/August, Due September 15th

(v) September/October, Due November 15th

(vi) November/December, Due January 15th

(2) All reports must be received by the Commission on or before the due date.

(3) If a report is due on a weekend or a State holiday, it must be received by the Commission on the first business day following the weekend or State holiday.

(d) Any Bi-Monthly Report that is not timely filed will be subject to the late fee schedule set forth in section 943.15.

(e) **Filing Fee.** There is no filing fee for a Lobbyist Bi-Monthly Report.

(f) **Contents.** All Bi-Monthly Reports must include the following information to the maximum extent practicable:

(1) The name, address, e-mail address, and telephone number of the Principal Lobbyist;

(2) The names of all Individual Lobbyists who personally engaged in Lobbying Activity during the filing period;

(3) The name, address, e-mail address, and contact information of all Contractual and Beneficial Clients

(i) If the Report relates to Lobbying on behalf of a Structured Coalition or a Member of an Unstructured Coalition, the Client information for Contractual and Beneficial Clients shall be governed by the rules set forth in Section 943.9(h)(3)(iv) and (v);

(4) The identities of any Co-Lobbyists or Sub-Lobbyists, as described in subsection 943.9(h), if applicable;

(5) The subject matter(s) on which Lobbying occurred; and

(6) The governmental action that the Lobbyist Attempted to Influence which shall include the following, as applicable:

(i) The bill, rule, regulation, or rate number, if available, on which Lobbying occurred;

(ii) The title and identifying numbers of Procurement Contracts/documents on which Lobbying occurred;

(iii) The number or subject matter of an Executive Order of the Governor or Municipality on which Lobbying occurred;

(iv) The subject matter of and tribes involved in tribal-state compacts on which Lobbying occurred; and/or

(v) In the event Lobbying is conducted in order to influence the introduction, intended introduction, or issuance of State legislation or a State resolution, a brief description of such activity.

(7) The name of the person, organization, or legislative body before which the Lobbyist has lobbied:

(i) In the case of Direct Lobbying, the name of the Public Official or Public Official's office or the legislative committee, as applicable, with whom the Lobbyist engaged in direct communication;

For example, if a Lobbyist lobbies a Senator on one occasion and also sends out memos in support of a bill to all members of a legislative committee of which the

Senator is a part, such Lobbyist would disclose the Senator's name and the name of the legislative committee.

If a Lobbyist meets with the Commissioner of Taxation and Finance as well as a staff member of the Office of Real Property Tax Services, such Lobbyist would disclose the Commissioner's title and agency and disclose that they met with a staff member of the named unit or department within the agency (the Office of Real Property Tax Services).

(ii) In the case of Grassroots Lobbying, the intended target of the Lobbying Activity, which may be a person, State Agency, Municipality or legislative body.

(8) All reportable Lobbying Compensation and Expenses (as defined in section 943.9) paid or owed by the Client for the current period only.

(i) Any reportable Compensation and Expenses incurred by a Lobbying Organization must be included in the Bi-Monthly Report, regardless of whether the Lobbying Organization also files a Client Semi-Annual Report.

(g) If the first required Bi-Monthly Report filed by a Lobbyist for a calendar year is not the Report covering the January-February period (due March 15), the Report should disclose all Lobbying Activities engaged in, Compensation received, and expenditures incurred during the year up to and including the period covered by the Report.

For example: if a Lobbyist does not anticipate receiving $5,000 in Compensation and Expenses before the start of the calendar year, but does exceed $5,000 on April 15, the first required Bi-Monthly Report is the Report due May 15, covering the March- April Bi-Monthly Period. The March-April Report should thus include all Lobbying Activity, Compensation, and Expenses for the calendar year, from January 1 until the end of the March-April Bi-Monthly Period, i.e., April 30.

(h) **Public Corporations**. Notwithstanding the provisions in this section, a Public Corporation that is required to file a Statement of Registration under section 1-e of the Lobbying Act must also include information pertaining to the Activity, Compensation and Expenses for any Retained Lobbyists in the Bi-Monthly Report.

(i) Withdrawals.

(1) A Lobbyist may request that a Bi-monthly Report be withdrawn, provided the request is made consistent with and meets the criteria set forth in procedures implemented by the Commission.

(2) A Bi-monthly Report that has been withdrawn pursuant to this subpart is not considered information provided by a Lobbyist under Section 1-s of the Lobbying Act.

(j) A Lobbyist has a duty to amend a Bi-Monthly Report after a change to the information filed, including when a previously reported payment is written down, written off, or otherwise modified for bookkeeping purpose. However, *after* the termination of the Agreement, any decision by a Lobbyist to write down, write off, or otherwise modify a previously reported payment does not require an Amended Bi-Monthly Report.

943.12 Client Semi-Annual Report

(a) **Reporting Periods and Due Dates**. The two reporting periods for Client Semi-Annual Reports are as follows:

(1) January 1 – June 30, for which the Report is due by July 15th; and

(2) July 1 – December 31, for which the Report is due by January 15th.

(b) Any Client Semi-Annual Report that is not timely filed will be subject to the late fee schedule set forth in section 943.15.

(c) **Filing Fee.** Each Client Semi-Annual Report must be accompanied by a $50 non- refundable filing fee (payable in US dollars). No additional filing fee is required for amended Client Semi-Annual Reports provided an original fee is on file for that period.

(d) **When Required**.

(1) A Client Semi-Annual Report must be filed by any Client retaining, employing or designating a Lobbyist or Lobbyists, whether or not any such Lobbyist was required to file a Statement of Registration or Bi-Monthly Report, if it is reasonably anticipated that during the year an amount in excess of $5,000 in combined Reportable Compensation and Expenses for Lobbying will be expended or incurred.

If a Client is required to file a Client Semi-Annual Report *solely* by virtue of its status as a Lobbying Organization, i.e., through its use of Employed or Designated Lobbyists, and the Client has filed Lobbyist Bi-Monthly Reports for the bi-monthly reporting periods that fall in the same Client semi-annual reporting period, then no Client Semi-Annual Report is required, other than source of funding disclosures prescribed by Part 938 of this Title and section 1-j(c)(4) of the Lobbying Act.

(2) If the $5,000 reporting threshold is exceeded in the January/June period, then a July/December Client Semi-Annual Report must be filed even if no further monies are expended, unless the written agreement or authorization with the Client's Lobbyist is terminated on or before June 30th.

(3) If a January/June Client Semi-Annual Report is filed and the $5,000 reporting threshold has not been met for the year, then a July/December Client Semi-Annual Report is not required.

(e) **Responsible Party.** The Responsible Party of the Client is responsible for signing, attesting, and filing all Client reports.

(f) **Contents of a Client Semi-Annual Report**. A Client Semi-Annual Report must include the following information:

(1) The type of Lobbying which shall indicate whether the Lobbying involved non-procurement Lobbying, Procurement Lobbying or both;

(2) The Client Information which shall include the Client's name, address, e-mail address, and business and fax numbers

(i) If the Report relates to Lobbying on behalf of a Structured Coalition or a Member of an Unstructured Coalition, the Client information for Contractual and Beneficial Clients shall be governed by the rules set forth in Section 943.9(h)(3)(iv) and (v);

(3) The Lobbyist Information which shall include the type of Lobbyist, level of government lobbying (State and/or local), Lobbyist name and address;

(4) All Reportable Expenses (as defined in section 943.9) expended, received or incurred for Lobbying for the current period only;

(5) All Reportable Lobbying Compensation (as defined in section 943.9) paid or owed to Lobbyists, including Retained Lobbyists, Employed Lobbyists, and Designated Lobbyists, for the current period only;

(6) The subject matter(s) on which Lobbying occurred;

(7) The governmental action that the Client or the Client's Lobbyist Attempted to Influence which shall include the following, as applicable:

(i) The bill, rule, regulation, or rate number, if available, on which Lobbying occurred;

(ii) The title and identifying numbers of Procurement Contracts/documents on which Lobbying occurred;

(iii) The number or subject matter of an Executive Order of the Governor or Municipality on which Lobbying occurred;

(iv) The subject matter of and tribes involved in tribal-state compacts on which Lobbying occurred; and/or

(v) In the event Lobbying is conducted in order to influence the introduction, intended introduction, or issuance of State legislation or a State resolution, a brief description of such activity.

(8) The name of the person, organization, or legislative body before which the Client or Client's Lobbyist has lobbied:

(i) In the case of Direct Lobbying, the name of the Public Official or Public Official's office or the legislative committee, as applicable, with whom the Client or Client's Lobbyist engaged in direct communication;

(ii) In the case of Grassroots Lobbying, the intended target of the Lobbying Activity, which may be a person, State Agency, Municipality or legislative body;

(9) Any Reportable Business Relationships in accordance with and as defined in section 943.14, provided, however, Clients who Lobby on their own behalf need only report such relationships in their Lobbyist Statement of Registration; and

(10) Any Sources of Funding, if applicable, in accordance with Part 938 of this Title.

(g) Public Corporations. Notwithstanding the provisions of this section, a Public Corporation that is required to file a Statement of Registration under section 1-e of the Lobbying Act is required to file Bi-Monthly Reports that disclose information on any Retained Lobbyists; as a result, the Public Corporation is not required to file a Client Semi-Annual Report.

(h) Withdrawals.

(1) A Client may request that a Semi-annual Report be withdrawn, provided the request is made consistent with and meets the criteria set forth in procedures implemented by the Commission.

(2) A Semi-Annual Report that has been withdrawn pursuant to this subpart is not considered information provided by a Lobbyist under Section 1-s of the Lobbying Act.

(i) A Client has a duty to amend a Semi-Annual Report *after* a change to the information filed, including when a previously reported payment is written down, written off, or otherwise modified for bookkeeping purposes. However, *after* the termination of the Agreement, any decision by a Lobbyist to write down, write off, or otherwise modify a previously reported payment does not require an Amended Semi- Annual Report.

943.13 Lobbyist Disbursement of Public Monies Report

(a) ***Public Monies*** means funds that have been designated for programs, grants or discretionary funds, but which have not been allocated by law to specific recipients and are not part of a Governmental Procurement (as defined in subsection 943.8(a)(3)).

(b) **Required Filers**. A Disbursement of Public Monies Report is only required of a Lobbyist who is otherwise already required to file a Statement of Registration and who in any calendar year reasonably anticipates that they will expend, incur or receive combined Reportable Compensation and Expenses in an amount in excess of $5,000 in connection with any Attempts to Influence a determination by a Public Official, or by a person or entity working in cooperation with a Public Official, with respect to the solicitation, award or administration of a grant, loan or agreement involving the disbursement of Public Monies in excess of $15,000.

(c) **Threshold for Filing**. Disbursement of Public Monies Reports are only required if Attempts to Influence the disbursement have occurred during the relevant filing period.

(d) **Due Dates.** Disbursement of Public Monies Reports are to be filed bi-monthly in accordance with the same schedule applicable to the filing of Bi-Monthly Reports provided in section 943.11.

(e) **Filing Fee.** There is no filing fee for a Disbursement of Public Monies Report.

(f) **Contents.** Each Disbursement of Public Monies Report must include:

(1) the name, address, e-mail address, and telephone number of the Lobbyist and the individuals employed by the Lobbyist engaged in such Public Monies Lobbying Activities;

(2) the name, address, e-mail address, and telephone number of the Client by whom or on whose behalf the Lobbyist is retained, employed or designated on whose behalf the Lobbyist has engaged in Lobbying reportable under this subdivision

(i) If the Report relates to Lobbying on behalf of a Structured Coalition or a Member of an Unstructured Coalition, the Client information for Contractual and Beneficial Clients shall be governed by the rules set forth in Section 943.9(h)(3)(iv) and (v);

(3) the identities of any Co-Lobbyists or Sub-Lobbyists, as described in subsection 943.9(h), if applicable;

(4) a description of the grant, loan, or agreement involving the disbursement of Public Monies on which the Lobbyist has lobbied;

(5) the name of the person, organization, or legislative body before which the Lobbyist has engaged in Lobbying reportable under this subdivision; and

(6) all reportable Compensation paid or owed to the Lobbyist, and any Expenses expended, received or incurred by the Lobbyist for the purpose of Lobbying Activities related to disbursements of public monies, reportable under this section.

(g) Withdrawals.

(1) A Lobbyist may request that a Disbursement of Public Monies Report be withdrawn, provided the request is made consistent with and meets the criteria set forth in procedures implemented by the Commission.

(2) A Disbursement of Public Monies Report that has been withdrawn pursuant to this subpart is not considered information provided by a Lobbyist under Section 1-s of the Lobbying Act.

(h) A Lobbyist has a duty to amend a Disbursement of Public Monies Report after a change to the information filed, including when a previously reported payment is written down, written off, or otherwise modified for bookkeeping purposes.

943.14 Reportable Business Relationships

(a) **Purpose.** Disclosure of business relationships between Lobbyists or Clients of Lobbyists and State Persons will increase transparency in government.

(b) Definitions.

(1) ***Client*** includes every person or organization that retains, employs or designates any person or organization to carry on Lobbying Activities on behalf of such Client. With respect to an organization, the term Client also includes High-Level Individuals of the organization. Client includes Contractual Clients and Beneficial Clients.

(2) ***Compensation*** means any salary, fee, gift, payment, benefit, loan, advance or any other thing of value. It does *not* include commercially available consumer and business loans or lines of credit as available to the general public, goods and services and discounts available to the general public, dividends or payments related to stock purchases, or contributions reportable under Article 14 of the New York State Election Law.

(3) ***High-Level Individual*** means a proprietor, partner, director, trustee or person within the executive management of a Client organization.

(i) When a college, as defined under Section 2 of the Education Law, is a Client organization, the members of the college's governing board, the president or chief executive, and the provost or chief academic officer are High-Level Individuals.

(4) ***Intended to be performed or provided*** means the goods, services or anything of value have not yet been performed or provided, but the Lobbyist or Client, as applicable, reasonably anticipates such goods, services, or value to be performed or provided in the future.

(5) ***Lobbyist*** includes the lobbying firm or organization (the Principal Lobbyist for filing purposes) and every person identified on a Statement of Registration, as well as any equity

partners, officers, or directors of the organization who operate out of the same geographic office as any person identified on a Statement of Registration.

(6) ***Performed or provided*** means that a State Person or an entity in which the State Person has the Requisite Involvement either actually performed or provided the goods, services, or anything of value, or had a significant, but not necessarily exclusive or primary role, in performing or providing the goods, services or anything of value.

(7) ***Reason to know*** means a Lobbyist or Client has reason to know that an individual is a State Person or that a State Person has the Requisite Involvement with an entity because a reasonable person, based on the totality of the facts and circumstances, would conclude that the Lobbyist or Client should know such fact. The following factors may be considered to determine whether a Lobbyist or Client had reason to know:

(i) Origins of the relationship between the parties;

(ii) Length of such relationship;

(iii) The type and actual value of the goods, services or items provided; and/or

(iv) Whether the fact that the individual is a State Person or the Requisite Involvement of the State Person with the entity at issue is generally known to the public.

A Lobbyist or Client will be deemed to have had reason to know if such lack of knowledge results from willfully ignoring information that would lead a reasonable person to (i) conclude that the individual was a State Person, or that a State Person had the Requisite Involvement, or, (ii) undertake further research to determine whether either fact exists.

(8) ***Reportable Business Relationship*** means a relationship that meets all the criteria listed in Part 943.14(c)(1).

(9) ***Reportable Business Relationship Form*** means the form so entitled available on the Commission's website.

(10) ***Requisite Involvement*** in an entity means when a State Person is a proprietor, partner, director, officer, or manager of a non-governmental entity, or owns or controls 10% or

more of the stock of a non-governmental entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange).

(11) ***State Person*** includes:

(i) statewide elected officials;

(ii) members of the legislature or legislative employees;

(iii) heads of State departments and their deputies and assistants, other than members of the board of regents of the university of the State of New York who receive no compensation or are compensated on a per diem basis;

(iv) officers and employees of statewide elected officials;

(v) officers and employees of State departments, boards, bureaus, divisions, commissions, councils, or other State agencies; and

(vi) employees of public authorities (other than multi-state authorities), public benefit corporations and commissions at least one of whose members is appointed by the governor, and members or directors of such authorities, corporations, and commissions who are compensated other than on a per diem basis.

(c) **Disclosing a Reportable Business Relationship**.

(1) Elements of a Reportable Business Relationship.

A business relationship must be reported, regardless of when the relationship commenced, if at any time during a Calendar Year, all of the following criteria are met:

(i) A formal or informal agreement or understanding exists in which a Lobbyist or Client of a Lobbyist pays, has paid or promises Compensation to:

(a) An individual whom the Lobbyist or Client knows or has Reason to Know is a State Person;

(b) A non-governmental entity for which the Lobbyist or Client knows or has Reason to Know that the State Person has the Requisite Involvement; or

(c) A third-party as directed by the State Person or as directed by the entity.

(ii) The payment or promise of Compensation is or was in exchange for goods, services, or anything of value either Performed or Provided or Intended to be Performed or Provided by the State Person or an entity in which the State Person has the Requisite Involvement; and

(iii) The total value of the Compensation paid to the State Person or an entity in which the State Person has the Requisite Involvement, which must be aggregated if applicable in accordance with subsection 943.14(c)(2), exceeds $1,000 within a Calendar Year. Such threshold is met once more than $1000 in Compensation is:

(a) Paid or owed to such State Person or entity for services Performed or Provided or Intended to be Performed or Provided.

(2) Aggregation of Compensation.

If a Lobbyist or Client has multiple business relationships with the same State Person, the same entity or entities in which a State Person has the Requisite Involvement, then the value of the Compensation paid for goods, services or anything of value relating to such relationships must be aggregated. If the aggregated value of such Compensation is more than $1,000 within a Calendar Year, then *each* relationship is a Reportable Business Relationship assuming all other criteria are satisfied.

(3) How and When to Report.

Once a Reportable Business Relationship exists a Lobbyist or Client must complete a Reportable Business Relationship Form and submit it to the Commission within 10 days of the Reportable Business Relationship's existence. For ongoing Reportable Business Relationships, Lobbyists and Clients must disclose on their Reportable Business Relationship Form all Calendar Years in which the Reportable Business Relationship is in existence.

(4) Reportable Business Relationship Form Considered Part of Filing.

In accordance with sections 1-e and 1-j of the Lobbying Act, which requires Lobbyists and Clients to disclose Reportable Business Relationships within their respective filings, a Reportable Business Relationship Form shall be considered a part of the Lobbyist's Statement of Registration or the Client's Semi-Annual Report, as applicable. Certain entities file both Lobbyist Statements of Registration and Client Semi-Annual Reports as they are considered both a Lobbyist and Client. These entities shall only be required to file the Lobbyist Reportable Business Relationship Form to comply with the filing requirement.

(5) Information Required in a Reportable Business Relationship Form.

For each Reportable Business Relationship, a Lobbyist or Client must provide the following information within the Reportable Business Relationship Form:

(i) The name and public office address of the State Person or entity with which the State Person has the Requisite Involvement;

(ii) A description of the general subject or subjects of the transactions between the Lobbyist or Client and the State Person (or the entity with which the State Person has the Requisite Involvement); and

(iii) The actual or anticipated amount of Compensation, including reimbursable Expenses, to be paid and paid to the State Person (or entity with which the State Person has the Requisite Involvement) by virtue of the business relationship.

(6) Reportable Business Relationships of High-Level Individuals of Client Organizations.

For organizations that constitute a Client of a Lobbyist, each Reportable Business Relationship of its High-Level Individuals must be reported by the Client organization if:

(i) The High-Level Individual entered in to the Reportable Business Relationship in his or her personal capacity; or

(ii) Another entity entered in to the Reportable Business Relationship at the direction or request of the High-Level Individual.

For example: As a Client organization's High-Level Individuals have significant influence over decisions made by the organization, any Reportable Business Relationships under the personal control or direction of such High-Level Individuals should also be disclosed.

(7) Reportable Business Questionnaire.

A Lobbyist or Client organization may use, and rely upon in good faith, the responses to a questionnaire provided by the Commission to send to its equity partners, officers, directors or High Level Individuals, as applicable, to determine whether such persons have business relationships that must be reported.

(8) Duty to Amend Report.

If a material change occurs relating to information reported in the Reportable Business Relationship Form after it has been submitted, including material changes in the actual or anticipated amount of Compensation paid, an amended Reportable Business Relationship Form must be submitted to the Commission within 10 days of such change.

(9) Exclusions from Reportable Business Relationship Requirements.

Relationships between a Lobbyist or Client and a State Person or entity in which a State Person has Requisite Involvement that relate to the following are excluded from reporting requirements:

(i) Medical, dental and mental health services and treatment; and

(ii) Legal services with respect to investigation or prosecution by law enforcement authorities, bankruptcy and domestic relations matters.

(d) Penalties.

Failure to report a Reportable Business Relationship in a timely manner as required by this section subjects the Lobbyist or Client to civil penalties as prescribed by section 1- o(b)(i) of the Lobbying Act and/or late fees as prescribed by sections 1-e(e)(iii) and 1- j(c)(iii) of the Lobbying Act and section 943.15 of this Title. In addition, the submission of false filings subjects the Lobbyist or Client to a civil penalty as prescribed by section 1-o(b)(ii) of the Lobbying Act.

943.15 Late Filings

(a) Pursuant to sections 1- e, 1-h, 1-i, 1-j, and 1-l of the Lobbying Act, the Commission may impose a fee for a late filing of a Statement of Registration, Registration Amendment, Bi-Monthly Report, Client Semi- Annual Report, and Disbursement of Public Monies Report.

(b) Any Statement of Registration, Registration Amendment, Bi-Monthly Report, Client Semi-Annual Report, or Disbursement of Public Monies Report that is not timely filed will be subject to the late fee schedule set forth below:

Days Late	**Action**	
	First-Time Filer	**All Other Filers**
1 – 7 days	Grace Period/No Late Fee	
8 – 14 days	$75 flat late fee	$150 flat late fee
15 – 30 days	$150 flat late fee	$300 flat late fee
31 – 90 days	$300 flat late fee	$500 flat late fee
91 – 180 days	$500 flat late fee	$1,000 flat late fee
181 days and more	$1,000 flat late fee	$2,000 flat late fee

(c) (1) With respect to Statements of Registration, a Lobbyist is considered a First-Time Filer only when the Lobbyist is required to file a Statement of Registration for the first time. First-Time Filer status applies to the first Statement of Registration received by the Commission from such Lobbyist and any other Statements received from such Lobbyist on that same day.

(2) With respect to Bi-Monthly Reports, a Lobbyist is considered a First-Time Filer only when the Lobbyist is required to file a Bi-Monthly Report for the first time. First-Time filer status applies to the first Bi-Monthly Report received by the Commission from such Lobbyist and any other Reports received from such Lobbyist on that same day. (iii) A Client is considered a First-Time Filer only when the Client is required to file a Client Semi-Annual Report for the first time. First-Time Filer status applies to the first Client Semi- Annual Report received by the Commission from such Client and any other Reports received from such Client on that same day.

(d) Upon a determination that a filing is late, the Commission will send the Lobbyist or Client a billing notice stating such determination and assessing the late filing fee.

(1) The Commission may send up to three billing notices.

(2) Each billing notice will indicate that the Lobbyist or Client may request a waiver or reduction of a late filing fee, subject to the eligibility requirements set forth in this section.

(e) Eligibility for a Waiver or Reduction of Late Filing Fee.

(1) The Commission may consider a Lobbyist or Client's request for a waiver or reduction of late fees if one or more of the following has occurred:

(i) The death or serious illness of the Responsible Party or immediate family member thereof; or

(ii) A force majeure, including an extraordinary event or circumstance beyond the Responsible Party's control, such as a natural disaster or epidemic; or

(iii) Other mitigating factor that reasonably impacted the Lobbyist's or Client's ability to submit timely.

(3) If a Lobbyist or Client is eligible for a waiver or reduction pursuant to paragraph (1) of this subdivision, the Commission must consider the following factors when determining whether to grant or deny a waiver or reduction of late fees:

(i) Whether and how often the Lobbyist or Client has filed late in the past;

(ii) Whether the Lobbyist or Client has received a waiver or fee reduction in the current or previous biennial period;

(iii) The Lobbyist or Client organization's annual operating budget, as applicable, which means the estimated income and expenditures of the organization;

(iv) Whether the Lobbyist, as applicable, lobbies solely on its own behalf;

(v) For periodic reports, the number of lobbying matters and the amount of compensation and expenditures that were not timely reported during the relevant time period; and

(vi) the significance and reasonable impact of the event or occurrence, as described in subdivision (e)(1)(i)-(iii), upon the Lobbyist's or Client's ability to timely file the statements or reports.

(3) A Lobbyist or Client seeking a waiver or reduction of a late filing fee must submit the following to the Commission:

(i) A Late Fee Waiver Application, on a form supplied by the Commission, submitted by the Lobbyist or Client's Responsible Party; and

(ii) An affidavit providing:

(a) A narrative detailing the cause of the late filing, within the context of the eligibility requirements set forth in subdivision (e)(1)(i)-(iii);

(b) The applicant's annual operating budget, as applicable;

(c) Whether the applicant lobbies solely on its own behalf or also utilizes Retained Lobbyists;

(d) For periodic reports, the number of lobbying matters and the amount of compensation and expenditures that were not reported timely during the relevant period;

(e) How the applicant plans to mitigate risk of future late filings; and

(f) Any other factors the applicant deems helpful to the Commission relating to its analysis and determination.

(iii) The Commission may request additional evidence to support any statements made in the affidavit.

(1) The Late Fee Waiver Application and affidavit must be received by the Commission no later than the due date provided by the Commission in the third and final billing notice.

(2) The Commission will notify the applicant in writing of its determination regarding a Late Fee Waiver Application as soon as practicable. Any such determination made by the Commission is final.

(3) If a waiver or reduction request is denied, payment of the applicable late filing fee must be made no later than thirty (30) days from the date of the Commission's notice of denial.

(f) Technical Failure Causing Late Filing

(1) If there is a system-wide problem with the Commission's online Lobbying Application, the Commission may extend the applicable filing deadline to a date established by the Commission upon consideration of the nature and length of the system-wide problem.

(2) If, on the date a statutory filing is due, a Lobbyist or Client is unable to file a Statement or Report due to a technical failure of the Lobbying Application,

the Lobbyist of Client may avoid a late filing fee and be granted a technical extension by the Commission only when:

(i) The Lobbyist or Client contacts the Commission before the filing deadline to resolve the technical issue that is preventing the filing of a Statement or Report by the filing deadline.

(ii) If, after the consultation described in subparagraph (i), the Lobbyist or Client remains unable to file the Statement or Report, the Lobbyist or Client must submit, by email, proof of the technical failure, no later than the close of business on the date of the filing deadline.

(iii) The following are acceptable as proof of a technical failure:

(a) A screenshot from the Commission's Lobbying Application containing the error message received when the filing was attempted;

(b) Evidence of electronic communications between the Lobbyist or Client and the Commission determining that a technical failure occurred and remains unresolved as of the filing deadline; or

(c) Similar evidence of a technical failure that the Commission deems appropriate.

(iv) Lobbyists or Clients who are unable to file a Statement or Report due to a technical failure of the Commission's Lobbying Application after the close of the Commission's office hours on the filing deadline may avoid a late filing fee and be granted a technical extension if they submit a time-stamped screenshot or photograph of the Commission's Lobbying Application display showing both the error message and that the time of the attempted filing was prior to the filing deadline.

(v) Under no circumstances will the following be considered a technical failure:

(a) Failure of the Lobbyist or the Client to change its Responsible Party;

(b) The Responsible Party's inability to retrieve, change or reset its password;

(c) Any technical failure that is reported after the filing deadline; or

(d) A Filing that has been saved in the Commission's Lobbying Application but has not been submitted.

(g) Late Fees and Penalties.

(1) Failure to file a Statement of Registration, Registration Amendment, Bi-Monthly Report, Client Semi-Annual Report, or Disbursement of Public Monies Report in a timely manner, as required by this Title, may also subject the Lobbyist or Client to civil penalties as prescribed in section 1-o(b)(i) of the Lobbying Act.

(2) Any outstanding late filing fees owed to the Commission by a Lobbyist or Client totaling $500 or more may be referred to the Attorney General's Office for collection.