



NEW YORK STATE JOINT COMMISSION ON PUBLIC ETHICS

Frequently Asked Questions - Source of Funding

What are the source of funding regulations?

These regulations require certain individuals and entities -- lobbyists who lobby on their own behalf and clients of lobbyists ("Client Filers") -- who devote substantial resources to lobbying activity in New York State to make publicly available each source of funding over \$5,000.

What are the requirements to meet the threshold for disclosure of the sources of funding over \$5,000?

There are two requirements to meet this threshold, known as the "\$50,000 - 3% Expenditure Threshold." First, the Client Filer must have spent in excess of \$50,000 in Reportable Compensation and/or Expenses for lobbying during the Expenditure Threshold Period. Second, the Client Filer's expenditures on lobbying in New York must constitute at least 3% of its Total Expenditures during the Expenditure Threshold Period. When the \$50,000 - 3% Expenditure Threshold is met, all contributions over \$5,000 from a Single Source must be reported in the appropriate Client Semi-Annual Report.

What is Reportable Compensation?

Reportable Compensation is defined as any salary, fee, gift, payment, loan, advance or any other thing of value paid, owed, given, or promised to a retained or employed lobbyist for the purpose of lobbying.

Contributions reportable under Article Fourteen of the Election Law are **not** Reportable Compensation.

What are Reportable Expenses?

For lobbyists who lobby on their own behalf, Reportable Expenses are any expenditures incurred by or reimbursed to the lobbyist (employed or designated) for lobbying. For clients of lobbyists, it means any expenditure reimbursed to the lobbyist for lobbying.

Expenses reportable under Article Fourteen of the Election Law are **not** Reportable Expenses.

What is the Expenditure Threshold Period?

For the Client Semi-Annual Report (“CSA”) due in January (July/December CSA), the Expenditure Threshold Period is the preceding calendar year (January 1 – December 31). For the Client Semi-Annual Report due in July (January/June CSA), there are two potential Threshold Periods: 6 preceding months of the current calendar year (January 1st – June 30th) and the preceding 12 months (July 1st of prior year – June 30th of current year). If a Client Filer filing the January/June CSA has met the Expenditure Threshold during any one of the two Threshold Periods, all contributions over \$5,000 from a Single Source must be reported in the January/June CSA.

What is included in the Client Filer’s Total Expenditures?

Total Expenditures includes the sum of any and all payments of cash or cash equivalents made in the ordinary course of business, or a charge against available funds in settlement of an obligation made in the ordinary course of business. Total expenditures also includes a promise to pay, or a promise of a payment or a transfer of anything of value made in the ordinary course of business for goods and services that have been provided or performed.

For multistate organizations, does Total Expenditures mean nationally or just in New York?

Total Expenditures includes all of the Client Filer’s expenditures, as defined above, even those incurred outside of New York.

What is a Single Source?

Any person, corporation, partnership, organization, or entity that makes a contribution. Other relationships can constitute a Single Source: (1) Two or more persons whom the Client knows live in the same household; (2) Two or more corporations, partnerships, organizations, or entities that the Clients knows or has reason to know are related; and (3) A sole proprietorship and its sole proprietor if the Client knows or has reason to know of the relationship.

What is the Amount of Contribution from a Single Source that is reported?

For each Contribution not specifically designated for lobbying in New York, the Amount of Contribution reported is the product of: (i) the dollar amount of each Single Source’s contribution and (ii) Reportable Compensation divided by Total Expenditures. Any Contribution specifically designated for lobbying in New York is added to the product of (i) and (ii).

Are payments made by a Single Source to the Client Filer for products purchased from the Client Filer included in the Amount of Contribution calculation?

Products, such as books and other materials, that a Single Source purchases from the Client Filer are not considered part of a Contribution. Note, however, that membership dues are considered a Contribution. Consequently, the value of any products that are provided by the Client Filer as part of the membership dues is *not* excluded from the Amount of Contribution calculation.

Are payments by a Single Source to a Client Filer for conferences and meetings included in the Amount of Contribution calculation?

Ordinarily, payments made by a Single Source specifically for conferences or meetings are not considered part of a Contribution. Note, however, that membership dues are considered a Contribution. Consequently, the value of any conferences or meetings that are provided by the Client Filer as part of the membership dues is *not* excluded from the Amount of Contribution calculation. Additionally, if one of the purposes of the conference or the meeting is to raise funds for the Client Filer, the payment for such conference or meeting may be considered a Contribution and would, therefore, be included in the Amount of Contribution calculation.

Do sponsors of trade association non-lobbying related events and programs need to be disclosed for source of funding purposes?

Yes. Sponsors are considered to support the operations or activities of the Client Filer. Consequently, such sponsorships are Contributions. Note, however, that a *participant* who pays, in addition to membership dues, for attendance at a Client Filer's non-lobbying event or program will not generally be considered as having made a Contribution.

Do royalty agreements between a trade association and another organization (such as royalties associated with a trade association-sponsored health insurance plan), need to be disclosed for source funding purposes?

Yes. Note, however, that a *participant* who purchases health insurance through the trade association has not made a Contribution to the trade association.

A client of a registered lobbyist has several subsidiaries. The parent and its subsidiaries file consolidated tax returns. In calculating the Total Expenditures and Reportable Compensation and Expenses, can the parent include the expenditures, compensation, and expenses of its subsidiaries in utilizing the formula for reporting source of funding?

No. The Total Expenditures and the Reportable Compensation and Expenses are calculated for the client of the registered lobbyist only.

A trade association is a lobbyist that lobbies on its own behalf and meets the \$50,000 – 3% Expenditure Threshold. It receives dues payments from its members in excess of \$5,000. Instead of calculating the Contribution from each member in accordance with the formula outlined in the Source of Funding Regulations, can the association just report the entire amount of the dues payment from each member even though such dues encompass more than just lobbying expenses?

No. The trade association must report of the correct Amount of Contribution for each Contribution in excess of \$5,000. Failure to follow the Regulations could result in a civil penalty.

A client of a registered lobbyist is a 501(c)(3) organization. Does it need to complete a source of funding disclosure form?

No. All 501(c)(3) organizations are statutorily exempt from the source of funding requirements.

An advocacy organization which lobbies on its own behalf is a local chapter of a national organization. The local organization, but not the national organization, is registered under the Lobbying Act. Do the regulations apply to the local organization, the national organization, or both?

The regulations only apply to the local chapter.

Are dues paid to professional associations by large firms on behalf of individual employees aggregated or should each individual's dues stand alone and only be disclosed if over \$5,000?

If the dues are paid by the professional association in a lump sum, then they must be aggregated for source of funding disclosure purposes.

Do Contributions to a division within the Client Filer that does not engage in lobbying activities need to be reported?

Yes. The regulations apply to all Contributions made to the corporate entity that constitutes the Client Filer.

Do Contributions to the Client Filer's sister company need to be reported?

No. The regulations apply only to the corporate entity that constitutes the Client Filer.

A Client Filer is a trade association whose members each pay \$10,000 a year in dues. Are these considered Contributions where each member is comprised of numerous individuals?

Yes. If the Client Filer considers each of its members to be a single member, not comprised of numerous individuals, then the Contributions received from each member are aggregated..

Do state colleges that perform lobbying activities need to disclose their sources of funding?

No. All governmental entities are exempt from the disclosure requirements.

Is there an exemption to the filing requirement if I believe disclosure would cause harm to the contributor?

Yes. Sections 938.4 and 938.5 of the regulations contain the standards and procedures for obtaining an exemption from disclosure.