



LOBBYING REFORM RECOMMENDATIONS TO THE 2011 CITY LOBBYING COMMISSION

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I. Summary Listing of Citizens Union's Lobbying Reform Recommendations

The list below provides all of Citizens Union's recommendations to the 2011 City Lobbying Commission detailed in the report that follows. The lobbying laws of 2006 and changes to the campaign finance laws in 2007 have greatly improved the oversight of lobbying reporting and enforcement while diminishing the perceived or actual connection between lobbying and campaign contributions. Even with the improvements realized since 2006, there are a number of areas that can be made better by further reforms.

A. Improve Administration of the Lobbying Laws

1. Remove the enforcement of the lobbying laws from the purview of the City Clerk's Office and instead empower the Campaign Finance Board (CFB) with administering and enforcing the lobbying laws.
2. Simplify reporting by allowing lobbyists to submit the same form to state and city lobbying entities (assuming Commission coordination with the Commission on Public Integrity). Absent the creation of a single form for reporting lobbying of state and city government, the forms should be made as uniform as possible while maintaining the best practices of each.
3. Require the City Clerk's Office to work with the Department of Information Technology and Telecommunication (DoITT) to integrate relevant information on an ongoing basis into the existing "doing business" database (DBDB).
4. Require new registrants who are lobbyists to complete training on the lobbying laws.

B. Limit the Disproportionate Influence of Lobbyists That Arises from Political Activity

1. Contributions bundled by lobbying organizations or lobbyists should not be eligible for matching funds.
2. Prohibit candidates who participate in the city's campaign finance program from using public matching funds to purchase strategic campaign consulting services from firms that also provide lobbying services.
3. Extend to two years the one-year ban on former public servants who recently served as elected officials or in other senior-level positions from appearing before the agency or branch of city government from which they have departed to a private-sector job.

C. Enhance Transparency of Lobbying Activity

1. Change the definition of lobbying to include activity prior to the introduction of a bill or resolution and clarify that it applies to bills, including the budget bills, and not simply laws already passed (local laws).
2. Include more information on lobbying activity in the City Clerk's Office's annual report, including:
 - providing the process by which random audits are completed;
 - the number of audits opened, in progress, and closed;
 - staff and budget of the Lobbying Bureau;
 - calls/emails received related to lobbying; and
 - rankings of lobbying activity by top subjects lobbied, top bills lobbied, most subjects lobbied, most bills lobbied, most frequently lobbied government institutions and contacts, most money spent

lobbying, most clients, and top violators of lobbying law by frequency and severity (dollar amount fined).

3. Expand search options for the city's database so it resembles the state's database. The city's database should allow for search by bill, subject, government entity, amount of money spent lobbying, and government contact in addition to existing search functions by lobbyist or client.
4. Require the City Clerk's Office to report to the Mayor's Management Report (MMR).

D. Reform Penalties

1. Assess penalties against campaigns and candidates who, during one campaign or several campaigns for office, repeatedly must issue refunds to lobbyists for receiving over-the-limit contributions within the 20 day period allotted to do so under Local Law 34 of 2007.
2. Create a blanket amnesty program beginning in 2012, providing relief for some portion of late fees to non-profit and other organizations not currently reporting their lobbying activity to the Clerk's Office.

E. Clean Up and Clarify the Law

1. Change references in the law to the New York Temporary State Commission on Lobbying to a general reference to the state entity overseeing lobbying or add "or any successor thereto" after each instance in which the New York Temporary State Commission is currently mentioned in law.

II. Background on the Lobbying Law

Mayor Bloomberg and the City Council in 2006 made major reforms to the city's lobbying laws. Citizens Union played a fundamental role in bringing about these changes with its release of a report showing limited enforcement of the lobbying laws and the previously unknown amount of lobbying conducted by firms which also provided political and campaign consulting work. The report's findings demonstrated the need to overhaul local lobbying oversight and enforcement.

The 2006 laws made several changes to lobbying oversight, reporting and enforcement while affecting the influence of lobbyists on the political process, including the following:

1. Reporting processes were modernized mandating electronic transmission of lobbying reports and requiring reports to be posted on the internet by the City Clerk's Office.
2. Registered lobbyists who also provided political consulting and campaign services were required to begin reporting on the scope and income of those activities to the City Clerk's Office.
3. Enforcement of the lobbying law was enhanced by empowering the City Clerk's Office to conduct random audits of lobbying reports. Penalties for violations of the law were doubled, and the Conflicts of Interest Board was charged with creating rules on gifts, ultimately deciding that the giving of other than *de minimis* gifts to public servants by lobbyists or clients should be forbidden.
4. Lobbyists' influence was curbed by having their political campaign contributions, and those of their family members, made ineligible for a match of public funds.

Further reforms made the following year to the city's campaign finance laws in 2007 lowered the contribution limits for lobbyists and others "doing business" with the city to \$400 for citywide offices, \$320 for borough presidents, and \$250 for City Council.

Citizens Union was supportive of the reforms made to the lobbying laws, and with the release of its report played a crucial role in highlighting the growing influence of political consultants and fundraisers who also were lobbyists, and called for this concerning nexus of influence to be examined. Citizens Union also led the way in calling for greater enforcement to ensure lobbying activity was reported, and when it was, for random auditing of lobbyist reports to ensure accurate and full reporting was done. It also supported moving the responsibility for oversight and enforcement away from the Clerk's Office to another agency, though this change could not be made in time because it required a voter-approved revision of the City Charter.

III. The 2011 Lobbying Commission

The 2006 lobbying laws called for a commission to be convened within two years to revisit the law, meaning that a commission should have been convened in June of 2008. The Council and mayor only began jointly appointing a five-member lobbying commission in January ("the Commission"). Its appointees are Chair Herbert E. Berman, Jamila Ponton Bragg, Lesley Horton, Margaret Morton, and Lisa Vasquez. The Commission is charged with reviewing and evaluating the activities and performance of the City Clerk and reporting its findings, including any administrative or legislative recommendations to strengthen enforcement of the lobbying law and whether the threshold of \$2,000 for reportable lobbying compensation or expenses for the filing of a statement of registration should be raised. The Commission is also charged with making its recommendations to the mayor and the Council within six months of its appointment.

To date, the 2011 Commission has held a public meeting and three hearings at which the City Clerk's Office, the Conflicts of Interest Board (COIB), the Department of Information Technology and Telecommunications (DoITT), the Commission on Public Integrity, and various civic groups and non-profit organizations have testified.

The Commission anticipates making preliminary recommendations in June and final recommendations to the Council later in the summer.

IV. Citizens Union's Evaluation of New York City's Current Lobbying Oversight and Enforcement and Recommendations to the 2011 Commission

A. Improve Administration of the Lobbying Laws

The lobbying law is currently administered by the City Clerk's Office. While the Clerk's Office has improved its oversight of lobbying activity in recent years, including the creation of a separate Lobbying Bureau and the development of online reporting capacity of lobbying activity, there are many improvements that still need to be made.

The Role of the City Clerk and Conflicts of Interest

Citizens Union believes there remains an inherent conflict of interest in placing oversight of lobbying in the City Clerk's Office. This conflict of interest stems from the Clerk's appointment exclusively by the Council and the Clerk's dual role as City Clerk and Clerk of the Council. As Clerk of the Council, the Clerk "attests to all legislation desired by and affecting the city requiring concurrent action by the state legislature" and "has charge of all referendum petitions."¹ While the Clerk's Office has indicated these functions are ministerial, concerns remain that the Clerk's Office is not perceived to be, or actually is, as independent as it should be since it is appointed directly by the Council, and arguably the Speaker. When term limits were being considered for a ballot referendum in 1993, the Clerk's Office ultimately determined that the question was not appropriate for the ballot. This decision was overturned by the State Supreme Court just before the election at which the question was put on the ballot. The reversal begged the question as to whether the Clerk's Office was acting at the behest of the Council, which was opposed to the ballot referendum. This action thus raised concerns about the perceived or actual conflict of interest that can arise when the Clerk is regulating lobbying activity around referenda in addition to other governmental decision-making matters, but is also perceived to be or is involved in decisions related to those same matters. Questions have also been raised about the Clerk's Office's enforcement of the law, which is primarily confined to administering late fees and conducting a small number of audits (30 a year). It rarely pursues civil penalties other than late fees and has never banned a lobbyist from lobbying for "knowing and willful" violations although it has the power to do so. The lack of resources may play a role in preventing the Clerk's Office from more robustly enforcing the law.

Citizens Union Recommendation:

- 1. The enforcement of the lobbying laws be removed from the purview of the Clerk's Office, which lacks the resources and independence necessary to hold lobbyists fully accountable to the law, and instead be administered and enforced by the Campaign Finance Board (CFB).** The Campaign Finance Board has the benefit of being a board made through multiple appointments that create more independence. It also has a larger staff that shows great fluency in working with data, and due to economies of scale, may be able to more robustly fulfill the requirements of the lobbying law than the Clerk's Office has even with its recent improvements. This change will require approval via a voter referendum, as it curtails the Council's power over lobbying reporting and enforcement because it is the sole entity making appointees to the City Clerk's Office. Citizens Union has already released this proposal as part of the City Charter Revision process in 2010.

Reporting Difficulties

Lobbyists and clients are required to report their lobbying activity at the state and city levels, and currently have to submit the same information they provide to the City Clerk to the state's Commission on Public Integrity. As is the case with all others who lobby both city and state government, Citizens Union files electronically six bi-monthly

¹ Office of the City Clerk, The City of New York, "About the City Clerk's Office." Available at: <http://www.cityclerk.nyc.gov/html/about/about.shtml>

lobbyist reports to the both the State and City. Our city lobbying activity, compensation and expenses are reported to the City, and both our city and state lobbying activity, compensation, and expenses are reported to the State. This arrangement requires that we painstakingly enter very similar if not exactly the same information in one database to only then re-enter it into another. Since the information is entered after specific prompts on the websites where the lobbying activity is entered, it is not a simple cut and paste or upload procedure. The data must be completely reentered as if it were being done for the first time. Ideally there should be one site where city and state lobbying information is reported. Short of that, the state's and city's websites ought to allow for the sharing of information with each other so that data could be populated in the appropriate areas of the online form without having to reenter it manually. If one website for both state and local filing cannot be developed, the separate websites should be made to look and feel as similar as possible for the user. In addition to challenges related to reporting lobbying activity to the Clerk's database, the city database is not seamlessly integrated with the Campaign Finance Board-administered Doing Business Database (DBDB), which results in some lobbyists who are subject to restrictions on funding campaigns not appearing in the DBDB when they ought to be.

Citizens Union Recommendations:

2. **Reporting should be made simpler by allowing lobbyists to submit the same form to state and city lobbying entities (this proposal assumes that the Commission is coordinating reforms with the Commission on Public Integrity, the state entity overseeing lobbying reporting and enforcement). Absent the creation of a single form for reporting lobbying of state and city government, the forms should be made as uniform as possible while maintaining the best practices of each.** The city's online reporting system that guides the user in entering information when prompted and utilizes drop-down menus should be replicated at the state level for ease of use and uniformity of disclosure. The state's pre-population feature that does not require users to input the same information every reporting period should be utilized by the city's online reporting system.
3. **The Clerk's Office should also work with the Department of Information Technology and Telecommunication to integrate relevant information on an ongoing basis into the existing "doing business" database.** The CFB would retain the ability to certify the completeness and accuracy of the transfer of this information. This would ensure greater integrity of data related to lobbying and prevent gaps in accuracy that currently occur in determining who is "doing business" with the City when extensions for lobbying registrations are sought but not reflected in the DBDB.

Training Reforms

The Clerk's Office conducts training for non-profit organizations and other lobbying entities, as required by law, but the training is voluntary. The current law simply requires that the "City Clerk shall develop compliance programs for lobbyists and clients." The Clerk's Office has held 11 large conference-style trainings since 2006, provides a lengthy user-guide on its website, fields thousands of calls per year, and makes available a computer kiosk to do filings at its office. The Clerk's Office has also been working with DoITT to create online modules for training, which we fully support, and has requested funding for a full-time trainer, which Citizens Union also backs.

Citizens Union Recommendation:

4. **Training should be required for new registrants who are lobbyists.** This will help non-profit organizations and other registered lobbyists familiarize themselves with navigating the reporting system, thereby making reporting easier and likely reducing the potential for late fees and possible fines. Training can be done in a cost-effective manner if conducted online, for example, or if a large conference is held for all new registrants at the beginning of the year when most lobbyists file and subsequent one-on-one sessions for those who request them. Alternatively, the training could be limited to lobbyists or those who do not sign a waiver stating they fully understand and will comply with the lobbying laws. Citizens Union and the Clerk's Office also support the purchase of software that would track the types of calls the Clerk's Office receives, much like is

done for 311, so that it can tailor its training to frequently reported questions or issues, and report information related to all inquiries to the general public through its annual report.

B. Limit the Disproportionate Influence of Lobbyists that Arises from Political Activity

Lobbying activity has risen across all sectors of government in recent years, as measured by the expenditures and revenues made by lobbyists. This increase reflects the growing sense that retention of a lobbyist can amplify one's voice before elected officials and other decision-makers much more so than petitioning government without one. Lobbyists often provide a needed service both for those they represent and those in government. Their knowledge of particular issues and understanding of how government works can be helpful in presenting useful information, offering new ideas, and providing solutions. The problem of disproportionate influence arises, however, when their access crowds out the voices of others who may not have the same level of access or ability to be listened to by important government decision makers. While Citizens Union supports citizens retaining professional assistance to aid them in their constitutional right to petition government, our organization remains particularly concerned with the nexus between campaign involvement and lobbying activity and the disproportionate influence that may arise from that connection. The influence that lobbyists exert because of their knowledge, expertise and strength of their relationships with elected officials is enhanced when coupled with campaign assistance either in the form of providing strategic services or with campaign contributions that are made directly to, or bundled for, candidates for elected office.

The 2006 lobbying reform laws brought needed disclosure to the dual practice of campaign consultants who also provide lobbying services and vice versa. It also limited the perceived or actual influence of lobbyists by limiting the size of their direct campaign contributions and not matching them with public funds. But in achieving this reform, it shifted the sphere of influence from those who give to those who solicit contributions, essentially giving added power to those lobbyists who raise money.

Increased Lobbying Activity

A record \$3.49 billion was spent lobbying at the federal level in 2010 by lobbyists and special interests, more than doubling the amount spent in 1998 of \$1.44 billion.² A record \$213 million was spent on lobbying in Albany in 2010 by registered special interests.³ Spending on state lobbying is more than double the amount spent just 8 years earlier in 2002 of \$92 million and nearly twelve times the amount spent in 1987 of just \$18 million. Lobbying activity has grown in the City as well. In 2005, there were just 233 lobbyists and 1,297 clients registered with the City Clerk's Office.⁴ As of February 28, 2011, 734 lobbyists and 2,494 clients were registered with the City Clerk's Office, a dramatic increase of 315 percent in the number of lobbyists and 192 percent in the number of clients since 2005.⁵

In 2010, \$49.3 million was earned by lobbyists lobbying New York City government, more than \$5 million, or 12 percent more, than was earned in revenues in 2006.⁶ The top 10 lobbyists in 2010 made \$20.9 million in revenues, 42 percent of the total amount earned from lobbying by all lobbyists. In short, the number of lobbyists and clients, and the revenues lobbyists have made in New York City have all increased substantially since the lobbying law was last revisited in 2006 and, in part, can be attributed to the 2006 law that resulted in greater efforts to get previously undocumented lobbying activity to be reported.

² Total Lobbying Spending. Available at: <http://www.opensecrets.org/lobby/index.php>

³ NYS Commission on Public Integrity 2010 Annual Report. 2010 Lobbyist Spending, p. 18. May 2011. Available at: http://www.nyintegrity.org/pubs/annual_report_2010/2010%20Annual%20Report.pdf

⁴ Office of the City Clerk, Clerk of the Council. Lobbying Bureau Annual Report, p. 5. March 1, 2007. Available at: <http://www.cityclerk.nyc.gov/downloads/pdf/LobbyingActReport4.pdf>

⁵ Office of the City Clerk, Clerk of the Council. Lobbying Bureau Annual Report, p. 7. March 1, 2011. Available at: <http://www.cityclerk.nyc.gov/downloads/pdf/LobbyingAnnualReport2011.pdf>

⁶ Ibid, p. 15.

Lobbyists and Campaign Contributions

Lobbyists who make campaign donations to elected officials may be thought to have leveraged their influence on policy decisions because of their campaign contributions rather than solely on the merits of the policies for which they advocate or the expertise they bring to policy formation.

For that reason, the City put into place in February 2008 restrictions lowering the amount of money lobbyists can give campaigns to a maximum of \$400 for citywide office and \$250 for City Council as part of a larger effort to limit contributions by those who do business with the City. Consequently contributions from those doing business with the City have dropped significantly, according to the Campaign Finance Board's 2010 annual report, from 12.6 percent of all contributions to candidates to 3.6 percent.⁷ Lobbyists, however, still make a disproportionate number of contributions among those doing business with the City. According to the CFB's 2010 annual report, 30 percent (1,095 of 3,708) of all the contributions made by doing business contributors for the 2009 election cycle were made by lobbyists (doing business contribution limits only began on February 2, 2008 for lobbyists).⁸ Each lobbyist made, on average, 3.4 contributions, nearly twice as many as non-lobbyists in the doing business database. The top contributor in the doing business database, for example, made 48 different contributions to 38 different candidates.⁹ Employees and immediate family of the 2010 top 5 lobbying firms--even with the doing business restrictions lowering the amount lobbyists can give to campaigns--still made 188 contributions totaling \$59,318 since the doing business restrictions went into effect in 2008, according to queries made by Citizens Union on the CFB searchable database. The CFB estimates this information on lobbyists actually understates their influence, as the data from the City Clerk's Office is of lesser quality than that of other entities that provide information to the DBDB.

While lobbyists currently face a limit of up to \$400 on contributions per candidate with no public match on the amount they donate, there are no restrictions on contributions or the public match when lobbyists act as intermediaries and bundle contributions from others. Intermediaries do have to disclose contributions they "bundle", meaning those that they deliver to or solicit for candidates. While complete data on the number of lobbyists who are intermediaries is not readily available, Citizens Union has data from the Campaign Finance Board that suggests lobbyists are a significant proportion of intermediaries. For the 2009 elections, of the 138 intermediaries bundling contributions over \$9,900 (or double the individual limit for a contribution for mayor) 39 are lobbyists, a lobbying organization or a client. Together they bundled \$811,806 and received \$310,788 in matching public money. A separate analysis by Citizens Union found that of the 41 intermediaries bundling more than \$15,000 for the 2009 elections, 9 intermediaries were registered lobbyists during the same period. Together they bundled \$211,600. These informal surveys of intermediary data show that more than 20 percent of intermediaries bundling large sums of contributions are lobbyists.

Citizens Union Recommendation:

1. To limit lobbyists from leveraging their political campaign involvement to greater influence governmental decision making, **matching funds should be prohibited for contributions bundled by lobbying organizations or lobbyists.** The existence of restrictions on direct contributions by lobbyists now creates incentives for lobbyists to bundle contributions, undercutting the 2006 and 2008 reforms that limited their ability to give individually to the very individuals they were lobbying. This incentive applies not only to lobbyists but to all those doing business with the City who have their direct contributions limited but not contributions they raise. The Commission may want to consider repealing the public match on all contributions solicited by bundlers doing business with the City. Because lobbyists also advocate on policy before the same candidates they may bundle contributions for, Citizens Union believes repealing the public match should first be applied to lobbyists.

Lobbyists and Campaign Consulting Services

⁷ New York City Campaign Finance Board. *New Yorkers Make Their Voices Heard, A Report on the 2009 Elections.* p. 158.

⁸ Ibid, p. 153.

⁹ Ibid, p. 154.

A major part of the debate in 2006-2007 when the lobbying and campaign finance laws were last revised was how to address the influence of rapidly growing firms that combined both lobbying and campaign-related or political consulting services. Citizens Union testified at that time, noting the rapidly increasing number of these firms, and the enormous perceived if not actual influence the firms exercised as a result of helping to elect the very officials they then later lobby on behalf of their clients. Citizens Union released data that showed the most lucrative of these firms made millions of dollars per election cycle offering a combination of campaign and political consulting, professional fundraising, and lobbying services.

Proposals gained traction in 2006-2007 that would curtail lobbying by firms that also offered campaign-related and consulting services. The city's Conflicts of Interest Board initially issued a memo indicating public officials would have to recuse themselves from handling issues lobbied on by firms which public officials received campaign-related or consulting services from. The COIB, however, backtracked when questions were raised about the legality of the proposal (although San Francisco's ethics board banned the practice of multi-service firms lobbying officials they had helped to elect). Ultimately, these multi-service firms were required to disclose information about their campaign and political consulting and fundraising services to the City Clerk's Office in a report that details the lobbyists for the firm, the candidates receiving such services, the charges for the services, and the amount of money raised for each candidate who is a client if applicable.

Disclosure was a necessary first step in addressing the rise in multi-service firms that help numerous candidates for city office get elected and then soon thereafter lobby them. The perception persists, however, that candidates who get elected through the campaign services of lobbying firms may feel obligated to support policies advocated by the lobbying firms after they are elected. According to data provided by the CFB, of the 80 companies earning over \$100,000 for campaign-related services in the 2009 election cycle, nine, or 11.5 percent, were registered lobbyists that provided campaign consulting-related services. Three of these firms made upwards of \$1 million from selling such services.

Citizens Union Recommendations:

- 2. Prohibit candidates who participate in the city's campaign finance program from using public matching funds to purchase strategic campaign consulting services from firms that also provide lobbying services.** Citizens Union does not believe taxpayer dollars should be used to foster a practice in which public funds are paid to campaign firms which also lobby their previous clients should they win elected office. There are already a number of restrictions on the use of public money by campaigns, including prohibitions against using public funds for challenging ballot petitions and contributions, and loans or transfers to other candidates or committees. Campaigns not providing receipts for qualified services purchased with public money must currently refund that public money to the Campaign Finance Board. Participation in the campaign finance program is voluntary and it is appropriate to place such restrictions on how public funds are spent. Our proposal is a reasonable addition to these prohibitions, and one we believe is legally permitted since all candidates voluntarily opt into the public campaign finance system with the requirement that they will abide by certain rules like spending limits in order to receive taxpayer dollars.
- 3. The City also lags behind the State in closing the revolving door that too often exists between elected officials and other public servants holding senior positions and lobbying firms and organizations who advocate before the city. The ban should be extended from one-year to two years on former public servants who recently served as elected officials or in other senior-level positions from appearing before the agency or branch of city government from which they have departed to a private-sector job.**

C. Enhance Transparency of Lobbying Activity

The Definition of Lobbying

The current definition of lobbying is not clear as to when lobbying begins. Under the current definition, it can be argued that lobbying only applies to changes sought for laws already passed, as the definition does not mention bills or legislation but rather local laws. The Clerk's Office has confirmed ambiguity exists in the definition that could complicate its ability to enforce the law. The Office has interpreted lobbying activity for legislation as beginning once a bill has been introduced and received a number. This interpretation does not capture much of the activity that takes place prior to a bill's formal introduction. Many organizations seeking city funds as part of the budget process are also unaware that they are engaging in lobbying activity since they may not realize that the city budget is actually passed as legislation.

Citizens Union Recommendation:

- 1. The definition of lobbying should be changed to include activity prior to the introduction of a bill or resolution and clarified so that it applies to bills, including budget bills, and not simply laws already passed (local laws).** This will ensure full disclosure of lobbying activities so the public is more aware of which special interests are seeking to influence governmental decision-making.

Transparency and the City Clerk's Office

The Clerk's Office, while improving in a number of areas in recent years, could be much more transparent in providing data about lobbying in the city and its own operations. While the Clerk's Office issues an annual report, only recently in its 2010 report did it return to the past practice of listing the top lobbyists ranked by revenues earned.

The state lobbying database, including data reported on city lobbying activity, does provide some of this information but the city should also provide it or more clearly create links with the state database to enhance disclosure. The state's database, unlike the city's, allows users to search lobbying activity by bill number, compensation (income), expenses, lobbyist or client name, level of government, and other criteria. The city database is more limited, only allowing for search by lobbyist or client.

Citizens Union Recommendations:

- 2. The City Clerk's annual report should include more information on lobbying activity, including:**
 - the process by which random audits are completed;
 - the number of audits opened, in progress, and closed;
 - staff and budget of the Lobbying Bureau;
 - calls/emails received related to lobbying; and
 - rankings of lobbying activity by top subjects lobbied, top bills lobbied, most subjects lobbied, most bills lobbied, most frequently lobbied government institutions and contacts, most money spent lobbying, most clients, and top violators of lobbying law by frequency and severity (dollar amount fined).
- 3. Search options for the city's database should be expanded so it resembles the state's database. The city's database should allow for search by bill, subject, government entity, amount of money spent lobbying, and government contact in addition to existing search functions by lobbyist or client.** This may be best achieved by linking the city database to the state database, which has a more user-friendly search function but would require the state database to be greatly improved, as it frequently crashes and often does not return the same search results twice even when keywords or bill numbers entered are the same. The state database should also utilize drop down menus for reporting information so that analyses of disclosed lobbying activity can be more easily done.

4. **The Clerk's Office should report to the Mayor's Management Report (MMR) to enhance disclosure of its own performance.**

D. Reform Penalties

Improving Enforcement

While penalties were doubled for certain violations of the lobbying law in 2006, there remain loopholes that prevent sufficient enforcement. The CFB, for example, allows campaigns to refund lobbyists who have provided over-the-limit contributions without penalty if done so within 20 days of CFB notification. During the 2009 elections, the CFB identified more than 80 campaigns, at a total of nearly \$300,000, that received at least one over-the-limit doing business contribution. 2.2 percent of all matching public funds claims were also invalid. This lax 20-day penalty free period may encourage campaigns to see what they can get away with knowing they can continually return over-the-limit contributions without penalty.

Citizens Union Recommendation:

1. **Assess penalties against campaigns and candidates who, during one campaign or several campaigns for office, repeatedly must issue refunds to lobbyists for receiving over-the-limit contributions within the 20 day period allotted to do so under Local Law 34 of 2007.** Campaigns and candidates currently receive no penalty provided that over-the-limit contributions are refunded within the 20 day period.

Amnesty

The Clerk's Office is not currently authorized to grant periodic amnesties to encourage organizations that have not registered to do so without unduly burdening them with massive fines. Small non-profit organizations that have realized they should be registering to lobby have been penalized years of late fees for coming forth while those who have not registered at all and do not come forth go undetected, usually without penalty given the limited resources of the Clerk's Office to track down organizations that do not register at all.

Citizens Union Recommendation:

2. **A blanket amnesty program beginning in 2012 should be created, providing relief for some portion of late fees to non-profit and other organizations not currently reporting their lobbying activity to the Clerk's Office, so that they are encouraged to come out from the shadows and make known their advocacy before city government.** Akin to a tax amnesty program, this program should leverage the attention the Commission has recently brought to lobbying and also **advertise extensively the amnesty period, including with auditing firms that often do work for non-profit organizations and those who lobby.** Citizens Union has heard from those organizations that have belatedly come forth to report their lobbying that the costly late fees, assessed whether failure to report is deliberate or not, provide a strong disincentive to report. We believe transparency and knowing which actors are lobbying the government are more important than every belated filer being assessed the same level of penalties. That being said, an **amnesty for lobbying registration should be done just once or very infrequently** or those lobbying the government will game the system to avoid reporting until the next amnesty.

E. Clean Up & Clarify the Law

Citizens Union Recommendation:

1. The current lobbying law references state agencies overseeing lobbying that are no longer in existence. Any change to the lobbying law should also **change references in the law to the New York Temporary State Commission on Lobbying to a general reference to the state entity overseeing lobbying,** given likely changes at the state level to ethics laws or add "or any successor thereto" after each instance in which the New York Temporary State Commission is currently mentioned in law.