



Nassau County Adopts New Lobbying Registration and Reporting Requirements

Broad New Disclosures Impacting Vendors, Contractors and Lobbyists Effective Immediately

Nassau County Executive Edward Mangano issued two Executive Orders on May 15, 2015, which, for the first time impose broad lobbying disclosure requirements on contractors and vendors, prospective contractors and vendors, and lobbyists. Greenberg Traurig has been informed by the Nassau County Attorney's Office that current vendors will not be required to file disclosure statements at this time. Current lobbyists, however, will be required to register and submit periodic reports with filings to be posted on a to-be developed Nassau County website. Of particular interest, one of the new Executive Orders will require disclosure of lobbying efforts used to bring about business with Nassau County, even if such lobbying efforts took place prior to May 15, 2015. This *Alert* will review the requirements imposed by the Executive Orders and briefly discuss the interplay between Nassau County's new requirements and the existing requirements of the New York State Lobbying Act.

- I. **Executive Order 1:** Disclosures by persons and entities doing business with Nassau County or seeking to do business with the County.

Executive Order 1 broadly defines "the County" to include all "agencies, boards, commissions, department heads, legislators and committees, including, but not limited to the Open Space and Parks Advisory Committee and Planning Commission."

- A. This Executive Order covers “all vendors and prospective vendors and all other contractors and prospective contractors or other parties wishing to do business with the County” (referred to collectively as “Vendors”), and requires disclosure of:
- i. the name, address and other identifying information of the Vendor;
 - ii. the names and addresses of all “principals” of the Vendor, defined as “all individuals serving on the Board of Directors or comparable body, all partners and limited partners, all corporate officers, all parties of Joint Ventures and all members and officers of limited liability companies.” It is important to note that the names of all limited partners are required to be disclosed. This is an unusually broad requirement, particularly when combined with other required disclosures;
 - iii. the names of all shareholders, members or partners of the firm. Notably, the Executive Order requires disclosure of the names of all “individual shareholders/partners/members” if a shareholder is not an individual. Publicly traded corporations may file a copy of the corporation’s 10-K in lieu of this disclosure;
 - iv. all affiliated and related companies, including the relationship to the firm doing business with the County (noteote, however, that related entities will still have to file separate disclosure forms);
 - v. the names, and identifying information of all lobbyists “whose services were utilized at any stage” of the procurement, including pre-bid activities (“Lobbyist” is defined as “any and every person or organization retained, employed or designated by any client to influence – or promote a matter before” the County); and,
 - vi. a description of the lobbying activity and whether and where the lobbyist(s) are registered to lobby.
- B. Combining elements of both New York State and New York City lobbying laws, both Executive Orders define “lobbying” to mean any attempt to influence:
- i. any determination made by the County Legislature, or any member thereof, with respect to the introduction, passage, defeat or substance of any local legislation or resolution;
 - ii. any determination by the County Executive to support, oppose, approve or disapprove any local legislation or resolution, whether or not such legislation has been introduced in the County Legislature;
 - iii. any determination by an elected County official or an officer or employee of the County with respect to (a) the procurement of goods, services or construction, including the preparation of contract specifications which includes, but is not limited to requests for proposals; (b) the solicitation, award or administration of a contract, or (c) the solicitation, award or administration of a grant, loan or agreement involving the disbursement of public monies;
 - iv. any determination made by the County Executive, County Legislature or by the County of Nassau, its agencies, boards, commissions, department heads or committees, including but not limited to the Open Space and Parks Advisory Committee and Planning Commission, with respect to the zoning, use, development or improvement of real property subject to County regulation;
 - v. any agencies, boards, commissions, department heads or committees with respect to requests for proposals, bidding, procurement or contracting for services for the County;

- vi. any determination made by an elected county official or an officer or employee of the county with respect to: (a) the terms of the acquisition or disposition by the county of any interest in real property, (b) a license or permit for the use of real property of or by the county; or (c) a franchise, concession or revocable consent;
- vii. the proposal, adoption, amendment or rejection by an agency of any rule having the force or effect of law;
- viii. the decision to hold, timing or outcome of any rate making proceeding before an agency;
- ix. the agenda or any determination of a board or commission;
- x. any determination regarding the calendaring or scope of any legislature oversight hearing;
- xi. the issuance, repeal, modification or substance of a County Executive Order; and,
- xii. any determination made by an elected county official or an officer or employee of the county to support or oppose any state or federal legislation, rule or regulation including any determination made to support or oppose that is contingent on any amendment or such legislation, rule or regulation, whether or not such legislation has been formally introduced and whether or not such rule or regulation has been formally proposed.

II. **Executive Order 2:** Registration and Reporting of Lobbyists

A. Definition of Lobbyist

Lobbyist is defined as “any and every person or organization retained, employed or designated by any client to influence – or promote a matter before – Nassau County, its agencies, boards, commissions, department heads, legislators or committees, including, but not limited to the Open Space and Parks Advisory Committee and Planning Commission; or to otherwise engage in lobbying activities....” As noted previously, Executive Order 2 uses the same definition of lobbying as set forth in Executive Order 1, described above.

B. Annual Registration Required

Lobbyists earning or incurring in excess of \$1,000 in combined reportable compensation and expenses in a year are required to file an annual registration form with the County Attorney and with the Clerk of the County Legislature. The registration is required to be filed by January 15 of each year by lobbyists retained, employed or designated prior to December 31 of the prior year, who reasonably anticipate earning or incurring combined reportable compensation and expenses in excess of \$1,000 in the upcoming year. Lobbyists retained, employed or designated subsequent to December 31 of any year, must file within 15 days of being retained, employed or designated. Although it is not clearly stated, we have been informed by the County Attorney’s Office that firms and persons currently engaging in lobbying activities before Nassau County entities are required to register as soon as possible. Periodic reports from these entities will not be required until the County Attorney’s Office promulgates the periodic reporting form.

C. Contents of Annual Registration

- i. Name of lobbyists/lobbying organization;
- ii. whether the person/organization is registered elsewhere as a lobbyist;

- iii. name, address and telephone number of the client(s) retaining, employing or designating the lobbyist;
- iv. description of the anticipated lobbying activity; and,
- v. names of the persons, organizations or governmental entities expected to be lobbied.

D. Periodic Reporting Required

- i. Lobbyists earning or incurring combined reportable compensation and expenses in excess of \$1,000 must file periodic reports disclosing the amounts earned or expended during the reporting period and the cumulative amounts for the calendar year.
- ii. periodic reports are to be made on forms established by the County Attorney and are required to be filed 15 days after the close of each of the following periods:
 - a) January 1 through March 31;
 - b) April 1 through May 31;
 - c) June 1 through August 31; and,
 - d) August 31* through December 31.

*so in original

- iii. No periodic reports are required to be filed for any period in which the lobbyist did not earn or incur \$1,000 in combined compensation and expenses.

III. Interplay between the New York State Lobbying Act and the Nassau County Lobbying Disclosure Requirements

New York State's Lobbying Act has long required registration of, and reporting by, persons and organizations engaging in lobbying activities before New York State municipalities, including Nassau County. The threshold for registration and reporting to the State is \$5,000. Thus, the Nassau County \$1,000 threshold will require reporting by additional persons and entities. Similarly, the State Lobbying Act definition of lobbying is somewhat less inclusive than the Nassau County Executive Orders, again including additional persons and entities. Although the Executive Orders are broader in scope, and have a lower threshold for reporting, it is likely that some of the persons and entities that will be disclosed on the new Nassau County reports may have been required to have been registered under New York State's Lobbying Act. Thus, persons and entities covered under the new Nassau County requirement should ensure that they have been appropriately registered with the State, if required, or take steps to immediately come into compliance.

Government Law Compliance Practice

Greenberg Traurig's Government Law Compliance Practice is available to assist with questions regarding New York State's lobbying, ethics, and election laws, and to assist with the development or implementation of compliance policies. Greenberg Traurig has a broad range of experience in New York City and State, and provides advice to some of the world's leading corporations, lobbying firms, public officials, candidates, advocacy organizations, and others who seek to navigate New York's complex political law compliance requirements.

This *GT Alert* was prepared by **Mark F. Glaser** and **Joshua L. Oppenheimer**. Questions can be directed to:

- > [Mark F. Glaser](mailto:glaserm@gtlaw.com) | +1 518.689.1413 | glaserm@gtlaw.com
- > [Joshua L. Oppenheimer](mailto:oppenheimerj@gtlaw.com) | +1 518.689.1459 | oppenheimerj@gtlaw.com
- > Or your [Greenberg Traurig](#) attorney

Albany +1 518.689.1400	Denver +1 303.572.6500	New York +1 212.801.9200	Shanghai +86 (21) 6391.6633
Amsterdam +31 (0) 20 301 7300	Fort Lauderdale +1 954.765.0500	Northern Virginia +1 703.749.1300	Silicon Valley +1 650.328.8500
Atlanta +1 678.553.2100	Houston +1 713.374.3500	Orange County +1 949.732.6500	Tallahassee +1 850.222.6891
Austin +1 512.320.7200	Las Vegas +1 702.792.3773	Orlando +1 407.420.1000	Tampa +1 813.318.5700
Boca Raton +1 561.955.7600	London* +44 (0) 203 349 8700	Philadelphia +1 215.988.7800	Tel Aviv[^] +972 (0) 3 636 6000
Boston +1 617.310.6000	Los Angeles +1 310.586.7700	Phoenix +1 602.445.8000	Tokyo[‡] +81 (0)3 3216 7211
Chicago +1 312.456.8400	Mexico City⁺ +52 (1) 55 5029 0000	Sacramento +1 916.442.1111	Warsaw[~] +48 22 690 6100
Dallas +1 214.665.3600	Miami +1 305.579.0500	San Francisco +1 415.655.1300	Washington, D.C. +1 202.331.3100
Delaware +1 302.661.7000	New Jersey +1 973.360.7900	Seoul[∞] +82 (0) 2 369 1000	Westchester County +1 914.286.2900
			West +1 561.650.7900
			Palm Beach +1 561.650.7900

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