

History of the "Doing Business" Issue in Relation to the New York City Campaign Finance Program

In 1998, a Charter Commission recommended, and the voters approved, an amendment to the City Charter requiring the Board to propose "such rules as it deems necessary" to regulate campaign contributions from those "doing business" with the City. In its consideration of possible rules, the Board was directed by the Charter to balance factors including (1) "the effectiveness of the voluntary system of campaign finance reform, (2) the costs of such system, [and] (3) the maintenance of a reasonable balance between the burdens of such system and the incentives to candidates to participate in such system."

The Board conducted an extensive study of the issue and crafted draft regulations. Response to a pre-rulemaking solicitation for information and views was extremely disappointing. Nonetheless, the Board issued three alternative versions of "doing business" rules for public comment in the hopes of identifying an effective way to regulate this area. Even with three suggested approaches, the Board received very limited responses and, among those, no consensus on an approach. In order to pursue the issue further, Board staff met both with the Mayor's Office of Contracts and the City Clerk's Office to determine the extent to which the information maintained by those agencies could assist the Board in the enforcement of such a rule. Unfortunately, the information collected by both these agencies was inadequate for the purposes of regulation.

After this process, the Board concluded that it had met its Charter obligations and that it would be useless to proceed further to consider promulgating rules without the means to enforce them effectively. The Board also suggested that the Administration in 2000 move forward with a centralized database of who does business with the City, but no action was taken to accomplish this at that time.

Current Status

More recently, Mayor Bloomberg re-raised the issue. The Board responded that it had no means to enforce any regulations or a law directed at contributors and voiced its preference that legislation be adopted by the City Council because the Board does not have the power to adopt regulations that address (1) those "doing business" with the City (rather than campaign contributors generally); (2) contributions to **all** candidates (rather than those just to candidates participating in the New York City Campaign Finance Program); and (3) contributors (rather than the candidates, who do not have first-hand information about who does business with the City). The Board noted that in the jurisdictions that do regulate this area, the burden of compliance is placed on the person or entity who seeks to "do business" rather than on candidates or contributors generally.

The current Administration has developed public databases of VENDEX, which contains information about who has contracts with the City, and lobbyists registered with the City Clerk's office. The Campaign Finance Board is assisting the Administration in the further development of these and other "doing business" databases to make them reliable, searchable, available to the general public, and in the best of all worlds, compatible with the Board's searchable database of contributions. Board staff will be working with DoITT on this project.

This effort will ultimately permit disclosure and possibly other restrictions on contributions from those doing business with the City. By itself, the development of these databases will be a major achievement, placing New York City at the forefront in the United States in yet another reform arena. The Board hopes that, going forward, further progress can be made by collaborative efforts among the Administration, the Council, the Board, and concerned citizens.

2005 Citywide Elections Contribution Limits

Mayor	Public Advocate	Comptroller	Borough President	City Council
\$4,950	\$4,950	\$4,950	\$3,850	\$2,750

Both monetary and “in-kind” contributions of goods and services are subject to these limits. In addition, contributions from corporations and PAC’s that have not registered with the CFB are prohibited.

“Doing Business” Disclosure and Regulation

Should the Board propose rules that would go into effect once a complete database of those “doing business” with the City is available to the public and compatible with the Board’s database? Or should the Board propose rules that would go into effect as a database for each subject (e.g., contracts, lobbying, land-use) becomes available?

Should the Board conduct a survey of contributors, based on office held or size of contribution, to establish an additional factual record relevant to future rule-making?

Should the Board propose legislation to the City Council which would either limit or ban contributions from those who “do business” with the City? Should the Board propose that the Charter’s “doing business” provisions be amended?

“Doing Business” Substantive and Procedural Questions: Land Use, Franchises, Concessions, Revocable Consents, and Licenses

Should there be a dollar value of business dealings that triggers the “doing business” disclosure requirement or regulation (e.g., land use contracts over one million dollars)? Should multiple business dealings within a certain time period or by affiliated entities be aggregated to meet a dollar amount trigger?

What type of trigger should there be for doing business contributions when there is no easily or clearly discernable dollar value for the “business” (e.g., lobbying, some land use approvals, concessions, or franchises)?

“Doing Business” Questions for City Agencies

What kind of business transactions is the agency responsible for tracking (e.g., real estate transactions, construction services, zoning permits, licenses)?

What is the process for approval of land use applications? What is the process for approval of franchises, concessions, revocable consents, and licenses?

What kind of information does the agency maintain on individuals or entities who “do business with the City” (e.g., names and addresses of developers, dollar amount of contracts, type of business, names and addresses of those other than the entity doing business, such as principals, and how are these defined)?

How is this information maintained (e.g., computer database, paper files, a combination of computer database and paper files, etc.)?

How long is information on each individual or entity kept?

How many records are kept (going back to what date)?

How often is the information updated?

Is the information readily accessible to the Campaign Finance Board? To the public?

Is the information available in electronic format? If yes, please specify. For example, can export files be easily derived (i.e., is it easy to derive specific data in electronic format)? Is the information available over the internet? Is it searchable? Is it available at a publicly accessible computer terminal? Can the entire database be obtained by the public?

If the Campaign Finance Board wanted your agency to collect more information, what legal authority would be necessary for this?

For a complete listing of questions asked at previous Campaign Finance Board “Doing Business” hearings, please visit our website at www.nyccfb.info or contact the Press Unit at (212) 306-7100.

The Campaign Finance Board has been holding a series of public hearings on the issue of candidates receiving contributions from those “doing business” with the City. Below is a list of people who have testified in person or submitted written testimony (or both) on the issue at previous hearings.

- Martin Begun, Begun Reiter Associates
 - Marcy Benstock, Executive Director, Clean Air Campaign, Inc.
 - Anthony Crowell, Special Counsel to the Mayor
 - Dick Dadey, Executive Director, Citizens Union
 - Mark Davies, Executive Director, Conflicts of Interest Board and
Wayne Hawley, General Counsel and Deputy Director, Conflicts of Interest Board
 - Martha Mahan Haines, Assistant Director, Division of Market Regulation,
Securities and Exchange Commission
 - Craig Holman, Legislative Representative, Public Citizen
 - William Josephson and Peter J. Kiernan, representing the Association of the Bar of the City of New York
 - Arthur Levitt, former Chairman, U.S. Securities and Exchange Commission
 - Gino Menchini, Commissioner, DoITT
 - Adam Morse, Associate Counsel, Brennan Center for Justice
 - Harry Pozyski, Esq., Chairman, Center for Civic Responsibility
 - Megan Quattlebaum and Rachel Leon, Common Cause New York
 - Victor Robles , City Clerk and Clerk of the City Council
 - Neal Rosenstein, Government Reform Coordinator, NYPIRG
 - Paul Ryan, Associate Legal Counsel, Campaign Legal Center
 - Henry Stern, New York Civic
 - Heather Taylor, Director of Communications and Lobbyist for Center for Civic Responsibility
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