

POLICY ALERT

TREASURY ISSUES GUIDELINES FOR COMMUNICATIONS REGARDING TROUBLED ASSET RELIEF PROGRAM

On September 10, 2009, the Department of the Treasury issued guidance regarding communications with outside persons regarding Emergency Economic Stabilization Act funds (EESA) and Recovery Act funds. EESA is the implementing statute for the Troubled Asset Relief Program (TARP). The new guidance closely follows guidance issued by the Office of Management and Budget (OMB) on July 24, 2009, (see previous client alert [here](#)) and seeks to preserve consistency between Treasury guidance and OMB guidance.

The new guidance clarifies that communications between federal agency officials and outside persons, including federally registered lobbyists, concerning general logistical questions about Recovery Act funding or implementation are unrestricted. That is, requests for a meeting, inquiries concerning the status of an action, inquiries concerning the deadlines or logistics of Recovery Act funding opportunities or other similar administrative requests that do not involve advocacy concerning Recovery Act policy or a particular project or application for funding under the Recovery Act are not subject to restriction and need not be publicly disclosed.

Similar to the OMB guidance issued on July 24, 2009, Treasury's guidance indicates that communications made at widely attended gatherings, such as remarks before the audience or during a panel, are also not restricted or subject to disclosure unless the communication is a private conversation.

All oral communications made during the period following the submission of a formal application for a competitive grant or other competitive form of federal financial assistance under the Recovery Act and continuing through the award of the competitive Recovery Act funds are prohibited. This prohibition extends to all outside parties, lobbyists and non-lobbyists alike. If the communication is purely logistical; is made at a widely attended gathering in remarks or during a panel; is to or from a federal agency official and an elected chief executive of a state, local or tribal government, or to or from a federal agency official and the presiding officer or majority leader in each chamber of a state legislature; or is initiated by the federal agency official, it is not subject to this prohibition. Similarly, if the communication is made prior to submission of a formal application or after the award of such funds, it is permissible. If a communication is made in writing by a registered lobbyist concerning a pending application, the written communication will be posted on Treasury's Web site within three days.

For all other communications by registered lobbyists concerning Recovery Act policy or projects for funding that do not address a pending application, the oral communication will be documented by Treasury and posted on Treasury's Web site within three days, disclosing the date of contact, the names of parties to the conversation, the name of the lobbyist's client(s), a general one-sentence description of the substance of the conversation and any written materials provided by the outside parties. Any written communications by a registered lobbyist will also be posted online.

CONTACT INFORMATION

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