

POLICY ALERT

NEW LOBBYING DISCLOSURE ACT GUIDANCE

The Secretary of the Senate and Clerk of the House issued new guidance regarding disclosure of lobbying activities (LD-2) and contributions (LD-203) under the Lobbying Disclosure Act of 1995 (LDA) as amended by the Honest Leadership and Open Government Act of 2007 (HLOGA). While the changes are not drastic, they further refine and clarify previously issued guidance.

QUARTERLY REPORTS (LD-2)

Disclosure of Dues Payments to Trade Associations

The revised guidance addresses the issue of trade association dues. As you know, organizations registered under the LDA are required to report lobbying-related expenses such as employee compensation, office overhead and payments to lobbying firms or other vendors conducting lobbying activities. Registered organizations are also required to disclose the portion of dues payments to trade associations that is used by these associations for lobbying purposes. This portion of the revised guidance is not new and has just now been released as written, rather than verbal, advice.

The revised guidance clarifies that dues payments must be reported in the quarter in which they are paid. Many organizations have traditionally divided their annual dues payments into four quarters (or semi-annually, before HLOGA) to reflect that the dues were paid over a year. The revised guidance clarifies that dues payments must be reported in the quarter in which they are paid, rather than being apportioned over a year. This means that if the dues are paid in January, the first quarter report will necessarily be larger than the other quarters, taking into account the lump sum dues payments. If, however, the dues are paid over the course of the year, they should be reported in their respective quarter. If you have already divided your dues payments for 2008 among the four quarters, then remain consistent throughout 2008 and begin the new practice with the first quarter 2009 report. Verbal guidance from the Secretary of the Senate's Office has confirmed that amendments are not necessary for 2008 information, but that filings covering activity beginning January 1, 2009, should be handled in accordance with the revised guidance.

SEMI-ANNUAL REPORTS (LD-203)

Events Honoring or Recognizing a Covered Official

The revised guidance also made clarifications to the reporting of payments for events "honoring or recognizing" a covered official. If your organization sponsors or organizes an event and/or directly pays the costs of an event where a covered official is honored, regardless of whether or not the honor is tangible, the costs associated with the event must be disclosed. The Secretary of the Senate's Office confirmed verbally that events where a covered official is listed on the invitation as being honored would be reportable. For example, a meet and greet breakfast or a

reception “honoring” a specific member would require disclosure of the costs of that event on a registrant’s or lobbyist’s filing in those cases where the registrant or lobbyist paid the underlying costs. The costs are reportable even if the registrant is not an organizing sponsor, is not listed on the invitation or is not otherwise publicly recognized as a sponsor. In contrast, an event at which a covered official is merely a speaker would not trigger disclosure. However, simply designating a covered official as a speaker at an event at which the covered official receives some form of special recognition will not negate the disclosure requirement.

The guidance also reiterates that merely buying tickets or a table at an event that honors or recognizes a covered official may not trigger disclosure. If your organization is not the sponsor or organizer of an event and does not directly pay for some or all of the costs of the event but simply purchases tickets or a table at an event where an official is to be honored, the event should be evaluated on a case-by-case basis to determine whether the costs associated with the event should be disclosed.

PAC Board Members and Treasurers

For lobbyists who sit on the governing board of a PAC that qualifies as a separate segregated fund (SSF) (i.e., a PAC that is established and connected with a corporation or trade association), the lobbyist must simply disclose that he or she is a board member of the SSF and need not report all of the SSF’s contributions on his or her LD-203 *provided that* the SSF’s contributions are disclosed in an LD-203 report filed with the Clerk of the House and the Secretary of the Senate. This means that, even if the lobbyist sits on the board of an SSF that is not connected with the lobbyist’s own employer, the lobbyist does not need to disclose the SSF’s contributions on his or her LD-203, so long as the SSF’s contributions are disclosed in an LD-203 filed with the Clerk of the House and Secretary of the Senate. An example of this would be a lobbyist who does not work for the trade association sitting on the governing board of the trade association’s PAC.

Political Committees Established, Financed, Maintained or Controlled

A leadership PAC or former leadership PAC (i.e., a former covered official who is now a lobbyist) may be a political committee established, financed, maintained or controlled by a lobbyist, which must be disclosed. Also, political committees that have changed from a principal campaign committee to a multi-candidate committee could be considered to have been established by a covered official or federal candidate.

Sole Proprietors

Sole proprietors are required to file both a registrant and lobbyist LD-203 report. Verbal guidance from the Secretary of the Senate’s Office clarifies that, for an individual listed as both the registrant and lobbyist, all personal contributions reported on the lobbyist LD-203 report and the registrant LD-203 report may say “no contributions” and cross-reference the lobbyist’s LD-203 report.

Third-party Preparers

The new guidance states that third-party preparers may submit filings on behalf of all filers if they have appropriate documentation demonstrating that they have authorization to submit such filings. We are happy to submit these filings on your behalf.

CONTACT INFORMATION

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