

POLICY ALERT

REVISED GUIDANCE FOR THE LOBBYING DISCLOSURE ACT SEMIANNUAL REPORT



The Secretary of the U.S. Senate and Clerk of the U.S. House of Representatives have issued new guidance regarding the LD-203 filing. The new information revises the initial LD-203 guidance issued on May 29, 2008. The new guidance significantly narrows the range of contributions and other payments required to be reported on the LD-203 Semiannual Contribution Report due on July 30, 2008.

AREAS OF CHANGE

Connected PACs

Lobbyists who, either by vote or by service in a position such as treasurer of a political action committee (PAC), are a member of a PAC board that controls contributions made by the PAC, must disclose that PAC's contributions on their LD-203 reports. If a lobbyist sits on the board of his or her company's PAC (a connected PAC), then the lobbyist may disclose on his or her LD-203 that he or she is a PAC board member *without* having to list all of the PAC's contributions, provided, however, that the PAC's contributions are disclosed on the company's LD-203.

For those lobbyists who sit on the board of a non-connected PAC, i.e., a PAC unaffiliated with his or her company, the guidance would seem to suggest that the contributions of that PAC must be disclosed on the lobbyist's LD-203 regardless of whether they are also reported on a company's LD-203.

Payments for Events to Honor or Recognize a Covered Official

This is perhaps the biggest area of change for those reporting under the LD-203. Under previously issued guidance, if a covered official's name appeared anywhere on promotional materials, invitations or a program for an event, payments for the event could trigger disclosure obligations. The newly issued guidance tracks the statutory language more closely, so that only those events where a covered official is being honored or recognized with an award or plaque must be disclosed. This means that if a covered official is merely an honorary co-host of an event or is listed on the invitation as an attendee, speaker or invited guest, the event does not necessarily need to be disclosed. However, additional facts, such as an award, plaque or some other special honor or recognition could trigger disclosure obligations.

Example: In State “A,” there is a large regional conference on “Saving Our River,” sponsored by three 501c(3) organizations. Senator Y and Representative T are given “Champions of Our River” awards at a dinner event that is part of the conference. Registrant B contributes \$3,000 specifically for the costs of the dinner event, paying one of the sponsors directly. At the time of the contribution, B was aware that Y and T would be honorees. B would disclose the payment of \$3,000 on the relevant date payable to the sponsor with the notation that Y and T were honored.

Example: Registrant B, an industry organization, hosts its annual gala dinner and gives a “Legislator of the Year” award to Representative T. Revenues from the gala dinner help fund Registrant B’s activities throughout the year. Registrant B must report the cost of the event, the payee(s) and that the event honored Representative T. The fact that the event helped raise funds for the organization does not change the reporting requirement.

Example: Registrant B, an industry organization, has an annual two-day “Washington Fly-In” for its members. Among the events for its members is an event on “The Importance of Industry G to the U.S. Economy.” Senator T is listed on the invitation as a speaker at the event. Based on these facts alone, Registrant B would not need to report the event under this section. For a covered official to speak at such an event would not, in and of itself, form the basis for concluding that the official is to be honored or recognized. Supplemental facts might require reporting. For example, if Senator T were given a special award, honor or recognition by the organization at the event, the cost of the event would have to be reported, even if the invitation did not indicate that such would be given.

The new guidance also clarifies the purchase of tickets or a table at an event where a covered official is being honored must be disclosed. Merely purchasing a ticket or a table at such an event does not automatically trigger disclosure.

Example: Registrant B buys a table at a dinner event sponsored by a 501c(3) organization to honor Representative T, but Registrant B is not considered a sponsor of the event under House and Senate gift rules. Lobbyist C pays the \$150 individual ticket cost to attend the dinner, but is not considered a sponsor of the event under House and Senate gift rules. The purchase of a table or ticket to another entity’s event, in and of itself, is not sufficient to be considered paying the costs of an event. Supplemental facts might require reporting. For example, if B or C undertakes activities that trigger House and Senate gift rules and they become sponsors of the event, they would need to report the costs incurred by B or C for the event, noting that Representative T was the honoree. Similarly, if B or C purchases enough tickets or tables so that it would appear that they are paying the costs of the event, then they would need to disclose the same information regarding Representative T such that B or C either becomes a sponsor of the event for House and Senate gift rule purposes, or if B or C purchases enough tickets or tables so that it would appear that they are paying the costs of the event and would not appear to be just ticket or table buyers, then B or C would need to report the costs incurred by B or C for the event, noting that Representative T was the honoree.

Contributions to Non-Profits or Other Entities

Previously issued guidance required the disclosure of payments made to charities or other entities following a solicitation by a covered official. The new guidance clarifies that a contribution made to a “designated entity” following a “mere statement of support or solicitation” by a covered official is not automatically required to be disclosed unless the covered official has an additional role. For example, if the covered official is on the board of the entity, the contribution would have to be disclosed. Also, if a covered official directs a payment to a charity in lieu of honoraria, the contribution would have to be disclosed.

Other Guidance

For all contributions and payments disclosed on the LD-203, filers should use the date of payment, rather than the date of the event, as the contribution date. So, if a check was written on February 13, 2008, but the event was not held until March 27, 2008, a filer should use the February 13 date as the contribution date.

Issue	Previous Guidance	New Guidance	Example
Connected PACs	Lobbyists who, either by vote or by service in a position such as treasurer of the PAC, are a member of a PAC board that controls contributions made by the PAC, must disclose that PAC's contributions on their LD-203 reports.	<p>If a lobbyist sits on the board of his or her company's PAC (a connected PAC), then the lobbyist may disclose on his or her LD-203 that he or she is a PAC board member without having to list all of the PAC's contributions, provided however, that the PAC's contributions are disclosed on the company's LD-203.</p> <p>For those lobbyists who sit on the board of a non-connected PAC, i.e. a PAC unaffiliated with his or her company, the guidance would seem to suggest that the contributions of that PAC must be disclosed on the lobbyist's LD-203, regardless of whether or not they are also reported on a company's LD-203.</p>	<p>Lobbyist G sits on the board of her company's PAC and contributes. She does not have to disclose her personal contribution to the company's PAC, nor does she need to list the disbursements the PAC has made. However, she does need to list the PAC itself and note her position on the PAC board.</p> <p>Lobbyist H sits on the board of a client's PAC and has decision making authority. Lobbyist H must disclose the name of the PAC and all relevant disbursements the client's PAC has made during the reporting period.</p>
Payments for Events to Honor or Recognize a Covered Official:	If a covered official's name appeared any place on promotional materials, invitations or a program for an event, payments for the event could trigger disclosure obligations.	<p>Only those events where a covered official is being honored or recognized with an award or plaque must be disclosed.</p> <p>If a covered official is merely an honorary co-host of an event or is listed on the invitation as an attendee, speaker or invited guest, the event does not necessarily need to be disclosed.</p> <p>Additional facts, such as an award, plaque or some other special honor or recognition could trigger disclosure obligations.</p>	In State "A," there is a large regional conference on "Saving Our River," sponsored by three 501c(3) organizations. Senator Y and Representative T are given "Champions of Our River" awards at a dinner event that is part of the conference. Registrant B contributes \$3,000 specifically for the costs of the dinner event, paying one of the sponsors directly. At the time of the contribution, B was aware that Y and T would be honorees. B would disclose the payment of \$3,000 on the relevant date payable to the sponsor with the notation that Y and T were honored.

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CONTACT INFORMATION

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