

Are You Ready?!?

November 2007

Are you ready for the compliance challenges that present themselves with the passage of the Honest Leadership and Open Government Act of 2007 (HLOGA)? Many provisions of HLOGA, such as the criminalization of Congressional gift violations, became effective in September with the President's signature. Others, including the new Lobbying Disclosure Act (LDA) special reporting and certification rules, become effective January 1, 2008.

With all of the new rules, compliance becomes even more complicated than before and necessitates an organized approach that begins now. Understanding the new rules is the first step towards implementation, which needs to involve training of all pertinent personnel, a review and update of processes, collection and preparation of necessary data, and institutional accountability. In short, it means change—and a lot of it.

Many corporations and trade associations have formed internal committees and task forces to tackle the compliance challenge, bringing together leaders from legal, compliance, management, government relations, and human relations, to name a few. Other companies also are trying to process and complete the 2007 Year End LDA report in 20 days (but only file it by February 14) to prepare for the usual course of business as of April of next year.

Among the other challenges faced by corporations and trade associations are the following:

- HLOGA calls for each individual lobbyist, lobbying firm, and employer of in-house lobbyists (the last two are referred to as "registrants") to certify that they have not provided a gift in contradiction to the House or Senate gift rules. Does your organization have a process established to account for any gift-giving by personnel? Do your employees know the gift rules and the necessary and now extremely important details of the exceptions thereto?
- HLOGA calls for quarterly LDA reports to be filed 20 days after the end of a calendar quarter. Does your organization have the data collection process in place to process the information in such a rapid time-frame? (It used to be 45 days twice a year.)
- HLOGA calls for special reports by lobbyists, registrants, and their PACs twice a year. Are your lobbyists aware of this special reporting requirement? Have they been instructed as to what contributions and other payments are covered or where and how to track their own contributions and payments? How about corporate expenditures?

- HLOGA changes the rules with respect to the use of corporate aircraft by Members of Congress, staff, and Congressional and Presidential campaigns. Have your legal and corporate offices been informed of these changes? Are policies in place to make sure that no illegal corporate in-kind contributions are made through the use of corporate aircraft?
- HLOGA changes the time period over which an individual employee's activities must be analyzed to determine whether he or she is a "lobbyist" under the LDA. The time period is now three months instead of six months. Have you begun to look to see whether employees other than your registered lobbyists will qualify as "lobbyists" under the new rule? Have you changed their job functions and activities to make sure they do not become lobbyists (if that is the company's policy choice)? If not, have you made them aware of the rules that will become applicable to them come January 1? (This is doubly important for many trade association personnel who are not located in Washington, D.C., but who do undertake federal lobbying.)
- HLOGA adds many reporting requirements to the duties of registered lobbyists (including in-house lobbyists). Have you analyzed your company's list of registered lobbyists to make sure that everyone does and expects to continue to be a "lobbyist" under the LDA? Are you planning to delete those who no longer qualify from your February 14, 2008, LDA report so that the new reporting requirements will not apply to them?

Congress changed the laws and rules about gifts and lobbying. As a result, it is incumbent upon organizations in the private and nonprofit sectors to comply with the new rules; otherwise, they will risk civil, criminal, and public relations consequences. Now is the time to prepare – not January 1, 2008.