

One Report Down and Five to Go—the Next Phase of LDA Compliance

May 2008

Now that the first quarterly Lobbying Disclosure Act (LDA) report has been filed, organizations can turn their full attention toward the first semiannual LDA report due July 30 (as long as they do not forget, of course, the second quarterly report due on July 21). The semiannual report, or Form LD-203, involves the reporting of very different information when compared to the quarterly report; therefore, organizations must adjust their compliance postures accordingly. The form will be available in June.

Whereas the quarterly reports mainly concern lobbying expenditures and the issues lobbied, the semiannual reports focus on gift rule compliance and the reporting of political contributions and politically related expenditures. Since the certification and reporting requirements apply to the entire corporation, trade association, or lobbying firm (as well as, separately, to each registered individual lobbyist), it is important to develop compliance policies and processes to cover the entire organization. Careful, systematic, and thorough planning and development are necessary.

The LDA, as amended by the Honest Leadership and Open Government Act (HLOGA) of 2007, prohibits entities that employ or retain lobbyists from giving gifts or travel to Members of Congress or Congressional staff if the gift or travel would be in violation of the Congressional gift rules.

On the semiannual LDA report, an organization employing in-house lobbyists must certify that it knows and understands the gift rules and that the organization has not provided any impermissible gifts or travel to Members or staff. The first certification requirement

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necessitates at least a training program. Furthermore, the corporate employee or officer filing the second certification on behalf of the organization will undoubtedly insist on corporate measures to ensure that the organization has actually made no impermissible gifts nor provided any impermissible travel—through direct payments, the actions of agents or employees, or through reimbursements.

In addition, the LD-203 report requires that lobbyist employers report most PAC contributions (duplicative of FEC reports) and payments by the corporation for politically related and politician-related expenditures. The list of statutorily required payments is as follows:

- Contributions of \$200 or more made within the semiannual period to a Presidential library foundation or Presidential inaugural committee; and
- Payments (other than those required to be disclosed by the recipient to the Federal Election Commission [FEC]):
 - For the cost of an event to honor or recognize a covered legislative or executive branch official;
 - To a person or entity in recognition of a covered legislative branch official; To an entity established, financed, maintained, or controlled by a covered legislative or executive branch official;
 - To an entity designated by a covered legislative or executive branch official; and
 - To pay the costs of a meeting, retreat, conference, or other similar event, held by, or in the name of, one or more covered legislative or executive branch officials.
- To an entity that is named for a covered legislative branch official;

Disclosure must be made by the organization, any PAC that it has established or controls, the organization's individual lobbyists, and any PAC or PACs that the lobbyists have established or control. Individual lobbyists must file personal reports with their personal disclosure and certifications. They will need personal passwords and IDs from the Secretary of the Senate and Clerk of the House to so file.

There is yet little guidance as to the above reporting requirements. Guidance from the Secretary of the Senate and the Clerk of the House provide limited information. See pages 20-22 here. It is hoped that these offices will release supplemental guidance in June.

The manner in which an organization addresses the need for information gathering, training, and compliance policies depends on its culture, size, and level of risk aversion. Wiley Rein has helped scores of clients choose the best compliance options to meet the requirements of the LDA and the special needs of the client. Wiley Rein also has helped clients to implement such compliance programs so that the organizations can file timely and accurate semiannual LDA reports by July 30. These clients have ranged from small trade associations to lobbying firms to multinational corporations. Although the reporting period for the July 30 semiannual report is already well under way (it runs from January 1 to June 30, 2008), there is still time to address the certification and reporting issues raised by the LDA and to prepare for the July 30 deadline.

The text of the LDA can be found [here](#), and the 2008 due dates for reports can be found [here](#).