



POLITICAL LAW

MLA CLIENT ALERT: CONGRESS ISSUES REVISED GUIDANCE FOR LOBBYING DISCLOSURE ACT FILINGS JUST PRIOR TO JANUARY DUE DATES

On Friday, January 16, 2009, the Clerk of the House of Representatives and the Secretary of the Senate issued changes to their official Lobbying Disclosure Act (LDA) Guidance, which instructs registrants and lobbyists in the preparation and filing of their quarterly Form LD-2 lobbying activities reports and semiannual Form LD-203 lobbying contribution reports. The key changes are summarized below and the following link is provided to the complete [Revised Guidance](#).

LD-2 Quarterly Lobbying Activities Reports -- Due January 21, 2009. The revisions to the [Revised Guidance](#) confirm previous verbal advice that a registrant must report the portion of membership dues paid to another organization that engages in lobbying activities, whether or not that other organization is reporting those expenditures itself for LDA purposes. The registrant has the obligation to obtain this information if it is not otherwise provided by the other organization.

Additional guidance is also provided for filing registration and termination reports when two lobbying firms merge or form a new entity.

LD-203 Semiannual Lobbying Contributions Reports -- Due January 30, 2009. One of the biggest changes in the [Revised Guidance](#) involves a new interpretation about who must report contributions made by political committees that are connected to or sponsored by a trade association or other organization under Federal Election Commission Act definitions and rules. If a connected or sponsoring organization (a) is registered under the LDA and (b) reports the actual political contributions on its LD-203 -- then individual lobbyists need only report that they are officers or board members of the political committee on their individual LD-203 reports. Previously, Congressional officials indicated that such relief was only available for employees of a connected or sponsoring organization; but that lobbyists employed by member companies who serve as officers or board members of a trade association political committee were required to report all of the political committee's contributions as if they were their own. This new interpretation should result in greater clarity in reporting. It should also provide welcome relief for individual lobbyists and help reverse the decision of some to resign their positions on association political committees, because of misimpressions caused by reporting under the previous interpretation.

The [Revised Guidance](#) also modifies several LD-203 examples and otherwise:

- Clarifies the reporting requirements for contributions to current and former leadership PACs and multicandidate committees.
- Notes that in the case of sole proprietors and small lobbying firms, two LD-203 reports must be filed -- one by the registrant and one by the listed lobbyist ("even if the lobbyist is the registrant and vice versa").
- Emphasizes that disclosure of a payment to help support a conference or event may be required regardless of whether the registrant would be considered a sponsor under the House or Senate gift rules. This disclosure is required even if the registrant is neither listed on the invitation as a sponsor ("or the like") nor is publicly held out as a sponsor ("or the like").
- States that designating a covered official as a "speaker" at an event at which the covered official also receives a special award, recognition or honor does not permit the filer to avoid or evade reporting the

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expenses as an honoring event. It also is not necessary for the covered official to receive a physical object to be considered honored or recognized and, thus, trigger the reporting obligation.

- Emphasizes that a case-by-case analysis is necessary to determine whether purchasing multiple tickets and/or tables to an event would be considered paying the “cost of the event” and reported on Form LD-203.
- Makes clear that the requirement to report contributions to Presidential inaugural committees includes the official “Presidential Transition Organization” of the President-elect and Vice President-elect under the Presidential Transition Act. Although not mentioned in the [Revised Guidance](#), registrants and lobbyists should be mindful that expenditures honoring covered officials at the party conventions and in connection with the Presidential inauguration and the new Congress may also trigger LD-203 reporting requirements depending upon the facts and circumstances.

Responsibility for User IDs, Passwords, Authority for Filings, and Documentation. The [Revised Guidance](#) confirms that registrants and individual lobbyists are responsible for maintaining the confidentiality and to control the use of their user ID and/or passwords. If a registrant or third-party preparer is making the filings, all parties are still responsible for retaining appropriate documentation to verify report contents and also to demonstrate that they are properly authorized. As a practical matter, registrants that make the filings for their listed lobbyists should make sure that their listed lobbyists verify the information and confirm the HLOGA certification of compliance with Congressional ethics rules. In the more normal case where listed lobbyists make their own filings, registrants still have a vested interest in making sure that their listed lobbyists are making the required filings, by obtaining copies or some other confirmation that the LD-203 filing have been submitted.

Future Changes. The [Revised Guidance](#) notes that Senate and House officials will continue to welcome questions, comments and suggestions for purposes of drafting additional updates.

For additional information, please feel free to contact any of the McKenna Long & Aldridge LLP attorneys or advisors listed above. Information about McKenna Long & Aldridge LLP’s Political Law Group, including additional resource information and a list of professionals practicing in this area, is located at <http://www.mckennalong.com/politicallaw>.

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