

GAO Reports to Congress on LDA Compliance

May 2009

On April 1, 2009, as required by the Honest Leadership and Open Government Act of 2007 (HLOGA), the Government Accountability Office (GAO) issued its second annual report on compliance with the requirements of the Lobbying Disclosure Act (LDA) by lobbyists, lobbying firms and registrants. For this latest report, the GAO focused on evaluating the sufficiency of written documentation maintained by lobbyists to support their LDA filings. The GAO found that, although the LDA contains no specific requirement to create or maintain documentation to support LDA filings, "lobbyists were generally able to provide documentation . . . to support items in their disclosure reports."

For its April 2009 report, the GAO reviewed a random sample of 100 quarterly lobbying activity reports (LD-2 reports) filed during the first three quarters of 2008. The GAO extrapolated the results to the total number of LD-2 reports (40,169) filed during the period. The GAO also met with and interviewed lobbyists regarding their filings and requested supporting documentation for key elements of the reports in the sample group. For income and expense entries, the GAO found that lobbyists could provide written documentation for an estimated 99% of the reports. In approximately 14% of the reports, however, the documentation was either incomplete or contradicted the entries on the forms. Based on the data, the GAO estimated that "approximately 6 percent of all disclosure reports erroneously report the amount of income or expenses for lobbying activities."

The GAO reviewed five additional data categories on the sampled LD-2 reports, including names of lobbyists who previously held covered official positions, houses of Congress and federal agencies lobbied and names of individuals no longer acting as a lobbyist for the client. The GAO found that only an estimated 35% of lobbyists

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required to report in these categories could provide documentation for all items.

For the April 2009 report, the GAO also reviewed a random sample of 100 semi-annual reports of contributions (LD-203 reports) filed for mid-year 2008. The GAO estimated that for approximately 65% of these reports the reporting lobbyists or lobbying organizations could support all entries with documentation. An estimated 16% of the semi-annual reports had errors or omissions or failed to disclose required contributions.

The GAO issued its first LDA compliance report in September 2008. In that initial report, the GAO estimated that lobbyists had written documentation to support income and expense entries in approximately 91% of the reports filed for first quarter 2008 (compared with the estimate of 99% for the first three quarters of 2008 as reported by the GAO in April 2009). As to whether accurate supporting information for income or expense entries existed in either written *or oral* form, the GAO estimated in September 2008 that such support was available for at least 95% of all first quarter 2008 reports. However, as in its April 2009 report, the GAO found in September 2008 that "the extent to which lobbyists could provide written documentation varied for different aspects of the reports." For example, regarding information in the LD-2 on who acted as a lobbyist, the GAO estimated that written documentation existed for only 35% of the first-quarter 2008 forms requiring this information.

HLOGA also tasked the GAO, through its annual LDA compliance report, to make recommendations to improve LDA compliance and to provide the Department of Justice with the resources and authorities needed for effective LDA enforcement. Regarding LDA enforcement, the GAO reported in April 2009 that the U.S. Attorney's Office for the District of Columbia "plans to put in place a system to better track, analyze, and report on its enforcement activities" and that it had assigned an additional staff member to assist with lobbying compliance issues. In its September 2008 report, the GAO had recommended that the U.S. Attorney's Office develop a "structured approach" to targeting its enforcement resources to the most significant noncompliance cases.

The GAO did not make any new recommendations regarding LDA compliance in its April 2009 report, although it did note that its "review of documentation and lobbyists' statements indicates some opportunities to strengthen lobbyists' understanding of the [LDA] requirements."