

GUIDANCE REGARDING FEDERAL LOBBYING ACTIVITIES AND EXPENDITURES

OVERVIEW

In September, 2007, Congress passed the Honest Leadership and Open Government Act (HLOGA), which amended the federal Lobbying Disclosure Act of 1995 (LDA) in several significant respects. The law now requires organizations, including colleges and universities, that employ lobbyists to register with the federal government and to disclose federal lobbying activities and certain governmental expenditures on a regular basis; and it imposes significant civil and criminal penalties for violations of its requirements.

The University employs one federal lobbyist, who also serves as the Director of Federal Relations in the Office of the President. Therefore, the University is registered under the LDA and must comply with the federal reporting requirements. These requirements include filing both quarterly lobbying reports and semi-annual reports of expenditures for federal officials.

The purpose of this Guidance is to facilitate the University's compliance with its obligations under federal law and to coordinate and advance institutional priorities. **It is important to note that these requirements address activities undertaken by University personnel by or on behalf of the University; they do not apply when University employees interact with government officials in their personal or other professional capacities.**

QUARTERLY LOBBYING DISCLOSURE

Who may lobby on behalf of the University?

By virtue of their positions at the University, the President, Vice Presidents, Deans and the Director of Federal Relations may lobby *on behalf of the University*. Any other employees who engage in such activities are considered to be acting in their personal or other professional capacities, unless they have expressly been authorized to lobby on behalf of the University, on a particular issue, by the President, a Vice President, a Dean or the Director of Federal Relations. The Director of Federal Relations should be informed of all such authorizations in advance of any federal lobbying contacts.

What lobbying information needs to be reported and how?

The law requires the University to report all **lobbying activities** *on behalf of the University* with **covered federal officials**, along with certain expenses relating to those activities.

Employees who engage in such lobbying must keep written records of their lobbying activities including, for each **lobbying contact**: the date and duration of the contact; the subject matter(s); the federal entity and official(s) contacted; other University personnel in attendance; support efforts (including preparation and planning time and personnel); any follow-up actions; and expenses. Please note: federal sponsored project and Higher Education Act funds may not be used to influence certain federal actions, including federal contract and grant awards.

All covered lobbying activities and related expenses must be reported to the Director of Federal Relations on a **Quarterly Federal Lobbying Report form**. A separate Report Form should be submitted for each lobbying contact within one week after the contact occurs.

Each quarter, the Director of Federal Relations will ask the President, the Vice Presidents, the Deans and anyone authorized by them to confirm that all federal lobbying activities have been reported or that there were no covered lobbying contacts during the reporting period.

What about personal and other professional activities?

These requirements are not intended to, and do not, restrict the rights of any University employees (administrators, faculty or staff) to lobby or otherwise contact federal government representatives while acting in a personal or other professional capacity or on behalf of other organizations; nor are employees prohibited from referring to their affiliation with the University when identifying themselves to federal officials. However, all such personal or professional contacts (whether in person, in writing or by e-mail or telephone) must clearly be made in the name of the individual making the contact or on behalf of the other organization, and such activities may not in any way imply that that the individual is representing or otherwise acting on behalf of the University.

SEMI-ANNUAL EXPENDITURES DISCLOSURE

Who must file a semi-annual expenditures report?

The University and its lobbyist (the Director of Federal Relations) are required to file a semi-annual report disclosing certain contributions, other payments to honor or recognize covered federal officials, and/or funds paid to designated entities at their suggestion. The reports also include certifications regarding compliance with the House and Senate gift and travel rules. Although other individual employees are not required to file individual reports, all covered expenditures *on behalf of the University* must be included in its report; and all covered activities must, therefore, be reported to the University on a **Semi-Annual Federal Expenditures Activity Report form**.

What expenditures need to be reported and how?

The law requires the disclosure of certain political contributions and/or expenses paid: for an event to honor or recognize a **covered federal official**; to an entity that is named for or in recognition of a covered federal official; to an entity established, financed, maintained, controlled or designated by a covered federal official; for a meeting, retreat, conference, or other similar event held by, or in the name of, one or more covered federal official(s); and to a Presidential library foundation or Presidential inaugural committee.

Reporting is generally required only when a federal official is being “honored or recognized” by the University in a special way. The mere fact that a covered official attends or speaks at an event sponsored by the University does not trigger the reporting requirement. However, interpretation of the reporting requirements can be complicated, and questions about whether an activity or expenditure is covered should be referred to the Director of Federal Relations.

All covered activities and expenditures must be reported to the Director of Federal Relations on a **Semi-Annual Federal Expenditures Activity Report form**. Twice a year, in advance of the federal semi-annual reporting deadline, the Director of Federal Relations will ask the Vice Presidents, Deans, Department Chairs, and Directors to submit the Report Form and confirm that all covered activities and expenditures from their respective units have been reported or that there were no covered activities during the reporting period.

What “gift certification” is required for the semi-annual report and how does that affect the University?

The law requires the University to certify that it is familiar with the House and Senate Rules relating to gifts and travel and that it has not provided, requested or directed a gift (including travel) with knowledge that the gift may not be accepted under the Rules.

The Rules prohibit members of Congress and their staffs from accepting a gift unless it falls within one of the narrow exceptions enumerated in the Rules. One of those exceptions is for gifts funded by state and local governments, including public institutions like the University. However, this exception does not apply to private entities, including private colleges and universities, even

when they act jointly with a public institution; and additional restrictions may be imposed by other federal and State laws. Therefore, **any gifts (including tickets and travel) for federal officials should be coordinated, in advance, through the Director of Federal Relations.**

DEFINITIONS

What are the key terms under the federal LDA and HLOGA, and what do they mean?

Covered federal officials include both **covered legislative and executive branch officials.**

Covered legislative branch official includes any member or staff of the U.S. Senate or House of Representatives.

Covered executive branch official includes (1) the President, Vice President or White House staff; (2) an official in the executive branch who is a Schedule C political appointee or above; or (3) a uniformed officer in the military. Covered Executive Branch Officials include individuals in the Executive Office of the President and high level appointees, including Department Secretaries and Assistant Secretaries and Presidential-appointed directors of federal agencies, centers and institutes. Career government personnel and program and contract officers are **not** Covered Executive Branch Officials.

Lobbying activities generally encompass activities that try to influence the thinking of legislators or other covered federal officials for or against a specific cause. Such activities include **lobbying contacts** and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, as well as coordination with the lobbying activities of others.

Lobbying contacts mean any oral, written or electronic communications with a Covered Legislative Branch Official or a Covered Executive Branch Official that is made on behalf of the University to influence (1) federal legislation, rules or regulations; (2) an executive order, agency rule or any other program, policy or position of the U.S. government; (3) the negotiation, award or administration of a federal contract, grant, loan, permit or license; or (4) the nomination or confirmation of a person for a position subject to confirmation by the U.S. Senate.

Lobbying contacts do **NOT** include: (1) requests made to an official for a meeting or for the status of an action or other similar administrative request that does not attempt to influence the official; (2) testimony given before a Congressional committee or submitted in writing on the public record; (3) information provided in writing at the request of a federal official; (4) communications in response to a notice in the Federal Register, Commerce Business Daily or similar publication soliciting comments from the public and directed to the agency official specifically designated in the notice to receive such comments; and (5) communications required by subpoena, civil investigations, or otherwise compelled by law.

TIME-FRAME FOR REPORTING

When are the quarterly and semi-annual reports filed?

The deadlines for the University to file quarterly Lobbying Reports are: January 20, April 20, July 20 and October 20.

The deadlines for filing semi-annual Expenditures Reports are: January 30 and July 30.

A summary of the reporting time frames (covered report periods, internal UM due dates and filing deadlines) appears in the chart below.

	Quarterly Lobbying Report	Semi Annually Contributions Report
Who needs to complete each report	Vice Presidents and Deans	Vice Presidents, Deans, Department Chairs, and Directors
When	Quarterly	Semi-annually
Filing Deadlines / Reporting Periods	January 20, (covers 10/1 – 12/31) April 20, (covers 1/1 – 3/31) July 20, (covers 4/1 – 6/30) October 20, (covers 7/1 – 9/30)	January 30, (covers 7/1 – 12/31) July 30, (covers 1/1– 6/30)

QUESTIONS

Questions concerning this Guidance or the quarterly or semi-annual reporting requirements should be directed to Rae Grad, Director of Federal Relations in the Office of the President at rgrad@umd.edu or 703-509-2838 (mobile).