



Methods for Tracking Lobbying Activities

Public Affairs Council

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Overview

- Which employees must track their time and how to educate them about the LDA
- Creating lobbying policies for employees to follow
- Tracking how much time senior executives, including CEOs, spend on lobbying activity
- Getting the information you need from employees, associations and outside lobbyists
- Whether it's better to track activities internally or hire a contractor

LDA Lobbying Reports

- “LD-2” Quarterly Report of Lobbying Activities
- Three Methods:
 - Method A: Lobbying Disclosure Act
 - Method B: IRC for Charitable Non-Profits
 - Method C: IRC for Businesses / Associations
- Tracking LDA and IRC Simultaneously
 - General Differences Between LDA & IRC
 - Covered Official Definitions – Executive Branch
 - Grassroots, State & International Activity
 - IRC has Fewer Exceptions

LDA Definitions: A Refresher

- “Lobbying Activity”
 - Contacts + Efforts in Support of Contacts
 - Preparation and Planning
 - Research and Other Background Work
Intended, at the Time of Preparation, for Use in
Lobbying Contacts
 - Coordination of Lobbying Activities
- “Lobbyist”
 - 20% of time in Quarter + 2 Contacts

LD-2 Reportable Information

- Lobbying Expense Calculation (nearest \$10k)
 - Expenses of In-House Lobbyists and Non-Lobbyists Who Engaged in Lobbying Activities
 - Lobbying Dues Paid to Trade Associations
 - Payments to External Consultants for Lobbying
- Issues Lobbied and Contacts Made
 - Listing of In-house Lobbyists Who had Contacts During the Quarter
- Disclosure of Affiliated Organizations
- Foreign Interest Information

In-House Expenses

- Includes Expenses for Anyone Engaged in Lobbying Activities, Even if they Do Not Meet the Threshold for Registration
 - Registered Lobbyists
 - Corporate Executives and Legal Team
 - Policy, Advocacy, Alliance Development (etc.)
 - State Lobbyists During “All Hands on Deck” Periods
 - Administrative Assistants (likely de minimis)
- Categories of Expenses
 - Employee Time (hours or percentage)
 - Direct Costs (travel, including portion of mixed trips)
 - Overhead

In-House Expenses

- Common Methods for Tracking
 - Lobbyists and Lobbyist Support
 - Detailed Worksheets – weekly or bi-weekly
 - Level of Detail
 - Corporate Executives/Legal Team
 - Less Detailed Worksheets Submitted in Connection with a Specific Trip
 - Coordination with Administrative Assistants
 - Policy, Advocacy, Alliance Development, State Lobbyists
 - Monthly or Quarterly Surveys
 - Administrative Assistants
 - Depends on Role and Whether they are Captured in “Overhead”

In-House Expenses

- Two methods for calculating monetary value of time
 - Percentage of time multiplied against quarterly W-2 salary
 - Annual W-2 salary divided by 2080 hours
- Three methods for calculating overhead
 - Ratio method
 - Percentage of lobbying time vs. non-lobbying
 - Gross-up method
 - Multiply lobbying hours by 175% - support staff included
 - Multiply lobbying hours by 225% - support staff excluded
 - Section 263A Method (hint: no one uses it!)

In-House Contacts and Issues

- Use Worksheets to Track Specific Issues Lobbied and Categorize into “Issue Areas”
 - Level of Specificity for Sub-Issues
 - Identify Houses of Congress and Agencies where Contacts Were Made During Quarter
 - Only List Lobbyists who Had Contacts
- Review By In-House or External Counsel
- Importance of De-Listing Individuals who will no Longer Lobby

Trade Association Dues

- Need to include percentage used for FEDERAL lobbying
 - Many invoices include percentage of lobbying, but under IRC definition
- Important to identify ALL payments by the company for trade association dues
 - Coordinate with finance and tax department
 - Educate business units
 - Compare to Prior Years

External Consultant Fees

- Include Fees Paid to Consultants for Lobbying Activities
 - “Hybrid” Consultants
 - Review Consultant Reports Prior to Filing to Determine the Amount they are Reporting
 - Review Issue Areas for Consistency and to Avoid Damaging Descriptions

Methods for Tracking In-House Activities

- Worksheet

- Weekly or Monthly summary of time spent on lobbying activities
- Can track hours or percentage time

- Lobby Contact Report

- Report is completed for each lobbying contact, rather than cumulative
- Preferred method for individuals who engage in limited lobbying

Lobbying Policies

- Key Aspects

- Organization must know who is making lobbying contacts
- Lobbyists should track their time contemporaneously
- Expenses related to lobbying must be tracked
- Lobbyists should be trained annually on the LDA requirements and gift/ethics rules

Questions?



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Kate Belinski is a member of Nossaman's Public Policy Practice Group. Ms. Belinski focuses on advising corporations, trade associations, other non-profit organizations, advocacy groups, candidates and officeholders on wide range of issues related to campaign finance, government ethics, and administrative law.

Ms. Belinski has counseled clients on the Federal Election Campaign Act, the Lobbying Disclosure Act, the Foreign Agents Registration Act, the Foreign Corrupt Practices Act, the Administrative Procedure Act; Internal Revenue Service (IRS), Federal Communications Commission (FCC) and Securities and Exchange Commission (SEC) regulations; the Federal Acquisition Regulation, and state and federal pay-to-play laws. She has represented clients in investigations conducted by US Senate and House committees, the Department of Justice, federal agencies and state attorneys general on a variety of matters.

Ms. Belinski also provides general counsel to a number of non-profit organizations and government agencies.

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