

September 2007

## **It's Now the Law: Understanding and Complying With the Honest Leadership and Open Government Act of 2007**

By Jeffrey P. Altman, Esq.

As the first order of business during the 110th Congress, the House of Representatives and the Senate took separate actions to fulfill campaign pledges to tighten ethics and lobbying rules. They did so to address the widely publicized lobbying and gift scandals involving Jack Abramoff and to counter a public perception of institutional corruption on Capitol Hill. Some nine months later, on September 14, President Bush signed the Honest Leadership and Government Act of 2007.

Although there remain strong differences of opinion (both substantive and political) over whether the new law goes too far or not far enough, one thing remains clear: everyone who does business with Congress needs to understand and abide by the new rules or face severe civil and criminal penalties. Congressional ethics offices, the Government Accountability Office, the United States Attorney, and the Department of Justice are all assigned

increased roles to monitor, investigate, and enforce compliance. The media and public interest groups are eager to find their next poster child for public corruption.

***In a city where appearance and reputation mean everything, associations and other nonprofit organizations must learn to comply with the new rules or bear the consequences.***

There is much to be said in favor of transparency and disclosure, and new uniform electronic filings should ease some past compliance burdens. At the same time, it will be much easier for the media, public interest groups, and government compliance officials to research and identify violations. Additionally, it is inevitable that the expanded electronic databases will be used to investigate and allege improper connections between lobbying activities and campaign contributions, and official actions, even where none may exist.

In a city where appearance and reputation mean everything, associations and other nonprofit organizations must learn to comply with the new rules or bear the consequences. Their activities must be able to withstand sharp media focus as well as possible enforcement actions and prosecutions. There is no margin for error!

Most of the new rules apply only to organizations that are registered under the Lobbying Disclosure Act of 1995 (LDA). The key new provisions provide for increased frequency and expanded content of electronic reports; eliminate the \$50 exception for gifts (including meals and entertainment); impose severe restrictions on Congressional travel; and increase civil penalties up to \$200,000 and impose new criminal penalties up to five years in jail for anyone who "knowingly" and "corruptly" fails to comply.

Perhaps the most radical change is that LDA registrants and their lobbyists are now legally responsible for complying with the new rules. Previously, only members of Congress and their staff could be held responsible for violation of the gift rules. Practically speaking, private parties could only be prosecuted and held liable if it could be proved that a gift, lavish entertainment, or recreational travel was intended as a bribe, or if they made the mistake of lying to investigators when questioned.

In contrast, individuals signing LDA reports must now certify that there has been no violation of the rules by their organizations and lobbyists, with increased civil penalties and new criminal sanctions facing anyone who "knowingly" and "flagrantly" fails to comply. Such certifications presumably imply a good-faith obligation on LDA registrants to educate and question the activities of their lobbyists and other employees, so that compliance can be reasonably assured and accurate reports can be filed. If such due diligence procedures are followed, the individual signing the form for the organization arguably should not be held personally responsible for the acts of fellow employees of which that individual has no knowledge or control. The lack of clarity on this point, however, remains a strong concern and is an issue that should be clearly addressed as Congress implements the law and new rules.

In addition to these changes that are directed exclusively to LDA registrants and their lobbyists, there are other changes that apply more broadly to all associations and nonprofit organizations who deal with members of Congress and staff. These changes primarily involve the basic gift, entertainment, and travel rules (and exceptions); the so-called "revolving door rules" and other employment matters; and the procedures by which Congress considers earmarks and legislative matters. In addition, Congressional staff and the ethics offices already are beginning to question whether they should continue activities that may have seemed acceptable in the past, but may now seem to violate the spirit if not the letter of the rules. Every organization that deals with members of Congress and staff must be prepared to deal with this new attitude and is at risk for noncompliance either with the changes or with the existing rules that will now be vigorously enforced.

For organizations that are registered under the LDA, it is extremely important to note that the new prohibitions apply to all employees and not just the lobbyists who are listed in their LDA reports. For example, no employee of an organization registered under the LDA may use a business credit card or seek reimbursement for a gift or meal to a member of Congress or staff unless they are able to meet the same exceptions as the organization's lobbyists. Moreover, even if they use their personal funds, their actions may come under strict scrutiny, and a charge may be made that they were improperly trying to avoid application of the rules. Education and compliance procedures are therefore necessary to avoid inadvertent violations by individuals who otherwise might have no idea they are subject to the new rules.

Organizations who engage in some lobbying activities but are not currently registered under the LDA should make sure that they have properly determined that they are exempt. Organizations who are currently registered under the LDA but whose key programs may be negatively impacted by the new prohibitions may wish to reduce their lobbying activities so that registration is no longer required.

Associations and nonprofit organizations have unique opportunities and challenges in addressing the new rules. On the positive side, there may be some opportunity to shift otherwise prohibited activities to affiliated entities that are not registered under the LDA. Such changes should be done carefully, however, and there must be strict compliance with

both the letter and spirit of the new rules for such activities after they are moved to an affiliate (such as by banning any involvement of the listed lobbyist for the original organization).

On the negative side, associations and nonprofit organizations face the challenge of reporting their lobbying and political activities to Congress, the Internal Revenue Service (under proposed changes to IRS Form 990), and the Federal Election Commission under three different regulatory schemes. They must also determine how to report to their members the portion of their dues that is not tax deductible because it helps pay for lobbying activities as defined under yet another set of tax rules. Although there is some attempt to harmonize the definitions and reporting obligations, these issues are extremely complex and further guidance is needed.

Another troubling provision requires the disclosure of corporate donors and corporate members that "actively participate" in so-called coalition activities. This provision may prove particularly troublesome for organizations that engage in issue advocacy and grassroots lobbying, assuming it withstands constitutional challenge. It will be extremely important for this rule to be implemented in a manner that will not infringe rights and activities protected by the free speech, free exercise, and free association clauses of the First Amendment, or years of litigation, like ongoing challenges to certain provisions of the Bipartisan Campaign Reform Act, will undoubtedly follow.

Although many valid questions remain about the details and implementation of the new rules, which will have to await the release of additional Congressional guidance documents and instructions, associations and nonprofits need to take immediate steps to educate and train their staff to understand and abide by the new rules. The new gift and travel rules already are effective, and changes to the LDA generally will become effective for reporting periods beginning on or after January 1, 2008. If there is any doubt about whether a proposed activity complies with the new rules, the question should be decided in a manner that is most likely to avoid an embarrassing situation or a violation that could result in civil and criminal penalties.

Such caution mirrors the current attitude of Congress to put scandals and adverse publicity behind them. For example, the advice being provided by the House Committee on Standards of Official Conduct to members of Congress and staff is to "protect the integrity of the House." A guidance memorandum issued on June 14th states that the "House Code of Official Conduct requires House Members and staff to *adhere to the spirit* as well as to the letter of the Rules of the House. Narrow, technical readings of the House gift rule

***As always, good preparation is the best way to avoid trouble, but responding in a serious and thorough manner to any inquiries and stories will help make sure that a minor mistake does not become a public relations nightmare or a federal crime.***

should be avoided." The [guidance memorandum](#) cautions that "Members and staff should avoid situations that present even the appearance of impropriety." Associations and nonprofit organizations should take their lead from Congress and establish education and training programs that will ensure strict compliance with the new rules.

Although one can question whether the acts of one or two bad apples should have resulted in the imposition of this complex new regime on the lobbying and government affairs community, the new rules are a reality, and multiple mechanisms have been established to

ensure compliance with the new rules. The best thing that every association and nonprofit organization can do is to educate their staff, institute appropriate compliance procedures, and make sure that proper care and attention is devoted to making correct, complete and timely filings.

Undoubtedly, Congress will be sending out correction notices, and there will be random GAO audits and sensational newspaper articles based on information gleaned from the new electronic databases. Each of these situations needs to be seriously addressed in a manner that is consistent with the possible civil and criminal penalties that are applicable for running afoul of the new rules. Moreover, the old penalties still apply for making false statements and obstructing a government investigation when questioned. As always, good preparation is the best way to avoid trouble, but responding in a serious and thorough manner to any inquiries and stories will help make sure that a minor mistake does not become a public relations nightmare or a federal crime.

The remainder of this article will explain both the new and existing rules and highlight those issues that are particularly significant for associations and nonprofit organizations that interact with members of Congress and staff.

### **Legal Sources for the New Ethics Rules and Lobbying Disclosure Act Changes**

The House and Senate each have their own ethics rules that govern gifts (including meals and entertainment) and travel that may be provided to members of Congress and staff. These separate rules are administered by the House Committee on Standards of Official Conduct and the Senate Select Committee on Ethics. Each of these committees issues extensive guidance documents (sometimes commonly referred to as "pink sheets") and provides training and advice to members of Congress and staff. Copies of the rules and further guidance documents can be found at the House and Senate websites:

- [House Committee on Standards of Official Conduct](#)
- [Rules of the House of Representatives, 110th Congress](#) (PDF)
- [Senate Select Committee on Ethics](#)
- [Standing Rules of the Senate](#)

The basic scheme for registering and reporting lobbying activities is established by LDA. The LDA is administered by the Clerk of the House and the Secretary of the Senate, who are responsible for interpreting its provisions and issuing appropriate forms, instructions, and interpretative guidance documents. Further information about the LDA is currently set forth in the instructions to the LDA forms and in some general guidance materials provided by the [Senate](#) and by the [House](#).

Amendments to the internal House and Senate rules and to the LDA were made in [S.1](#), which was passed by the House on July 31, 2007, and by the Senate on August 2, 2007, and signed by President Bush on September 14, 2007. Changes to the internal rules of the House were made previously by [H. Res. 6](#), adopted by the House on January 4, 2007 (covering general changes to the gift rules); [H. Res. 363](#), adopted by the House on May 2, 2007 (regarding the use of private aircraft); and [H. Res. 437](#), adopted May 24, 2007 (regarding charitable events).

The changes to the gift rules were effective upon adoption of the House resolutions and enactment of S.1. The LDA changes are generally effective for reporting periods beginning on or after January 1, 2008.

## **General Background Information on the Gift Rules (Including Meals & Entertainment) and Travel Rules**

As noted above, the House and Senate each have their own ethics rules that govern gifts (including meals and entertainment) and travel that may be provided by private parties to members of Congress and staff. The House and Senate ethics committees each have issued guidance on these rules and routinely provide guidance and training to members of Congress and staff.

House Rule XXV and Senate Rule XXXV generally allow a member of Congress or staff to accept any single gift (including meals and entertainment) valued at less than \$50. Gifts from a single source may not exceed \$100 in any calendar year, and gifts of less than \$10 do not count toward this annual limit. Gifts cannot be solicited or provided in return for or because of any official action. A gift does not include anything for which fair market value is paid. If an item is worth more than \$50, the recipient cannot just pay the excess, but must pay the full market value or decline.

There are numerous specific exceptions that allow for gifts (including meals and entertainment) in excess of these limits, but they must be carefully applied. Also, gifts can never be solicited by a member of Congress or staff, even if an exception otherwise would apply. The House and Senate gift rules contain special provisions covering certain activities such as political activities, the valuation of tickets to sports and entertainment events, and sponsored travel that are particularly important to associations and nonprofit organizations.

## **Changes and Exceptions to the Gift (Including Meals & Entertainment) and Travel Rules**

The existing rules and exceptions set forth in House Rule XXV and Senate Rule XXXV generally remain the same for associations and nonprofit organizations that are not registered under the LDA (although there are a few changes that apply to everyone). Given the current climate and heightened scrutiny that can be expected, however, such organizations should provide greater education and training to make sure that all of their employees understand and strictly comply with the existing rules and their narrow exceptions, even if they are not registered under the LDA.

As discussed above, the biggest change in the gift rules is that lobbyists can no longer use the \$50 rule and must rely solely on the other exceptions if the association or nonprofit organization itself is registered under the LDA, or it retains an outside lobbying firm that is registered on its behalf. It is important to repeat that the elimination of the \$50 rule applies more broadly than just the associations and nonprofit organizations that are registered under the LDA and the individuals listed as lobbyists in their reports. All employees of such entities are barred from using corporate funds or business credit cards to provide gifts. Moreover, all employees also are barred from using even their personal funds to give a gift (including a meal or any entertainment) to a member of Congress or staff if there is any intent to avoid the new prohibition. Given the heightened scrutiny as well as increased civil and criminal penalties that are now applicable, it is important to educate and require every employee of a registered association or nonprofit organization to avoid such activities unless there is strict compliance with one of the exceptions.

Unless otherwise indicated, the following exceptions to the gift rules remain applicable whether or not the association or nonprofit organization is registered under the LDA. The term "gift" is used broadly to include meals, entertainment, and anything else of value. It is

important to note that these exceptions are specific and narrow. It is safest to follow the examples that are provided.

**Gifts based on personal friendship** are exempt from the gift rules. The friendship and gift giving must be reciprocal and the donor cannot use a business credit card, seek business reimbursement, or take a tax deduction for the gift. This exemption can be used most safely when the personal friendship is long standing and preexists the assumption of office or duties by the member of Congress or staff. A history of reciprocal gift giving is important to safely qualify for this exception.

**Attendance at a widely attended event**, including a meal, is exempt as long as the member of Congress or staff is invited by the sponsor and attendance is reasonably related to their official duties. A widely attended event includes a reception, convention, conference, or briefing where there is a reasonable expectation that at least 25 persons other than members of Congress and staff will be in attendance. The 25-person requirement may be satisfied with members or donors of the association or nonprofit organization and other guests and invitees, but staff of the sponsoring entity do not count. There is no limit on the cost of the meal as long as it is not lavish.

**Food or refreshments of a nominal value, other than as part of a meal**, continue to be allowed. For example, coffee, juice, pastries, and bagels provided at a morning meeting; cookies provided as an afternoon snack; and light hors d'oeuvres and appetizers served at an evening reception are all acceptable as long as they are not lavish. Such food and refreshments cannot be provided under this exception, however, if they constitute or are intended as a meal; so buying a hot dog or hamburger that is intended as lunch is forbidden. An association or nonprofit organization can utilize this exception even when no one other than their own staff is present (in contrast to the widely attended event exception that requires nonstaff individuals such as representatives of member companies or donors to meet the 25-person requirement).

**Items of nominal value** that are worth less than \$10 may still be given under this exception. No item in excess of \$10 should be given unless it has been specifically approved in the past (which would include a baseball cap, t-shirt, or greeting card, but not a coffee mug).

**Gifts paid directly by a federal, state or local government**, including public universities are still covered by an exception.

**Home-state products intended for promotional purposes**, such as food products, fruits, nuts, a Christmas tree grown in the member's home state, but not tickets to events, are exempt from the gift rule.

**Charity events** are still exempt if the offer of free attendance comes from the sponsor of the event. Attendance may include waiver of any fee, local transportation, food, refreshments, entertainment, and instructional materials furnished to all attendees in a group setting as an integral part of the event.

**Books, periodicals, or other informational materials** are still covered by an exception.

**Political events** also remain exempt. A member of Congress or staff can accept free attendance, including accompanying food or refreshments, at a fundraising or campaign

event sponsored by a political organization, such as an association political action committee. However, a private meal with a lobbyist where a campaign contribution is provided will not qualify under this exception, unless the meal is sponsored and paid for by a political organization and the expenditures are reported as required by FEC rules.

**Tickets to entertainment and sporting events** can no longer be accepted from associations and nonprofit organizations that are registered under the LDA. Also, for purposes of determining whether the \$50 rule is met for organizations that are not registered, private boxes and other seats with an artificially low value or without any face value must be treated the same as the highest individually-priced ticket for the event. There is nothing that prohibits a member of Congress or staff from purchasing a ticket using these valuation rules.

**Travel** also can no longer be accepted from associations and nonprofit organizations that are registered under the LDA except under very limited circumstances. Such travel must be limited to one day (or, under certain circumstances, two days), and several specific conditions must be met. Importantly, no lobbyist can request or be involved in planning, organizing, or arranging the trip, or accompany the member of Congress and staff on any segment of the trip. This provision, however, should not bar a lobbyist from attending a distant conference or program as long as the lobbyist is not provided special access to any member of Congress or staff different than other attendees.

This new prohibition does not apply on the Senate side to Section 501(c)(3) organizations that are preapproved by the ethics committee or on the House side if funded by an institution of higher education (even if the Section 501(c)(3) organization or institution of higher education is registered under the LDA). Travel may continue to be sponsored by associations and nonprofits organizations that are not registered under the LDA for up to three days for a domestic trip and seven days for foreign travel (not counting travel days). However, the sponsor will need to certify that the trip is not being funded by a registered entity or lobbyist (either directly and indirectly), and that the trip was not requested, planned, organized, or requested by a lobbyist. In all cases, the trip must be connected to a meeting, speaking engagement, factfinding trip, or similar official event, and funding cannot include recreational activities.

Perhaps most significantly, all travel must now be approved in advance and must be supported by a certificate signed by the sponsor stating that it understands the new gift and travel rules, and that the proposed trip will not violate same. Finally, all travel will now be subject to public disclosure and increased scrutiny. Additional guidance is expected on what constitutes reasonable expenses that can be paid for any such travel.

**Corporate jets** may no longer be used on the House side whether paid for using official, personal, or campaign funds. In the Senate, charter rates rather than commercial carrier rates must be utilized in determining the amount that must be paid.

**Constituent events** are allowed on the Senate side so that a Senator or staff may attend a "constituent event" in the member's home state, including event fees, local transportation, and meals (if under \$50), as long as the event is sponsored and attended by at least five of the member's constituents. The member of Congress or staff person must participate as a speaker or panelist, and no lobbyist can be in attendance.

As can be seen, many exceptions remain for associations and nonprofit organizations to involve members of Congress and their staff in their activities, whether or not they are

registered under the LDA, provided that there is strict adherence to the rules applicable to each exception.

### **General Background Information on the LDA**

Generally speaking, the LDA currently requires an association or nonprofit organization to register with both the House and the Senate if it has one or more employees (called "lobbyists") during a semi-annual period who (a) spend at least 20 percent of their time on "lobbying activities" and (b) make more than one "lobbying contact" with a member of Congress, staff, or certain high-level executive branch officials. An additional requirement is that the association or nonprofit organization must currently spend more than \$24,500 semi-annually for the salary and overhead of the employees who qualify as "lobbyists" and others who support their lobbying activities. The entity itself registers and then lists its "lobbyists" and reports on their "lobbying contacts" and "lobbying activities."

If an association or nonprofit organization hires an outside "lobbying firm" to assist with its "lobbying activities," then that outside lobbying firm must register on behalf of that association or nonprofit organization and list its employees who are spending more than 20 percent of their time working for that "client" on lobbying activities and they are currently paid more than \$6,000 semi-annually. If both the client and its outside lobbying firm meet their respective requirements, then each must register and list their employees who are lobbyists and their costs. The association or nonprofit organization must also include the amount paid to the outside organization as a lobbying expense in its report.

### **Changes to the LDA**

The principle changes to the LDA are briefly summarized as follows:

- Registrants will now be required to file quarterly (instead of semi-annual) reports within 20 (instead of 45) days after the end of the reporting period.
- The previous threshold amounts are ~~halved~~ reduced, so that the threshold for an association is ~~\$12,250~~ \$10,000 quarterly (instead of \$24,500 per semi-annually) and for a lobbying firm is ~~\$3,000~~ \$2,500 quarterly (instead of \$6,000 semi-annually). [Author's Note: After initial publication of this article, Congressional officials determined that inflationary adjustments would not apply until January 1, 2009.]
- All reports will have to be filed electronically, and this information must be made publicly available on the internet in a searchable database. Fortunately, the "same electronic software" is required for both the House and Senate, which should ease some previous administrative burdens.
- It is now a violation of the law for an association or nonprofit organization that is registered under the LDA or their listed lobbyists to violate the gift and travel rules. The individual signing the LDA report must certify that he or she "has read and is familiar" with the gift and travel rules, and that these rules have not been violated.
- State or local government clients (and their departments, agencies, and instrumentalities) must be specifically identified.
- Government employment within the past 20 years must now be disclosed for each listed lobbyist.

- New semi-annual reports are required of contributions of \$200 or more made by an association, its PAC, or its listed lobbyists to candidate committees, leadership PACs, or political party committees. This requirement is burdensome, because it duplicates information already required to be filed with the FEC. Moreover, the IRS plans to make things even more difficult by requiring a third filing for these same contributions in its proposed new Form 990. Disclosure also is required for any payments involving an event to honor or recognize a government official; to an entity named for a legislative branch official; to an entity maintained or controlled by a government official; or to pay the costs for a meeting or event held by a government official. Finally, payments of \$200 or more to presidential libraries and for inaugurations must be disclosed. Although this information will initially be included in new semi-annual reports, it is the "sense of Congress" that these reports should be required on a quarterly basis within two years. Although information about campaign contributions in excess of \$200 already is reported by candidates and political committees to the FEC, employees of associations and nonprofit organizations have not previously had to report their private political activities directly to their organization's leadership. It is felt by some that this requirement unnecessarily violates their right to exercise their own private political beliefs and should not be part of the organization's filings.
- One of the more controversial provisions that was negotiated as the law worked its way through Congress was the disclosure of so-called bundling activities. As enacted, there is now a requirement for candidate committees, leadership PACs, and political party committees to disclose semi-annually to the FEC each organization or individual who is "reasonably known" to be a registrant or listed lobbyist or political committee (e.g., PAC) that is "established" or "controlled" by such registrant or lobbyist, which provides "bundled contributions" greater than \$15,000 during any semiannual period. This includes forwarding checks and also getting "credit" through "records, designations, or other means of recognizing" levels of fundraising efforts. No exception is allowed for fundraising agents, which was perceived as a major loophole under the previous FEC rules. The FEC is directed to issue implementing regulations within six months and to provide for the "broadest possible disclosure" of bundling activities with links to the new LDA electronic databases.
- Another controversial new provision for associations and nonprofit organizations is the requirement to identify anyone who contributes more than \$5,000 in a reporting quarter and "actively participates" in the "planning, supervision, or control" of the registered organization's lobbying activities. Previously, such disclosure was only required if the outside person or organization "in whole or in major part" was involved. There is a savings clause that says that the names of individual members and contributors need not be disclosed and that disclosing the names of corporate members and corporate donors on an internet website is sufficient unless they trigger the more stringent "in whole or in major part" test (in which case they must still be listed). This creates a dilemma for certain associations and nonprofit organizations that may no longer be able receive contributions from corporate donors, including both for-profit companies and other associations who may wish to avoid being identified. It will be critical to see how the new "actively participates" standard is defined, and it remains possible that there will be legal challenges to this provision on the grounds that it infringes rights and activities protected by the free speech, free exercise, and free association clauses of the First Amendment.
- Spouses of members who are lobbyists are subject to new rules that are designed to prevent them from officially interacting with the members' staff on lobbying issues. It

is also the "intent of Congress" that the "use of a family relationship by a lobbyist who is an immediate family member of a member of Congress to gain special advantages over other lobbyists is inappropriate."

- The U.S. Government Accountability Office is required to conduct random audits on an annual basis to assess compliance and make recommendations for improvements in the disclosure system (which includes the authority to request information directly from registrants) and their listed lobbyists.
- Congress must now report twice a year the aggregate number of referrals made to the U.S. Attorney for noncompliance with the LDA. The Department of Justice is then required to report on the "aggregate number of enforcement actions taken" and "any sentences imposed." These new requirements presumably respond to informal reports that thousands of potential violators have been referred in the past, but that only a handful of cases apparently were pursued.
- Civil penalties have been increased from \$50,000 to \$200,000 for anyone who "knowingly" fails to comply or to remedy a defective filing after notice. There also are new criminal fines and jail sentences up to five years for anyone who "knowingly" and "corruptly" fails to comply with "any provision" of the LDA.
- It is the "sense of Congress" that the "lobbying community" should develop proposals for "multiple self-regulatory organizations" to create standards, provide training and educational materials, develop standards regarding reasonable fees, establish a third-party certification program, and recommend disclosure-of-fee and conflict-of-interest rules to clients.

### **Other New Provisions in the Law**

The Honest Leadership and Open Government Act of 2007 contains other provisions that are too numerous to describe in detail (including earmark reform, anonymous holds, and other procedural rules changes). There are several areas that are particularly important, however, which are briefly described below.

**Revolving door rules.** The House did not change its one-year post-employment ban for members of Congress and senior staff to engage in lobbying activities. The Senate, however, increased its ban to two years for Senators, and the one-year ban for senior staff now applies Senate-wide, not just to the last office in which they were employed.

**K Street Project.** No member of Congress or staff can seek to influence the employment decision of an outside entity based on partisan party affiliation. This includes taking or withholding an official act or threatening to do so.

**Disclosure of employment negotiations.** Members of Congress and senior staff who are engaged in employment discussions prior to the election of their successor must disclose details thereof within three days and recuse themselves if there is a "conflict of interest or an appearance of a conflict."

**National party conventions.** The law now prohibits LDA registrants and their listed lobbyists from sponsoring events to honor members of Congress at their party conventions. Presumably this will still allow other activities that comply with exceptions to the gift rules, but it will be important to see what further guidance is provided.

**Campaign use of noncommercial aircraft** is only allowed if the candidate pays the fair market value of the normal charter fare for a noncommercial flight. However, House candidates may not fly on private aircraft other than their own.

**Applicability to executive and judicial branches.** It is the "sense of the Congress" that "any applicable restrictions on congressional officials and employees" in this legislation "should apply to the executive and judicial branches."

## **Conclusion**

The Honest Leadership and Government Act of 2007 is now the law. Both the new and the existing rules are complex and sometimes difficult to understand, but they must be obeyed. This presents a challenge for every association and nonprofit organization, whether or not they are registered under the LDA, to make sure that their employees are properly educated and appropriate compliance procedures are established to avoid inadvertent violations. Moreover, Congress has asked the "lobbying community" to initiate education, training, and certification programs to make sure that gift giving and other such scandals are a thing of the past. These are things that the association and nonprofit community do very well and should make happen!

---

*Jeffrey P. Altman is a partner in the law firm of McKenna Long & Aldridge LLP in Washington, DC. He heads the firm's Tax-Exempt Organizations Practice Group and also is an active member of the firm's Political Law Practice Group. This article is intended to be informational only and does not constitute legal advice or opinion. Specific questions should be addressed to legal counsel and the authorities responsible for interpreting and applying the law. The author wishes to acknowledge the extensive efforts of other members of the [Political Law Practice Group](#) at McKenna Long & Aldridge LLP who have contributed to the understanding and analysis of the new law and rules reflected in this article. [Email: jaltman@mckennalong.com](mailto:jaltman@mckennalong.com) or call 202-496-7520.*

[Reprinted with permission © Copyright 2007 ASAE & The Center for Association Leadership. All rights reserved.]