

Florida International University
Guidelines on Federal Lobbying Contacts/Reporting

Requirements of the Federal Lobbying Disclosure Act, as amended

As an entity that engages in lobbying efforts and interacts with members of Congress, congressional staff, and executive branch officials, FIU must comply with the Lobbying Disclosure Act of 1995 (LDA) and the Honest Leadership and Open Government Act of 2007 (HLOGA). Specifically, these federal laws require FIU to report “all lobbying contacts” made on behalf of FIU with “covered federal officials” and to disclose certain expenditures relating thereto. HLOGA significantly increased civil and criminal penalties for violations of the LDA requirements, including up to \$200,000 in fines and/or 5 years imprisonment.

The following guidelines summarize the pertinent provisions of the federal lobbying laws. Please refer to these guidelines in submitting your Federal Lobbying Report Form.

What is a Federal Lobbying Contact?

Lobbying Contacts include letters, phone calls, emails, and face-to-face meetings made on behalf of FIU with covered executive branch and legislative branch officials intended to influence a covered official on appropriations; specific legislation; legislative proposals, rules, regulations; Executive Orders; programs, policies, or positions of the U.S. government; administration or execution of federal programs or policies (including federal contracts and grants); and nomination or confirmation of a person for a position subject to confirmation by the U.S. Senate. Lobbying contacts do ***not*** include contacts made as part of a professional association (and not on behalf of FIU). If you engage in such contacts, please consult with the Office of Governmental Relations to determine whether the activity constitutes a “lobbying contact.”

Lobbying Activities are “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, and coordination with the lobbying activities of others.”

Several activities are ***exempted*** from the definitions of lobbying activities, including Congressional testimony, communications made through any medium of mass communication, scheduling appointments, and information provided as part of a rulemaking process or at the request of a legislative or executive branch official. Please note that an exempt activity does not have to be reported on the attached Federal Lobbying Report Form as a lobbying contact.

Who are Covered Federal Officials?

Covered legislative branch officials include members of the Senate and House of Representatives and their staffs.

Covered executive branch officials include the President; Vice-President; employees of the Executive Office of the President; Level I - V of the Executive Schedule (generally political appointees serving as Assistant Secretaries, Commissioners, or Deputy Directors and above); Members of the Uniformed

Services at pay grade about 0-7 (generally top military officers, such as Brigadier General and above); and any officer or employee in a position of a confidential, policy-advocating character (generally Schedule C political appointees).

If you have any questions about whether any particular official is a covered federal official, please contact the FIU Office of Governmental Relations for assistance.

Who Must Report their Federal Lobbying Contacts?

Any FIU employee that makes a “lobbying contact” with a “covered federal official” must complete the attached Federal Lobbying Report Form. Generally, the University President and Vice President for Governmental Relations have designated specific individuals to lobby on behalf of the University. However, FIU recognizes that, from time to time, it will be appropriate for FIU faculty or staff to make federal lobbying contacts on behalf of FIU. Accordingly, in view of the significant restrictions on the use of either federal or state funds to engage in lobbying activities, and the various requirements relating to the manner in which lobbying activities must be reported and conducted, FIU faculty and staff are strongly encouraged to notify the FIU Office of Governmental Relations in advance of any proposed lobbying contact or activity.

Calculating Lobbying Expenses

The Lobbying Disclosure Act requires FIU to make a good faith estimate of its lobbying expenses, including hard costs for travel, printing, payments to outside consultants involved in lobbying assistance, and the value of the time spent by FIU employees engaged in federal lobbying activities. **Please note that federally-funded sponsored project funds must not be used to pay for federal lobbying activities.**

Reporting of Expenditures Incurred in Honoring a Covered Federal Official

The new law requires FIU to disclose certain contributions and/or expenses paid (1) for events honoring a covered federal official, (2) to an entity named for or in recognition of a covered federal official, (3) to an entity established, financed, maintained or controlled by a covered federal official, (4) to a presidential library foundation, (5) for a meeting, retreat or conference held by or in the name of one or more covered federal officials. Under the new reporting requirements, expenses relating to the hosting of a reception in honor of one or more covered federal officials, or to purchase ticket to a charitable event where a Member of Congress was honored, or to award an honorary plaque or degree, must now be reported. If you have any questions in completing the attached Covered Federal Official Honorary Event/Activity Form, please contact the FIU Office of Governmental Relations for assistance.

House and Senate Restrictions on Gifts

HLOGA requires FIU to certify twice each year that the institution is familiar with Senate and House rules relating to the provisions of gift and travel and that FIU employees have not provided, requested or directed a gift, including travel, to a Member of Congress or staff with knowledge that the gift or

travel may not be accepted under the law. These certifications are subject to potential civil or criminal penalties for knowing violations or false statements.

As it relates to members of Congress and their staff, the new law provides that Members of Congress and Congressional staff may not accept a gift unless the gift falls under one of the narrow exceptions specifically set forth in the statute. One of these exceptions of particular applicability to FIU is for gifts paid by and on behalf of a State or Local Government.

FIU employees should note that the House and Senate exception for gifts paid by State or local governments applies to FIU as an institution *only*, and that a personal gift paid by an FIU employee with personal funds may be prohibited under the law. In addition, although this exception applies to FIU as a public university, FIU employees should be mindful that there are a number of other Federal¹ and Florida² laws that limit or restrict the types of gifts that may be offered to, or received by, federal employees.

Other Examples of Gifts that are Permissible Under the House and Senate Rules

In addition to the exception for gifts paid by a state entity, other categories of gifts to Members of Congress or staff that are permitted under the House and Senate rules include:

- Items of little intrinsic or “nominal” value, generally worth \$10 or less. Greeting cards, baseball caps and T-shirts have been specifically defined as “nominal” without regard to the actual cost.
- Free attendance at a “widely attended event”. A widely attended event includes conferences, dinners, receptions, and other similar events where (1) the event is open to individuals from throughout a given industry or profession, and there is an expectation that at least 25 persons will attend, other than Members of Congress and staff; (2) the invitation is from the sponsor of the event; and (3) the Member or staff reasonably determines that attendance at the event is related to his or her official duties.
- Food and refreshments of a nominal value that are not offered as part of a meal or offered at events (other than a “widely attended event”). For example, an organization may offer coffee and bagels or appetizers and beverages as part of a policy briefing as long as the refreshments are not lavish, and not part of a meal function.

¹ For instance, although the HLOGA permits Members of Congress and staff to receive gifts/meals/travel from FIU or other public entities in the State of Florida, other federal laws must still be considered in determining whether a gift is appropriate including, without limitation, laws prohibiting gratuities, kickbacks or gifts based on the promise of official action, laws relating to conflicts of interests, and the like. In addition, FIU employees should also note that there is no state and local government exemption for gifts/meals offered to federal executive branch employees, and any such gifts/meals offered to a federal executive branch official must comply with the regulations promulgated by of the Office of Government Ethics which generally permit gifts or meals up to \$20 per incidence or \$50 per calendar year; gifts based on personal friendship; and pre-approved participation in widely attended gatherings or conferences.

² Florida law imposes strict parameters regarding the ability of state institutions to spend state funds. These expenditure limitations will need to be taken into account in determining whether any proposed gift to a member of Congress or congressional staff is appropriate.

- Items of a commemorative nature, such as a plaque or trophy, if they are intended as part of a presentation to a Member or staff.
- Books or other materials of an informational nature.
- Gifts (including meals or personal hospitality in one's home) provided on the basis of a personal relationship or friendship, where there is a history of reciprocal gift giving or hospitality. A person giving a gift based on the personal friendship exception should not receive reimbursement for the cost of the gift or meal from his/her employer or should not take a business tax deduction for the cost incurred.

House and Senate Restrictions on Travel

The House and Senate rules also contain significant restrictions relating to privately-sponsored travel for Members of Congress or their staff. For instance, Members of Congress and staff are generally prohibited from accepting reimbursement from a registered lobbyist for "officially connected" travel (including meetings, speaking engagements or fact-finding trips).

As a state entity, FIU is generally exempt from the House and Senate travel restrictions. However, if FIU jointly sponsors travel with a private entity (e.g., a private university) for a Member of Congress or staff, the rules applicable to the private entity would apply to the jointly-sponsored travel. Private entities that employ or retain lobbyists may generally only provide reimbursement for "necessary" expenses (transportation, lodging and related expenses) for a one-day event, exclusive of travel time and an overnight stay. As to all privately-sponsored travel, Members of Congress or staff must also obtain written certifications from trip sponsors and furnish a copy to the Senate Ethics Committee or the House Committee on Standards of Official Conduct.

If you have any questions about HLOGA, the propriety of an offer of any gift, travel or support for any seminar or conference or other activity expending FIU funds to honor a covered federal official, or any question regarding whether any of your federal contacts must be reported, please contact the FIU Office of Governmental Relations for assistance.