

Cover memo & announcement

MEMORANDUM

TO: All Faculty and Staff

FROM: James J. Duderstadt

DATE: June 26, 1996

SUBJECT: New Federal Lobby Disclosure Requirements

The Lobbying Disclosure Act (LDA) took effect January 1, 1996. This law does not affect the legality of lobbying activities or anything the university has been doing. However, it does broaden the definition of lobbying activities and requires disclosure of these activities on a semi-annual basis by those institutions which engage in them beyond a certain level. The new law regulates lobbying aimed at federal legislation and federal executive actions only. It does not apply to lobbying aimed at local, regional, state or foreign governments. That is covered by state law.

The LDA requires that the University, as an institution, register if it has an employee who spends 20 percent or more of his or her time in lobbying activities. Accordingly, the University has registered, listing Tom Butts, Cindy Bank, and Robert Samors in our Washington, D.C. office, and Rick Bossard of the Medical Center, as individuals who spend 20 percent or more of their time engaged in lobbying activities on behalf of the University of Michigan.

Still, under this new law, the semi-annual reports must include the all lobbying activities made on behalf of the institution. Contacts with government officials made by faculty on their own behalf are not considered University lobbying. However, if a faculty member makes a lobbying contact at the direction of the University, or at the suggestion of a University lobbyist, that would have to be reported.

Currently, executive officers, deans, senior directors, federal relations staff, and any designated faculty are the individuals on campus that are authorized to lobbying on behalf of the University. In no case should any employee spend more than 20 percent of his or her time in lobbying activities unless authorized to do so by the appropriate officer or dean, and the Vice President for University Relations.

Because it has taken the first half of the year to develop a policy and tracking system for the University's compliance of the LDA, we are asking for you and your faculty to make a *good faith effort* in reconstructing lobbying activities for the past six months. A memorandum with specific instructions and lobbying report form will be distributed shortly to those individuals authorized to lobbying on behalf of the university.

The University has no intention to prohibit or restrict an individual's right to free speech. However, any contacts with legislative or executive branch officials made by University staff other than authorized individuals will not be considered to be made on the University's behalf.

If you have any questions regarding the Lobbying Disclosure Act, please contact the University's Washington, DC office at 202-554-0578.

Memo to authorized employees

MEMORANDUM

TO: Executive officers, Deans, Senior directors, and federal relations staff

FROM: Walter Harrison

RE: Lobbying Disclosure Act reporting form and procedure

The purpose of the memorandum is to ask your assistance in gathering the information the University needs to complete its first report under the new federal Lobby Disclosure Act. This is a follow-up to President Duderstadt's memo, dated June 26, 1996, copy attached.

The semi-annual reports required are for the six month periods, January 1 to June 20 and July 1 to December 31. The first one is due this August 15. We would appreciate it if you could provide the necessary information for your area of responsibility by July 28 so that it can be collated by fiscal operations and our office in time to comply with the August 15 deadline.

The Congress did not intend that detailed records be maintained, but it does ask that we make "good faith" estimates of our lobbying costs as defined in the law.

1. A "good faith estimate" of dollars spent on lobbying activities (includes travel expenses, salaries, benefits, preparation time);
2. A listing of specific issues lobbied, e.g., HUD/VA Appropriations;
3. A statement of the branch of government contacted, e.g., Executive (specify Federal agency contacted), House, Senate.

The enclosed form and background paper are intended for your use and guidance. It is our intention to project costs on a good faith basis from the information you supply. For

example, we ask on the form for the total travel costs (if there are any) and the estimated percentage of time involved in lobbying activities. Financial operations will do the necessary calculations in preparation of our consolidated report.

Please submit the necessary information to Susan Fielder in University Relations. Her address is 6069 Fleming Building, phone (76)3-5554, fax (76)4-3316. She may also be contacted by e-mail, [sfielder@umich.edu](mailto:sfielder@umich.edu).

If you have questions about what must be reported, please contact Cindy Bank in the UM Washington, DC office: 202-554-0578, fax 202-554-0582 or by e-mail, [bankc@umich.edu](mailto:bankc@umich.edu). Fiscal questions may also be directed to Rob Barbret in Financial Operations at 764-9593.

Thank you for your assistance

**FEDERAL LOBBY CONTACTS - SIX MONTH REPORTING FORM  
THE UNIVERSITY OF MICHIGAN**

**Date of lobbying activity:**

**Faculty or Staff Name:**

**Telephone:**

**E-Mail:**

**College or Department:**

Please provide the following information regarding federal lobbying contacts, on behalf of the University of Michigan, with covered executive branch (\*) and legislative branch officials with regard to: legislation; legislative proposals; rules; regulations; Executive Orders; programs, policies or positions of the government; administration or executive 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 Senate. Lobbying contacts made by an individual faculty member on behalf of themselves or other organizations should not be included.

**1. Specific Lobbying Issues (Include bill numbers and executive branch actions, if known.)**

**2. Institution(s) Contacted (\*\*)**

**3. Total Lobbying Expenditures (\*\*\*)**

A. Trip to Washington, DC

**Total travel expenses (may include copy of travel expense report):**

**Percentage of time on trip devoted to lobbying activities:**

**Hours of preparation of lobbying materials, setting up appointments, previous to trip:**

B. Federal lobbying efforts made from campus (i.e. letters written & phone calls made to Congress or federal agencies)

**Hours engaged in lobbying activities:**

**Mailing, phone expenses:**

4. If you need more room, please attach addenda. This report includes \_\_\_\_ number of addendum pages.

Please contact Cindy Bank, UM Washington, DC office, if you have any questions. Phone: 202-554-0578 E-mail: [bankc@umich.edu](mailto:bankc@umich.edu) or Rob Barbret, Financial Operations at 764-9593.

(\*) See list in attached background document.

(\*\*) House of Representatives, Senate, and/or name of federal agency

(\*\*\*) We are required to make a good faith estimate of expenses which can be based on the approximate percentage of time and time spent on lobbying activities.

**Please fax completed form to Cindy Bank at [bankc@umich.edu](mailto:bankc@umich.edu) or 202-554-0582**

## **The Lobbying Disclosure Act: Background and Application to the University of Michigan**

### **Background**

Public Law 104-65, the Lobbying Disclosure Act (LDA) of 1995 was signed by President Clinton on December 19, 1995. The Act requires the disclosure of efforts by paid lobbyists to affect decisions in the executive and legislative branches of the federal government. The LDA took effect on January 1, 1996.

### **Registration and Reporting**

The University of Michigan filed a registration form with the Secretary of the Senate and the Clerk of the House of Representatives and is required to file two reports each year thereafter detailing lobbying activities.

The registration must contain names, addresses and telephone numbers of lobbyists and their employing organizations; a statement of general issue areas in which lobbying is expected to take place; and, specific issues that have already been addressed in lobbying activities.

The semi-annual reports must contain the name of the employing organization, the names of its lobbyists, and any changes or updates to the initial registration. For each general issue area in which lobbying activities took place during a six-month period, the report will include: a list of specific issues lobbied, including, to the maximum extent practicable, a list of bill numbers and references to specific executive branch actions; a listing of the houses of Congress and federal agencies contacted by lobbyists; a list of employees who acted as lobbyists; a description of any interest of any foreign entity in the issues for which lobbying activity occurred; and a good faith estimate of total expenses incurred in connection with lobbying activity during the six month period.

The LDA requires universities to keep records of lobbying on behalf of the institution. Therefore, the university would not need to consider contacts government officials made by faculty on their own behalf as lobbying contacts. If a faculty member makes a lobbying contact, at the direction of the university, however, or at the suggestion of the university's lobbyist, then that contact would be reported as a lobbying contact for purposes of estimating total lobbying expenditures of the university.

### **Who is a "lobbyist?"**

The LDA defines a lobbyist as any individual employed or retained by a client for financial or other compensation for services that include more than one lobbying contact other than an individual whose lobbying activities constitute less than twenty percent of the time engaged in the services provided to that client over a six month period.

### **What is "lobbying?"**

The LDA defines lobbying activities as "lobbying contacts and efforts in support of such contact, 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."

The LDA defines “lobbying contacts” as any oral or written communications to covered executive or legislative branch officials with regard to formulation, modification, or adoption of Federal legislation (including legislative proposals); Federal rules, regulations, Executive Orders, or any other program, policy, or position of the United States Government; the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); and the nomination or confirmation of a person for a position subject to confirmation by the Senate.

The LDA specifies that the following contacts which may be made by university personnel are not considered “lobbying contacts”: communications made in speeches, articles, or through any medium of

LDA  
Background  
Page 2

mass communication; routine requests for meetings or for the status of an action as long as there is no attempt to influence covered executive or legislative branch officials; communications made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act; testimony given before a congressional committee or submitted for the public record of a congressional hearing; information provided in writing at the request of a covered legislative or executive branch official, as long as it is provided to the federal official who made the request; communications required by subpoena, investigation or otherwise compelled by law or congressional or agency action; communications made in response to a notice in the *Federal Register*, *Commerce Business Daily*, or other similar publication soliciting public communications; and communications made on behalf of an individual concerning his or her own benefits, employment or other personal matters involving that individual.

### **Tracking Federal Lobbying Activity at University of Michigan**

The University of Michigan needs to keep records of lobbying on behalf of the institution. Accordingly, it is recommended that anyone who lobbies on behalf of UM, whether or not they spend 20 percent or more of their time doing so, keep a federal lobbying record including:

1. Issue(s) discussed, including bill numbers, if known;
2. Lobbying expenditures which include travel costs, lodging expenses, administrative costs and salary associated with time spent preparing, planning, researching, coordinating lobbying efforts and lobbying;
3. Institution(s) contacted - US House of Representatives, Senate, or Executive Branch agency

### **Covered Legislative Branch and Executive Officials**

Covered legislative branch officials generally include all members of Congress and their staffs, as well as committee staffs. The definition of covered executive branch officials does not encompass all executive branch employees. Instead, it is drawn fairly narrowly to include only those in the highest or most politically sensitive positions, specifically:

- the President
- the Vice President

- any officer or employee in the Executive Office of the President, including all employees of the Office of Management and Budget and the Office of Science and Technology Policy;
- any officer or employee serving at levels I-V of the Executive Schedule;
- any member of the uniformed services whose pay grade is at or above 0-7;
- and any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character.

For example, the only employees of the National Institutes of Health (NIH) and the National Science Foundation (NSF) who would qualify as “covered executive branch officials” would be the NIH Director and the NSF Director and Deputy Director.

In the Department of Education, the Secretary, the special assistant to the Secretary, the Chief of Staff, the Special Assistant to the Chief of Staff, the Deputy Chief of Staff, the Counselor to the Secretary, the Confidential Assistant to the Senior Advisor on Education Reform, the Scheduling and Advance Staff Director, Special Assistants, White House Liaison, Deputy Secretary, Under Secretary and all Assistant Secretaries and most of their special and confidential assistants would be covered.

Grant administrators and program officers are not covered.