

CLIENT ALERT

Review of New Stimulus Lobbying Restrictions Ends This Week

May.22.2009

This week marks the end of the Obama Administration's internal 60-day review of its new lobbying restrictions on certain communications relating to the American Recovery and Reinvestment Act ("Recovery Act"), commonly referred to as the Stimulus. Because it is unclear whether the Administration's review will result in any changes to the new rules, trade associations that employ lobbyists - as employees or on a contract basis - should continue to follow the current Recovery Act restrictions until further notice.

On March 20, 2009, President Obama issued a memorandum for the heads of executive departments and agencies outlining restrictions on certain Recovery Act communications with lobbyists. On April 7, 2009, the Director of the Office of Management and Budget ("OMB") issued additional guidance for department and agency heads regarding these communications.

Under the provisions outlined in Section 3 of the March 20 memorandum, Executive Branch officials may only consider the views of a registered lobbyist regarding a particular project, application, or applicant for Recovery Act funding if the views are expressed in writing. All written communications from registered lobbyists regarding specific Recovery Act projects must be made available on the agency or department's Recovery Act website within three business days of receipt. These communication restrictions are universal in their application and cover all registered lobbyists regardless of position within an organization - public, private or non-profit.

The communication restrictions do not apply to conversations about general Recovery Act policy issues. In those instances, an Executive Branch official who speaks with a registered lobbyist about general Recovery Act issues must put the date, time and short description of the conversation in writing, along with the names of the registered lobbyist and official with whom the communication took place. This information must also be made available on the agency or department's Recovery Act website within three business days of taking place.

The President directed the OMB to review the implementation of his March 20 memorandum by executive branch departments and agencies within 60 days. Now that this review period has ended, the Director of OMB may forward any recommendations for modifications or revisions to the lobbying restrictions to the President.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.