

Questions for Nonprofit Management and Board Members

H.R. 1, the For the People Act, has passed in the House of Representatives and will now head to the Senate where it is expected to be introduced as S. 1. As H.R. 1/S. 1 makes its way through the legislative process, changes to the bill will almost certainly be made. Now is the time to consider what changes should be made as the bill takes another step closer to becoming law.

Bolder Advocacy supports much of H.R. 1. However, care should be taken to ensure there are no unintended consequences of the legislation, especially consequences that will hinder the advocacy activities of tax-exempt organizations. The following questions address the compliance implications for nonprofit organizations that engage in advocacy on the federal level. As the bill makes its way through the legislative process, it is time to consider how it will impact the organizations that would be subject to its provisions.

Will your generous donors and board members agree to having their names reported to the FEC in publicly available reports?

Organizations subject to the reporting requirements must file disclosure reports with the FEC that disclose the name and address of people with control over the organization, including board members and executive director-level staff. Organizations would also need to disclose the name and address of donors who give more than \$10,000 over a two-year cycle, unless contributions were placed in a segregated account that cannot be used for communications that meet the definition of a campaign-related disbursement.

Will your donors agree to having their names listed on public communications?

Video, audio, internet or digital communications may need to state the name of the organization, responsible person, and the organization's top two or five donors, depending on format, within the communication. Will donors want to approve any messaging that will include their names? Or, will donors restrict funds from being used for communications that require public reporting of donor information?

Will your staff be comfortable registering as lobbyists and be subject to restrictions on future government employment and public reporting of their political contributions?

All nonprofits will be subject to the expanded Lobbying Disclosure Act registration requirements. The bill would lower the percentage of time that triggers registration from 20% to 10% and will expand the definition of lobbyist to "any individual who for financial or other compensation provides legislative, political, and strategic counseling services" which are used to support lobbying activities.

The provision would effectively turn any employee of an organization that is registered under the LDA into a lobbyist if any of their work in some way supports or contributes to an organization's lobbying efforts.

Does your organization have the systems and staff to comply with detailed financial tracking and a new reporting requirement?

In addition to increased reporting under the LDA, H.R. 1 would create an entirely new reporting requirement with the Federal Election Commission. Tracking and compliance dates would be slightly different than existing campaign finance reporting dates and include reports of communications that were not intended to influence the election or defeat of a candidate. Covered organizations would need to carefully track timing and costs of communications, amounts paid to vendors, as well as dates and amounts of contributions, keeping track of which contributions can be used for campaign-related disbursements. Disclosure reports would be made to the Federal Election Commission based on the timing of spending, with disclosure reports due within 24 hours of each expenditure of \$10,000 in aggregate. Organizations would need staff that are able to file reports on a timely basis and able to track all of the information that must be reported. For many organizations this will require the establishment of multiple tracking and reporting systems



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