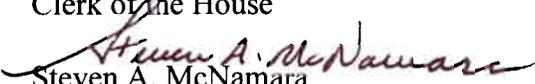


Office of Inspector General
U.S. House of Representatives
Washington, DC 20515-9990

MEMORANDUM

TO: Jeff Trandahl
Clerk of the House

FROM: 
Steven A. McNamara
Inspector General

DATE: August 1, 2001

SUBJECT: Management of Public Disclosure Documents Is Effective
(Report No. 01-CLK-04)

This is our final report on the Legislative Resource Center's management of public disclosure documents. The objective of this audit was to assess management controls to ensure public disclosure documents filed with the Clerk of the House were collected and available as mandated by law and House rules. We concluded controls were in place and effective regarding the collection and availability of public disclosure documents, but the Clerk needed to complete implementation of recently developed policies and procedures dealing with Section 6, paragraph (8) of the Lobbying Disclosure Act of 1995.

On May 11, 2001, your office concurred with the conclusions of our draft report dated May 4, 2001. Your response is incorporated in this final report and included in its entirety as an appendix. The corrective actions taken and planned by your office are appropriate and responsive.

We appreciate the courtesy and cooperation extended to us by your staff. If you have any questions or require additional information regarding this report, please call Chris Hendricks or me at (202) 226-1250.

cc: Speaker of the House
Majority Leader of the House
Minority Leader of the House
Chairman, Committee on House Administration
Ranking Minority Member, Committee on House Administration
Members, Committee on House Administration

MANAGEMENT OF PUBLIC DISCLOSURE DOCUMENTS IS EFFECTIVE

I. INTRODUCTION

Summary of Results

The Office of the Clerk's (Clerk) Legislative Resource Center (LRC) is mandated by statute and House Rules to collect and make available to the public various public disclosure documents. These include the Lobbying Registrations and Reports, Financial Disclosure Reports, Federal Election Campaign Reports, Franked Materials, Gift and Travel Filings, Foreign Travel Reports and Expenditures, and Legal Expense Funds reports. A brief description of each of these public disclosure documents is provided in the Exhibit.

We determined that the LRC fully complied with established laws and House policies and procedures to collect and make these documents available to the public. However, at the start of our review, the LRC had yet to complete one of the eight provisions of the Lobbying Disclosure Act of 1995 (Act) that requires the Clerk to notify the United States Attorney (USA) for the District of Columbia when lobbyists or lobbying firms may not be in compliance with the Act. On March 29, 2001, the Clerk established policies and procedures which, when fully implemented, should effectively address this provision of the Act.

Background

The Clerk is the official depository of all published documents originated and produced by the House and its committees, the historical records of the House, and public disclosure documents made available under various House rules and public laws¹. The Clerk's LRC is responsible for preserving the public records, assisting Congressional offices with the retrieval of legislative information, and providing centralized easy access to legislative records and public information. The seven public disclosure documents covered in this review are made available to the public at the LRC, located below the rotunda of the Cannon House Office Building.

Objectives, Scope, And Methodology

We assessed management controls to ensure public disclosure documents filed with the Clerk of the House were collected and available as mandated by law and House rules. Our audit fieldwork was conducted between November 2000 and March 2001, primarily at the LRC, and

¹ Members, officers, and staff of the U.S. House of Representatives as well as candidates and lobbyists who meet the reporting criteria are required by House Rules and Federal Statutes to file official documents and to make this information available to the public as *Public Disclosure* documents.

covered the public disclosure documents listed in the Exhibit and information gathered during the 106th Congress, from January 1999 through December 2000.

This audit was conducted in accordance with the Government Auditing Standards as implemented by the House Office of Inspector General Policies and Procedures. The audit included such tests as we considered necessary under the circumstances and reviews of laws, House rules, and the LRC's policies, procedures, and controls covering the collection and availability of the public disclosure documents for which the Clerk is responsible.

We interviewed individuals responsible for or intimately involved with these documents, reviewed associated records and reports, and tested cash collection and deposit procedures. In addition, we tested input and output controls for the Lobbying and Financial Disclosure Systems to assess the reliability of the reports. Although our application control tests were limited, because these systems were not adequately documented during development and subsequent changes, our substantive tests of samples revealed that the contents of the reports were reliable.

Internal Controls

During this review, we evaluated the internal controls associated with collecting and processing the seven public disclosure documents for which the Clerk is responsible. Specifically, we reviewed the policies, procedures, and processes for collecting and making the collected public disclosure documents available to the public. In addition, we reviewed the procedures for collecting and depositing cash received from the public for making copies of these documents. Controls were effective except for one of the eight provisions in the Lobbying Act requiring notification to the USA. This weakness is described in the "Results Of Review" section of this report.

Prior Audit Coverage

No prior audits have been conducted on public disclosure documents.

II. RESULTS OF REVIEW

The LRC has effectively collected and made available to the public each of the seven public disclosure documents for which the office was responsible. We tested each of the public disclosure documents listed in the Exhibit and found that the LRC routinely followed applicable laws and House established policies and procedures, and collected and made readily available to the public information contained in these documents. In addition, the LRC had developed and implemented effective internal controls and procedures for cash collections of fees for copies of documents provided to the public and made timely deposit of funds. However, at the start of our review, the LRC had not taken action to fully implement one of the eight Lobbying Disclosure Act provisions that required the Clerk to notify the USA when lobbyists or lobbying firms may not be in compliance with the Act.

The Clerk's responsibilities under Section 6 of the Lobbying Disclosure Act (Pub.L. 104-65) are to:

- (1) “provide guidance and assistance on the registration and reporting requirements of this Act and develop common standards, rules, and procedures for compliance with this Act;
- (2) review, and, where necessary, verify and inquire to ensure the accuracy, completeness, and timeliness of registration and reports;
- (3) develop filing, coding, and cross-indexing systems to carry out the purpose of this Act, including-
 - (A) a publicly available list of all registered lobbyists, lobbying firms, and their clients; and
 - (B) computerized systems designed to minimize the burden of filing and maximize public access to materials filed under this Act;
- (4) make available for public inspection and copying at reasonable times the registrations and reports filed under this Act;
- (5) retain registrations for a period of at least 6 years after they are terminated and reports for a period of at least 6 years after they are filed;
- (6) compile and summarize, with respect to each semi-annual period, the information contained in registrations and reports filed with respect to such period in a clear and complete manner;
- (7) notify any lobbyist or lobbying firm in writing that may be in noncompliance with this Act; and
- (8) notify the United States Attorney for the District of Columbia that a lobbyist or lobbying firm may be in noncompliance with this Act, if the registrant has been notified in writing and has failed to provide an appropriate response within 60 days after notice was given under paragraph (7).”

In 1996, the Clerk developed the *Guide to the Lobbying Disclosure Act* focusing on educating the lobbyists and encouraging their participation with the requirements. According to Section 5 of the Act, lobbyists that register with the Clerk of the House² must file semiannual reports with the Clerk of the House³ until such time a termination report has been filed indicating that the registrants are no longer involved in lobbying activities for either themselves or a registered client.⁴ When the Clerk identifies that a registrant hasn’t filed the required semiannual form, the Clerk issues a notification of the lapse to the firms or individual lobbyist requesting them to provide the information. However, the USA was yet to be notified of those failing to respond.

² Pub.L. 104-65, Section 4(a)(1), “No later than 45 days after a lobbyist first makes a lobbying contact or is employed or retained to make a lobbying contact, whichever is earlier, such lobbyist (or, as provided under paragraph (2), the organization employing such lobbyist), shall register with the...Clerk of the House of Representatives.”

³ Pub.L. 104-65, Section 5(a), “No later than 45 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which a registrant is registered under section 4, each registrant shall file a report with the...Clerk of the House of Representatives on its lobbying activities during such semiannual period. A separate report shall be filed for each client of the registrant.”

⁴ The Guide to the Lobbying Disclosure Act (compiled by the Clerk of the House), Section 7 states, “Termination of a registrant/client relationship Under Section 4(d) of the LDA, a lobbying firm may terminate a registration for a particular client when it is no longer employed or retained by that client to conduct lobbying activities and does not anticipate further lobbying activities for that client. An organization employing in-house lobbyists may terminate its registration when in-house lobbying activities have ceased and are not expected to resume. Similarly, in situations in which a registration is filed in anticipation of meeting the registration threshold that is never met, a registrant also has the option of termination. Just as we have been interpreting that the obligation to report semiannually under the LDA arises from active status as a registrant (Sections 5(a), 5(b)(2), 5(b)(3), 5(b)(4)), we believe that a report disclosing the final lobbying activity of a registrant is mandatory.”

On March 29, 2001, the Clerk provided us with further procedures regarding notifications to the USA. These procedures state that the Clerk will:

- (1) “identify any registrant who, from calendar year 2000 onward, has failed to reply or reply satisfactorily to notices of error or omission related to a registration or report;
- (2) identify any registrant who, beginning with the semi-annual report due February, 2000 onward, has failed to file after having received the notices from the Clerk;
- (3) prepare for my [the Clerk’s] signature a notice for those meeting the criteria set forth above, stating that failure to provide an appropriate response within 60 days after such notice shall result in my notification to the United States Attorney for the District of Columbia that the lobbyist or lobbying firm may be [in] non-compliance with the Act. Such notice shall be sent certified mail, return receipt requested; [and]
- (4) prepare for my [the Clerk’s] signature a letter to the United States Attorney for the District of Columbia identifying the lobbyist or lobbying firm who has failed to provide an appropriate response within 60 days of such notice having been sent, and identifying the nature of the noncompliance with the Act.”

Conclusion

The LRC has followed applicable laws and House established policies and procedures and fulfilled its responsibility to collect and make available to the public each of the seven public disclosure documents for which the LRC is responsible -- the Lobbying Registrations and Reports, Financial Disclosure Reports, Federal Election Campaign Reports, Franked Materials, Gift and Travel Filings, Foreign Travel Reports and Expenditures, and Legal Expense Funds. Once implemented, the Clerk’s new procedures to notify the USA of lobbyists or firms who fail to provide appropriate responses will provide for full compliance with the Lobbying Disclosure Act.

Recommendations

Based upon the Clerk’s actions taken and planned, no further recommendations are required.

Management Response

The Clerk concurred with the finding.

Office of Inspector General Comments

The corrective actions taken and planned will meet the requirements of the Act. We will consider this audit closed sixty days after the first group of registered lobbyists have received the Clerk’s planned notice letter and, if needed, the Clerk has notified the USA of lobbyists or firms who may be in noncompliance with the Act.

DESCRIPTION OF PUBLIC DISCLOSURE DOCUMENTS

Lobbying Registrations and Reports

The Lobbying Disclosure Act of 1995 (Public Law 104-65), and its predecessor, the Federal Regulation of Lobbying Act (1946), requires lobbyists to file registrations and reports of income and expenses with the Clerk of the House. The Reports filed under the Lobbying Disclosure Act of 1995 are made available on public terminals at the Legislative Resource Center (LRC). Reports from 1978-1995 filed under the Lobbying Disclosure Act of 1946 are available on the terminals and on microfilm.

Financial Disclosure Reports

Title 1 of the Ethics in Government Act of 1978, as amended, requires Members, officers, certain employees of the U.S. House of Representatives and related offices, and candidates for the U.S. House of Representatives to file information about the source, type, amount, or value of their incomes. These reports, available on public terminals at the LRC, are kept for 6 years from the date of filing.

Federal Election Campaign Reports

The Federal Election Campaign Act requires candidate committees, party committees, and political action committees (PACs) to file periodic reports with the Federal Election Commission disclosing the money they raise and spend. Candidates must identify, for example, all PACs and party committees that give them contributions, and they must identify individuals who give them more than \$200 in a year. Additionally, they must disclose expenditures exceeding \$200 per year to any individual or vendor. The reports filed by candidates for the U.S. House of Representatives are available for public inspection, for the years 1996 to present, through LRC's terminal linked to the Federal Election Commission.

Franked Materials (Mass Mailings)

For mass mailings to their Congressional district, Members may use their signature, or frank instead of a postal stamp. Rule XXV of the House of Representatives of the United States, 106th Congress defines the term 'mass mailing' as "...with respect to a session of Congress, a mailing of newsletters or other pieces of mail with substantially identical content (whether such pieces of mail are deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces of mail in that session...." Rule XXV also requires Members to submit a sample or a description of the contents of mass mailings to the House Commission on Congressional Mailing Standards and obtain the approval of the Commission before the mass mailing can be sent. Copies of materials approved by and filed with this Commission from January 1996 to the present, including advisory opinions, are placed in folders filed by Member name and are available for viewing and photocopying at the LRC. Individuals may view the files but may not copy any documents mailed prior to January 3, 1996.

Gift and Travel Filings

Rule XXVI of the House of Representatives of the United States, 106th Congress requires Members, officers, and staff to file reports which detail travel-related expenses reimbursed by non-government sources and charitable contributions made in lieu of honoraria (a payment for services that do not have a set fee). These filings also include Member, officer, and staff travel, advance authorization, and charitable contributions. Gift and Travel reports filed with the Clerk are available in binders at the LRC for public inspection for the current Congress and previous two Congresses.

Foreign Travel Reports and Expenditures

The Mutual Security Act of 1954 (22 U.S.C. § 1754) and the International Security Assistance Act of 1978 require Members and staff of the U.S. House of Representatives to file reports of certain expenditures for all official foreign travel. Foreign Travel Reports from 1994 through the current quarter are printed in the Congressional Record and available on the Internet. In addition, foreign travel reports filed with the Clerk are available in binders for public inspection at the LRC.

Legal Expense Funds

The *Memorandum to Members from the House Committee on Standards of Official Conduct*, June 10, 1996 states that Legal expense funds may be established to assist Members when; "the legal expenses arise in connection with: the individual's candidacy for or election to federal office; the individual's official duties or position in Congress (including legal expenses incurred in connection with an amicus brief file in a Member's official capacity, a civil action by a Member challenging the validity of a law or federal regulation, or a matter before the Committee on Standards of Official Conduct); a criminal prosecution; or a civil matter bearing on the individual's reputation or fitness for office."

A legal expense fund is set up as a trust and is administered by an independent trustee who oversees fund-raising. Trust funds and quarterly reports of trust funds approved by the Committee on Standards of Official Conduct are filed with the Clerk one week after approval by the committee for the current Congress and the previous two Congresses. These reports are available in binders for public inspection at the LRC.

JEFF TRANDAHL
CLERK

MARTHA C. MORRISON
DEPUTY CLERK

Office of the Clerk
U.S. House of Representatives
Washington, DC 20515-6601

MEMORANDUM

TO: Mr. Steven A. McNamara
Inspector General
U.S. House of Representatives

FROM: Jeff Trandahl, Clerk
U.S. House of Representatives 

SUBJECT: Response to Audit: *Management of Public Disclosure Documents is Effective*

DATE: May 11, 2001

Thank you for the opportunity to comment on the audit, *Management of Public Disclosure Documents is Effective*. We have reviewed the draft report and concur with the findings therein.

I appreciate the time and resources your office lent to this audit. The audit process and findings will be helpful in the continuing management of the public disclosure responsibilities of the Office of the Clerk.

JT/gcv