

Lobbying Disclosure Act Guidelines *As of January 1, 2008*

General

The Lobbying Disclosure Act (LDA) requires lobbyists, lobbying firms, and entities that employ in-house lobbyists (collectively known as “registrants”) to register and report with Congress. Guidance with respect to the LDA comes from the Secretary of the Senate and the Clerk of the House, and the Comptroller General is authorized to audit LDA registrations and reports for compliance. There are civil and criminal penalties for violations of the LDA.

Also, the gift rules of the House and Senate are made directly applicable to lobbyists, lobbying firms, and employers of in-house lobbyists through the LDA.

Who Is a Federal Lobbyist?

An individual becomes a “**lobbyist**,” as defined by the LDA, when

1. He or she is employed or retained by a client (including an in-house employer) for compensation for services that include more than one “**lobbying contact**” (without regard to a time period); **AND**
2. “**Lobbying activities**” constitute 20 percent or more of the services rendered by the individual to that client (employer) over a three-month period (e.g., January 1 to March 31).

What Is a Lobbying Contact?

A “lobbying contact” is defined as “any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to”:

- The formulation, modification, or adoption of federal legislation (including legislative proposals);
- The formulation, modification, or adoption of a Federal rule, regulation, Executive order, 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); or
- The nomination or confirmation of a person for a position subject to confirmation by the Senate.

What Are the Exceptions to the Definition of Lobbying Contact?

Listed below are some of the more pertinent exceptions to the definition of “lobbying contact”:

- A communication that is a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive or legislative official.
- A communication made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act.
- Testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force.
- Information provided in writing in response to an oral or written request by a covered executive or legislative branch official for specific information.
- Information required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency.
- Any communication compelled by a Federal contract, grant, loan, permit, or license.
- A communication made in response to a notice in the Federal Register or other similar publication soliciting communications from the public.
- Information not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law.
- A communication made to an official in an agency with regard to a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding or with regard to a filing or proceeding that the Government is specifically required by statute or regulation to maintain or conduct on a confidential basis.
- Written comments in a public proceeding.
- A petition for agency action.
- Grassroots efforts (contacting other parties to contact Congressional or agency officials).

What Are Lobbying Activities?

“Lobbying activities” are lobbying contacts and any efforts in support of such contacts, including preparation or planning activities, research and other background work that is intended, at the time of its preparation, for use in contacts and coordination with the lobbying activities of others.

Importantly, activities that are not lobbying contacts because of the many exceptions may, if they support lobbying contacts, be lobbying activities.

Who Are Covered Legislative Branch Officials?

A “covered legislative branch official” means

- A Member of Congress;
- An elected officer of either House of Congress;
- Any employee of a Member of Congress, a committee of either House of Congress, the leadership staff of either House of Congress, a joint committee of Congress, and a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and
- Those designated in section 109(13) of the Ethics in Government Act as an “officer or employee of the Congress.”

Who Are Covered Executive Branch Officials?

A “covered executive branch official” includes

- The President;
- The Vice President;
- Any officer or employee in the Executive Office of the President;
- Any officer or employee serving in a position in Level I-V of the Executive Schedule;
- Any member of the uniformed services whose pay grade is at or above O-7; and
- “Schedule C” employees.

When Must Lobbyists Register?

Employers must register within 45 days of an employee’s becoming a lobbyist. On the other hand, for a corporation or trade association that is already registered under the LDA, the entity simply enters the names of new in-house lobbyists on each applicable “lobbying issues” page of the corporation’s next LDA report (Form LD-2).

Registrations (and updates by means of the quarterly lobbying reports) must disclose, among other information, the following information:

- *Former Covered Positions.* The covered executive branch and covered legislative branch positions held by each lobbyist for the past 20 years.
- *Affiliated Organizations.* Any person that (1) contributes more than \$5,000 in a calendar quarter to the registrant or client “to fund the lobbying activities of the registrant” **AND** (2) “actively participates in the planning, supervision, or control of such lobbying activities.” There is a limited exception for members of and donors to an organization listed as such on the organization’s public website, and there is a broader exception focused on natural-person members. (This disclosure requirement is aimed at coalitions and associations, although its impact is not limited to such groups.)

- *Foreign Entities.* Any foreign entity that
 - Holds at least 20 percent equitable ownership in the client or in an affiliated organization;
 - Directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances, or subsidizes the activities of the client or of an affiliated organization; **OR**
 - Is an affiliate of the client or of an affiliated organization and has a direct interest in the outcome of the lobbying activity.

When Must Registrants Report?

Quarterly LDA reports (Forms LD-2) are due on the 20th day following the end of each calendar quarter (or the next business day if the 20th day falls on a weekend or holiday), covering the preceding calendar quarter. The first quarterly report under the amended LDA is due on April 21, 2008, although an LDA report under the pre-amended law is still due on February 14, 2008, covering July 1 to December 31, 2007. A corporation or trade association reports for all of its in-house lobbyists in one report.

Separate LDA **semiannual** reports are due on July 30 and January 30 (or the next business day if a weekend or holiday). These semiannual reports cover the time periods January 1 to June 30 and July 1 to December 31, respectively.

What Must Be Reported?

Quarterly LDA Reports. The following information, among other things, must be disclosed on the quarterly LDA reports:

- The total amount spent during the calendar quarter on federal lobbying activities, including (1) the value of time spent engaged in lobbying activities by employees who are not registered lobbyists; (2) payments to outside lobbyists and lobbying firms; and (3) the federal lobbying portion of any dues or other payments made to trade associations and other 501(c) organizations;
- Specific bills, bill numbers, and issues on which registered lobbyists made lobbying contacts during the calendar quarter; and
- Updates to information provided in the registration, including new in-house registered lobbyists, former covered executive and legislative branch positions, affiliated organizations, and foreign entities.

Semiannual LDA Reports. LDA registrants and each registered lobbyist must report the following information, among other things, on their semiannual LDA reports:

- The names of all political committees established or controlled by the lobbyist or lobbyist employer;

- Contributions of \$200 or more made within the semiannual period to a federal candidate, officeholder, leadership PAC, or political party committee by the lobbyist, lobbyist employer, or a PAC established or controlled by either;
- Contributions of \$200 or more made within the semiannual period to a Presidential library foundation or Presidential inaugural committee made by the lobbyist, lobbyist employer, or a PAC established or controlled by either; and
- Payments (other than those required to be disclosed by the recipient to the Federal Election Commission (FEC)) by the lobbyist, lobbyist employer, or a PAC established or controlled by either:
 - For the cost of an event to honor or recognize a covered legislative or executive branch official;
 - To an entity that is named for a covered legislative branch official;
 - To a person or entity in recognition of a covered legislative branch official;
 - To an entity established, financed, maintained, or controlled by a covered legislative or executive branch official;
 - To an entity designated by a covered legislative or executive branch official; and
 - To pay the costs of a meeting, retreat, conference, or other similar event, held by, or in the name of, one or more covered legislative or executive branch officials.

What Certifications Must Be Made?

Lobbyist employers and each registered lobbyist must make the following certifications on their semiannual LDA reports:

- *Gift Certification.* That the lobbyist employer or lobbyist “has not provided, requested, or directed a gift, including travel, to a Member of Congress or an officer or employee of either House of Congress with knowledge that receipt of the gift would violate rule XXXV of the Standing Rules of the Senate or rule XXV of the Rules of the House of Representatives.”
- *Rules Certification.* That the lobbyist employer or lobbyist “has read and is familiar with those provisions of the Standing Rules of the Senate and the Rules of the House of Representatives relating to the provision of gifts and travel.”

Gifts and Travel From Lobbyists, Employers of Lobbyists, and Clients of Lobbyists

Congress and the Executive Branch

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Opening Considerations

- **Gift Rules Are Part of the Law.** The gift and travel rules have been incorporated into the Lobbying Disclosure Act (LDA), the violation of which is subject to criminal and civil penalties.
- **Semiannual Certification as to Adherence to the Gift Rules.** All lobbyist employers and their individual lobbyists will be required to certify semiannually that they have “not provided, requested, or directed a gift, including travel, to a Member of Congress or an officer or employee of either House of Congress with knowledge that receipt of the gift would violate rule XXXV of the Standing Rules of the Senate or rule XXV of the Rules of the House of Representatives.”
- **Semiannual Certification as to Familiarity with the Gift Rules.** All lobbyist employers and their individual lobbyists will be required to certify semiannually that they have “read and [are] familiar with those provisions of the Standing Rules of the Senate and the Rules of the House of Representatives relating to the provision of gifts and travel.”

Gifts From Lobbyists, Employers of Lobbyists, and Clients of Lobbyists

- Gift:** Any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value and includes gifts of services, transportation, lodging, and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.
- Source:** Organization with which the paying individual is affiliated as well as the individual.
- Recipient:** Members and staff of House and Senate as well as spouses, family members, and others when (1) gift is given with the knowledge and acquiescence of the Member or staff person and (2) the Member or staff person has reason to believe the gift was given because of his or her official position.

(Shaded cells represent changes in House and Senate Ethics Rules enacted in 2007.)

	HOUSE OF REPRESENTATIVES	SENATE	EXECUTIVE BRANCH INCLUDING THE WHITE HOUSE
✓ Annual Aggregate Limit	Lobbyists and entities that employ or retain lobbyists may not provide gifts outside the exceptions. (Others: \$99.99.)	Lobbyists and entities that employ or retain lobbyists may not provide gifts outside the exceptions. (Others: \$99.99.)	\$50
✓ Individual Gift Limit	Prohibited from lobbyists and lobbyist employers/clients. See above. (Others: \$49.99.)	Prohibited from lobbyists and lobbyist employers/clients. See above. (Others: \$49.99.)	No single item valued at more than \$20
✓ De Minimis Gift Exclusion	Less than \$10.	Less than \$10.	Modest items of food and refreshments such as soft drinks, coffee & donuts not offered as part of a meal.
✓ Exception for Attendance at Widely-Attended Events	See discussion on page 5.	See discussion on page 5.	See discussion on page 5.
✓ Convention Events	A Member is prohibited from participating in a convention event honoring that member if such event is directly paid for by a lobbyist or a client of a lobbyist.	A Member is prohibited from participating in a convention event honoring that member if such event is directly paid for by a lobbyist or a client of a lobbyist.	No restrictions other than gift restrictions.

INTERPRETIVE ISSUES

	HOUSE OF REPRESENTATIVES	SENATE	EXECUTIVE BRANCH
Private Air Travel	No personal, official, or political committee funds may be used to pay for travel on private aircraft.	Free use of private aircraft for personal, campaign, and officially-connected travel prohibited, but reimbursement at a comparable charter rate permitted.	Travel may be made on private aircraft for certain official purposes per specific rules of the General Services Administration. For personal private travel, there are no specific rules, although reimbursement at the fair market value must be made.
Charitable Events	Members and staff may accept attendance, transportation, and lodging to be paid for only by a 501(c)(3) organization if the proceeds of the event are for the organization’s benefit. Expenses must be “reasonably necessary” to attend the event (e.g., lodging for only one night, meals in a group setting at the event itself).	A Member or staffer may accept free attendance, but may only accept reimbursed travel expenses if the event is not substantially recreational in nature.	No specific rule. See rule for widely-attended gatherings discussed on page 5 below.
Value for Reimbursements	Retail value is to be used. For tickets to events, the value is the face value of the ticket. If the ticket has no face value, then the ticket is valued at the highest cost of a ticket with a face value. A printed face value shall be deemed the face value only if it is the price at which the issuer offers the ticket to the public. Members must also pay for other benefits such as food, beverages, or parking.	Retail value is to be used. In the case of skyboxes and executive suites, the value will be the face value of the ticket, plus the value of any food and parking privileges. If the ticket has no face value, the value will be the value of the ticket with the highest face value for the event unless a ticketholder can establish in advance to the Ethics Committee that the ticket at issue is equivalent to another ticket with a face value.	Retail value is to be used. The value of a ticket is its face value.

	HOUSE OF REPRESENTATIVES	SENATE	EXECUTIVE BRANCH
No Buydowns	A Member or staffer may not pay the amount in excess of \$49.99 to bring the gift within the limit. (For gifts from lobbyists and clients, a Member or staffer may not pay the amount in excess of \$9.99 to bring the gift within the <i>de minimis</i> gift exception.)	A Senator or staffer may not pay the amount in excess of \$49.99 to bring the gift within the limit. (For gifts from lobbyists and clients, a Senator or staffer may not pay the amount in excess of \$9.99 to bring the gift within the <i>de minimis</i> gift exception.)	A covered individual may not pay the amount in excess of \$20 to bring the gift within the limit.
Multiple Gifts Divisible	Multiple gifts given at one time are deemed to be worth the aggregate of all of the gifts. But, if a gift is divisible such as dinner and a ticket, then the Member may pay for an item to keep from receiving a gift of \$50 or more (or, for lobbyists and clients, \$10 or more).	Multiple gifts given at one time are deemed to be worth the aggregate of all of the gifts. But, if a gift is divisible such as dinner and a ticket, then the Senator may pay for an item to keep from receiving a gift of \$50 or more (or, for lobbyists and clients, \$10 or more).	Multiple gifts given at one time are deemed to be worth the aggregate of all of the gifts. But, if a gift is divisible such as dinner and a ticket, then the covered individual may pay for an item to keep from receiving a gift of more than \$20.
Source of the Gift	Both the individual and the employer are the source.	Both the individual and the employer are the source.	Both the individual and the employer are the source.

Widely-attended Events under Senate and House Rules

A widely-attended event is an exception to the House and Senate gift rules. Members and staffers may accept free attendance to such events, even from lobbyists and the clients of lobbyists, under the following circumstances:

- The invitee’s participation or attendance is appropriate to official duties (internal approval necessary for staff members);
- There is an expectation of at least 25 attendees from outside Congress; and
- The event is open to members from throughout a given industry or profession or to a range of persons interested in the issue.

Invitations to widely-attended events may come from the event sponsor only, which does not include persons or entities that merely support an event financially. Non-sponsors may not earmark funds for the attendance of Members or staff but may request that the sponsor invite such individuals. Permissible “free attendance” includes admission fees, local transportation, refreshments, and integral entertainment.

Widely-attended Gatherings under Executive Branch Rules

Where it is determined that attendance will further agency programs or operations, an employee may accept from the event sponsor free attendance at a widely-attended gathering. A gathering is widely attended if it is expected that a large number of persons with a diversity of views or interests or from throughout an interested industry or profession will attend. If more than 100 persons are expected and the value of the free attendance is \$305 or less (including applicable spousal attendance), the employee may accept free attendance from a person other than the sponsor. Free attendance for widely-attended gatherings and conferences does not include travel expenses, lodging, entertainment collateral to the event, or meals taken other than in a group setting with all other attendees.

General Exemptions to the House and Senate Rules

- 1) **Gifts for which the recipient pays fair market value.**
- 2) **Political contributions.**
- 3) **Personal gift provided on the basis of personal friendship unless the gift is provided because of the official position of the recipient and not because of the personal friendship.**
 - Was there a history of the relationship including prior exchanges of gifts?
 - Was the gift paid for personally or a tax deduction or business reimbursement sought?
 - Was a similar gift given to other Members, officers, or employees?
- 4) **Personal hospitality (other than by registered lobbyists).**
 - Personal residence unrelated to the individual's business.
 - Does not include hospitality in a restaurant, nightclub, or other commercial establishment.
 - Must be paid for by the individual, not a corporation.
 - Must be for a non-business purpose.
- 5) **Free attendance at widely-attended events:** see page 5 above.
- 6) **Free attendance at a charity event.**
 - May accept the entrance fee to a charitable event from the sponsor only.
 - In the House, may accept travel, lodging, meals, or other travel expenses for *bona fide* charitable events that are “substantially recreational” in nature.
 - In the Senate, may not accept travel (other than local transportation), lodging, meals, or other travel expenses for events that are “substantially recreational” in nature.

- 7) **Food or refreshments other than as part of a meal.**
 - Reception where attendees consume hors d'oeuvres or drink while standing up.
 - Continental breakfast (not a hot meal).
- 8) **Items of little intrinsic value:** greeting cards, baseball caps, or T-shirts, and items worth less than \$10.
- 9) **Informational materials.**
- 10) **Opportunities and benefits available to a wide group.**
- 11) **Plaques, trophies, or other commemorative items.**
- 12) **Donations of home state products to Members from that state intended for promotional purposes.**
- 13) **Training, if such training is in the interest of the House or Senate.**
- 14) **Constituent Events:** In the Senate only, Members and staff may accept a meal of less than \$50 at an event in the Senator's home state sponsored by constituents of the Senator or a group that consists primarily of constituents where at least five constituents attend, no registered lobbyist attends, and the Senator or staffer participates in the event as a speaker or panel member or performs an appropriate ceremonial function.
- 15) **Gifts from relatives.**
- 16) **Contributions to Legal Expense Funds (except by registered lobbyists).**
- 17) **Gifts from another Member.**
- 18) **Food, refreshments, lodging, and other benefits of outside activity.**
- 19) **Pension and other benefits.**
- 20) **Awards and prizes.**
- 21) **Honorary degrees and other awards.**
- 22) **Bequests, inheritances, and other transfers at death.**
- 23) **Gifts from federal, state, or local governments.**
- 24) **Items for which a waiver is granted.**

General Exemptions to the Executive Branch Rules

- 1) Gifts given based upon a personal relationship.**
- 2) Free attendance from the event sponsor at a conference or event where he or she is asked to participate as a speaker or panel participant on behalf of the agency.**
- 3) Free attendance at a widely-attended gathering (see page 5 above).**
- 4) Social invitations from persons other than prohibited sources.**
- 5) Discounts and similar benefits offered to the public, a class of all government employees, or a class unrelated to government service.**
- 6) Certain bona fide awards for public service from persons who do not have interests that may be substantially affected by the employee's official duties.**
- 7) Meals, transportation, lodging, and other benefits resulting from the business activity of a spouse, the employee's own outside business activity, or customarily provided by a prospective employer.**
- 8) Free attendance to political events, meals, lodging, etc. provided by a political organization as long as such participation is sanctioned by the Hatch Act.**
- 9) Certain gifts in foreign areas.**
- 10) Gifts for which the recipient pays fair market value.**

Officially-Connected (Fact-Finding) Travel Rules

	HOUSE OF REPRESENTATIVES	SENATE	EXECUTIVE BRANCH
✓ When Permissible	Meetings, speaking engagements, fact-finding trips, or similar events connected with official duties. (The company must be the sponsor of the event.)	Meetings, speaking engagements, fact-finding trips, or similar events connected with official duties. (The company may be the sponsor or part of an organization that sponsors the event.)	Transportation/lodging may be reimbursed to the agency for employee’s attendance at a meeting or similar function related to official duties.
✓ Authorization	Prior approval from ethics committee required after review of certification from sponsor regarding funding, lobbyist involvement, and reasonableness of expenses.	Prior approval from ethics committee required after review of certification from sponsor regarding funding, lobbyist involvement, and reasonableness of expenses.	Agency must determine that “the travel is in the interest of the Government[,] relates to the employee’s official duties,” and does not create a conflict of interest.
✓ Location	Not permissible for travel to home district (unless part of a larger delegation).	No travel to local duty station (or 35-mile radius).	As authorized by agency.
✓ Time Limits	<p>If the sponsor employs or retains a lobbyist, then the trip is limited to 1 day and night (exclusive of travel time).</p> <p>If sponsor does not employ or retain a lobbyist or is an institution of higher education:</p> <ul style="list-style-type: none"> • 4 days domestic travel (including travel time) • 7 days foreign travel (exclusive of travel time) 	<p>If the sponsor employs or retains a lobbyist, then the trip is limited to 1 day and night (exclusive of travel time).</p> <p>If sponsor does not employ or retain a lobbyist or is a 501(c)(3) charity:</p> <ul style="list-style-type: none"> • 3 days domestic travel (exclusive of travel time) • 7 days foreign travel (exclusive of travel time) 	As authorized by agency.

✓ **Lobbyist Involvement**

HOUSE OF REPRESENTATIVES	SENATE	EXECUTIVE BRANCH
<p>If sponsor employs or retains a lobbyist:</p> <ul style="list-style-type: none"> • No lobbyists may be present for any segment of the trip (1 day/night trip) • Lobbyist planning, organizing, requesting or arranging of trip must be <i>de minimis</i>. <p>If sponsor does not employ or retain a lobbyist:</p> <ul style="list-style-type: none"> • No lobbyists may be present for any segment of the trip • No lobbyist may plan, organize, request or arrange trip. <p>(These restrictions do not apply to trips sponsored by institutions of higher education.)</p>	<p>If sponsor employs or retains a lobbyist:</p> <ul style="list-style-type: none"> • No lobbyists may be present for any segment of the trip (1 day/night trip) • Lobbyist planning, organizing, requesting or arranging of trip must be <i>de minimis</i>. <p>If sponsor does not employ or retain a lobbyist:</p> <ul style="list-style-type: none"> • No lobbyist may accompany a Member or staffer “at any point throughout the trip” • Lobbyist planning, organizing, requesting or arranging of trip must be <i>de minimis</i>. <p>(The 1 day/night restriction does not apply to 501(c)(3) charities, although, without a limitation to 1 day/night, no lobbyist may accompany a Member or staffer “at any point throughout the trip.”)</p>	<p>No current restrictions</p>
<p>Member or staff member and one relative.</p>	<p>Senator or staff member and a spouse or child if “appropriate” (staff travel requires advance approval).</p>	<p>Employee. Spouse only in some authorized circumstances.</p>

✓ **Who**

	HOUSE OF REPRESENTATIVES	SENATE	EXECUTIVE BRANCH
✓ Permissible Expenses	Food, lodging and transportation. Entertainment only if provided to all attendees as an integral part of an event. Only reasonable and necessary expenses permitted. The ethics committee has provided many details about the reasonableness of expenses.	Food, lodging, and transportation. Entertainment only if provided to all attendees as an integral part of an event. Only reasonable and necessary expenses permitted.	Travel, subsistence and related expenses comparable to other attendees, provided in-kind or via direct payment to agency.
✓ Use of Private Aircraft	Prohibited except in a few very limited circumstances.	Free use prohibited, although reimbursement at charter rate permissible.	As authorized by the agency.
✓ Exclusions	Excludes events “substantially recreational in nature.” No payments by lobbyists or foreign agents.	Excludes events “substantially recreational in nature.” No payments by lobbyists or foreign agents.	As authorized by agency.

Summary of House Travel Rules*

	Permissible Sponsor	Lobbyist Involvement in Planning, Organizing, Requesting, or Arranging	Lobbyist and Foreign Agent Accompaniment	Certification, Committee Approval, and Post-travel Disclosure Required?	Notes
One-day Event Trip	Any sponsor <i>OTHER</i> than a lobbyist or foreign agent	<i>De minimis</i>	Not permitted	Yes	Travel may be extended to a two-night stay when determined by the Committee to be practically required for traveler to participate in the one-day event
Trip Sponsored by an Institution of Higher Education	Private universities and colleges	Permitted	Permitted	Yes	
Multiple-day Event Trip	Any sponsor <i>OTHER</i> than a lobbyist, foreign agent, or private entity that retains or employs such an individual	Not permitted	Not permitted	Yes	
Government-sponsored Travel	Federal, state, and local governments, including a public university or college	Permitted	Permitted	No	
Foreign Government-sponsored Travel	Foreign government with a MECEA-approved trip, or in-country foreign travel permitted under the FGDA	Permitted	Permitted	No	Special disclosure requirements for FGDA travel

* This chart was originally published in a memorandum from the Committee on Standards of Official Conduct regarding New Travel Rules for Officially-Connected Travel Paid for by a Private Source. See http://www.house.gov/ethics/m_travel_rules_paid_private_source.htm