



# Lobbying in the Era of COVID-19: What to Expect

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As Congress, the administration and the private sector adapt to a new reality, so shall lobbying. With those changes, it is reasonable to expect government relations professionals to face new compliance challenges. Remote or proxy voting could shift strategy, especially if such voting leads to a small number of legislators holding significant numbers of proxy votes. Although the lines of communication may remain open with executive branch officials who are “covered” by the Lobbying Disclosure Act (LDA), career staff may be less accessible for extended periods. Even if agencies re-open their offices, they may still make ample use of telework for safety. This could make it more difficult to contact certain key officials at critical times.

The question of when and how to “re-open” is a matter of state law and governors will play a large role in that decision. Also, as we have previously discussed regarding California, local officials will play a critical role. Lobbying regarding COVID-19 by a business, nonprofit, or association will need to align with state and local lobbying regulations and laws.

## Increased Scrutiny Related to Stimulus Legislation

The CARES Act and other stimulus bills will make more than \$3 trillion available to various entities, and lobbyists are in the middle of the scrum regarding these dollars. While the who, what, and how of disbursing these funds is ever changing, one thing is guaranteed: the lobbying and ethics rules still apply, and compliance (or lack thereof) will be investigated. At the very least, there will be a Congressional Oversight Commission, which is empowered to take testimony under oath and submit reports to Congress through September 30, 2025! The Special Inspector General (“SIG”) for the Pandemic Recovery will be housed within the Treasury Department and will audit and investigate the purchases, sales, loans, and other activity pursuant to stimulus legislation. Another very active investigatory panel, chaired by Majority Whip James Clyburn, will be the new House Committee on the pandemic, the purpose of which will be to, “root out waste, fraud and abuse.” Although the funding for many of these stimulus programs has (or will) evaporate

in days, the oversight tail will be a long one. Make sure your compliance program can hold up to this increased scrutiny down the road.

### **Social Media and Other Grassroots Tactics Will Be an Even More Important Advocacy Tool**

You may not think of social media and grassroots lobbying as a federal compliance issue if you are reporting federal lobbying expenses under the LDA definitions and not the Internal Revenue Code definitions. However, there are other compliance issues surrounding these methods and tactics. Whether that's compliance with the social media platforms' terms of services or making sure your advocacy doesn't veer into state issues that could trigger state disclosures (in California, Washington, and Maryland, to name a few), your social media advocacy should be factored into any lobbying compliance program.

### **Increased Use of Digital Communication Will Leave a Longer Audit Trail**

With the pandemic increasing reliance on digital means to communicate with Congress, the Administration, and relevant staff, there is an increased prospect for communications to be taken out of context in the future. A general rule of thumb to follow: anything you put in writing could appear on the internet and/or in the press. If you have any doubts, it is safer to run things by your compliance team rather than wonder what Congress or an Inspector General will make of a text or email.

Nossaman's Government Relations & Regulations practice is staying current with these developments in advocacy, since we are lobbyists as well as lawyers advising on compliance. If you have any questions regarding these issues, please contact Bill Powers, [wpowers@nossaman.com](mailto:wpowers@nossaman.com), or Fred Dombo, [fdombo@nossaman.com](mailto:fdombo@nossaman.com).