

The 2017 Presidential Inauguration: Ethics and Compliance Issues

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Election and Political Law

With Election Day 2016 in the books, the political world turns to the transition of power and the January 20, 2017 Inauguration of President-elect Donald Trump and Vice President-elect Mike Pence. With the swearing in of the new President and Vice President will come the traditional balls, parties, and receptions. The inauguration and related events are costly, and paid for largely with private funds. Individuals, businesses, and other organizations donating to the inauguration, hosting related events, or giving out tickets to either should remember that they are operating in a highly regulated space. We profile three common compliance issues below. Persons interested in this alert may also wish to review our alerts on the [Presidential Transition](#) and the political appointee [vetting process](#).

Contributions to the Official Inaugural Committee

The Presidential Inaugural Committee (“PIC”) plans and finances the parade, balls, galas, and official inaugural events other than the swearing in ceremony. While some prior Presidents-elect have voluntarily limited the source and amount of contributions to their PICs, this is a political decision. The law allows U.S. citizens, lawful permanent residents (“green card” holders), and U.S. corporations to contribute an unlimited amount to a PIC.

Organizations registered under the federal Lobbying Disclosure Act (“LDA”) and their lobbyists must disclose any contributions to the PIC on their semi-annual Form LD-203 contribution reports. These reports are due January 30, 2017 (covering contributions made in the last half of 2016) and July 31, 2017 (covering contributions made in the first half of 2017). The PIC also files a [report](#) disclosing donors’ names, addresses, and amounts within 90 days after the inauguration. This will allow the Government Accountability Office to cross-check the accuracy of lobbyists’ reports prior to conducting its 2017 LDA registrant compliance audits.

Giving Inaugural Event Tickets to Government Officials

Corporations and individuals with tickets to inaugural balls, unofficial parties, and other inauguration-related festivities should be aware that some incoming Trump Administration appointees will become government officials on Inauguration Day and will be covered by the federal ethics and gift rules. Others who have not formally received their appointments or who await Senate confirmation will not yet be federal officials at the time of the inaugural events, and so will not yet be covered by the federal ethics and gift rules. These individuals may be covered by a Transition gift policy, but the incoming administration will have a fair amount of flexibility in deciding how it wants any such policy to apply to inaugural events.

Corporations and individuals should be careful about giving these tickets to current federal, state, or local government officials. Members of Congress and their staff, for example, are prohibited from accepting gifts valued at \$50 or more per source (or \$100 or more per source per year in the aggregate) unless an exception applies. If the gift-giver is a lobbyist or an organization that retains or employs lobbyists, the Member or staffer cannot accept a gift of *any amount* unless an exception applies. Similar restrictions apply to federal executive branch employees and officials. Importantly, employees and officials of state and local governments may also be prohibited from accepting tickets pursuant to state and local law, and in some states, liability for providing prohibited gifts runs to both the gift giver and the recipient.

While the Office of Government Ethics has in the past viewed gifts from the PIC itself to be consistent with the federal executive branch gift rules, there is no general exception that would allow a corporation or private individual to give a government official a free ticket to an inaugural ball, gala, and other event. But there are some exceptions that might apply, depending on the nature of the gift. One exception likely to apply to many events allows Members of Congress and their staff to accept tickets from the sponsors of “widely attended events” if attendance is related to their official duties, at least 25 persons from outside of Congress are expected to attend, and attendance is open to individuals from throughout a given industry or profession or those in attendance represent a range of persons interested in a given matter. Similarly, federal executive branch employees may accept invitations to certain “widely-attended gatherings,” but only if their agency designee determines that attendance is in the agency’s interest. Even otherwise permissible “widely-attended gatherings” may be off-limits if the official is an Obama executive branch appointee and the invitation comes from a registered lobbyist or lobbying organization. Of course, if no exception applies, the government official can always pay fair market value for the ticket.

Keep in mind that LDA registrants and their lobbyists will have to [certify](#) semi-annually that they have complied with the Congressional gift rules.

Hosting or Attending Privately-Sponsored Events

In addition to official PIC events, the days and nights surrounding Inauguration Day are filled with a variety of other unofficial policy-based, social, and political events. Special rules apply depending on the entity that hosts the event. A federal political party, joint fundraising committee, PAC, or candidate committee is free to host an event, and campaign finance laws apply to requests for contributions. In such cases, generally speaking, only personal funds or PAC funds may be used to make the contribution, and campaign contribution limits will apply. Since the 2013 Inauguration, Congress has created new accounts for the national political parties, allowing parties to accept contributions in [much larger amounts](#) than before, and the Supreme Court [eliminated](#) the aggregate biennial limits on contributions from donors to political committees. This will allow the RNC and other national party committees to raise much larger checks from individuals and PACs than they were able in 2012-2013, and this may be reflected in the parties’ inauguration-related fundraising.

Other organizations—such as 501(c)(3) charities, 501(c)(4) social welfare organizations, and 501(c)(6) trade associations—may also host policy conferences or fundraising benefits in conjunction with the inauguration. Generally speaking, unlimited corporate funds may be used for these events, although such contributions should be vetted for compliance with tax and

campaign finance laws. Some of these contributions might also need to be disclosed on the corporation's website, depending on the corporation's voluntary political disclosure policies.

Moreover, donors to these events should be aware that many states and localities place restrictions on the making of political contributions by state and local government contractors. The SEC also regulates contributions by certain financial services professionals to non-federal officials with authority over certain investments. Government contractors, financial services firms, and their employees should therefore make sure that contributions to these entities will not, in turn, be used for political contributions that would be prohibited under the SEC pay-to-play rules or applicable state or local pay-to-play laws and policies.

Covington's Election and Political Law Practice Group includes a multi-disciplinary and bipartisan group of lawyers specializing in campaign finance, lobbying, and government ethics law. Firm lawyers routinely provide advice to clients on the regulation of lobbying and gifts to government officials and staff. If you have any questions concerning the material discussed in this client alert, please contact the following members of our Election and Political Law practice:

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