

## *F. Byrd Amendment*

Appendix F contains the following documents pertaining to the certification and disclosure requirements pursuant to 31 U.S.C. § 1352, Byrd Amendment:

1. Implementation Statement .....F-3
2. [Certification Form](#) .....F-5
3. [Disclosure Form](#).....F-7

### **Internet Access to Forms**

1. Access the Internet and type <http://www.fdic.gov> in the Location bar at the top of the screen, and press Enter.
2. Click on the **Public Info** icon, then click on **Manuals, Directives & Policies**, and finally click on **Outside Counsel Deskbook**. Click on the Chapter, Appendix or Form you wish to access or print.

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# FDIC

## Federal Deposit Insurance Corporation

Washington, D.C. 20429

Legal Division

**TO:** FDIC Outside Counsel

**SUBJECT:** Implementation of 31 U.S.C. § 1352: Instructions for Completing Required Form(s)

In accordance with 31 U.S.C. § 1352 (b), all firms that request or receive a "contract" to provide legal services to the FDIC on a matter for which the firm has been or is expected to be paid \$100,000 (fees and expenses) or more must complete and return the FDIC Certification Form 3700/04 (3-91) ("Certification Form"). On the Certification Form your firm certifies whether it has made any payment or has agreed to make any payment prohibited by the Act. Furthermore, if any such payment has or will be made, the firm shall also complete and submit the Disclosure of Lobbying Activities (Standard Form LLL) ("Disclosure Form"). Thus, the Certification Form is required whether or not your firm has engaged in any lobbying activities. The Disclosure Form should be filed only if your firm has engaged in lobbying activities.

Your firm is responsible for determining when the total fees (including expenses) for a legal matter exceed or are expected to exceed \$100,000. Furthermore, your firm is responsible for complying with 31 U.S.C. § 1352 (b) when total fees (including expenses) for a legal matter were initially estimated to be less than \$100,000 and were subsequently amended to exceed \$100,000, or if you received \$100,000 or more for a legal matter.

If your firm **has not** previously filed a Certification Form and a Disclosure Form, if required, in accordance with 31 U.S.C. § 1352 (b), then your firm must file the appropriate form(s) with the FDIC **within 20 days from the date of the engagement**. If your firm **has** previously filed a Certification Form and Disclosure Form, if required, please note that your firm has a continuing duty to update previously filed Certification Forms and Disclosure Forms, pursuant to 31 U.S.C. § 1352 (b)(4)(C). If we do not receive an amended Certification Form and Disclosure Form, if required, then we will assume that no event has occurred that has materially affected the accuracy of a previously filed Certification Form and Disclosure Form.

Completed forms should be returned to the FDIC Legal Division office that issued the specific referral or engagement. Please note that your firm is responsible for ensuring that the forms that you file with the FDIC are accurate. The Act provides that those "persons", i.e. firms, who fail to file the Certification Form or the Disclosure Form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure to disclose. 31 U.S.C. § 1352 (c)(2)(A).

The Byrd Amendment, 31 U.S.C. § 1352, (the "Act" or "Byrd Amendment"), prohibits the use of appropriated funds by recipients of a "Federal contract" for purposes of influencing or attempting to influence federal officials in connection with a "Federal action," such as the awarding of a "Federal contract." The Act prohibits "contractors" from using appropriated funds for lobbying in connection with a contract, grant, loan or cooperative agreement with a Federal agency. Furthermore, the Act requires the "contractor" to disclose to the Federal agency involved its lobbying activities connected with such "contract," grant or loan when the "contract" amount exceeds \$100,000 regardless of whether the activities are funded with appropriated funds.

The Act requires that a recipient of a "Federal contract" in excess of \$100,000 must file with the agency certain certification and disclosure forms. Certification and disclosure forms must be filed with the agency in accordance with 31 U.S.C. § 1352 (b)(4):

- (A) with each submission that requests an award of a federal contract, grant, loan, or cooperative agreement;
- (B) upon the receipt of a federal contract, grant, loan, or cooperative agreement; and
- (C) at the end of each calendar quarter in which any event occurs that "materially affects the accuracy of the information contained in any declaration previously filed."

Click on the following to access for printing:

[Certification Form](#)

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Click on the following to access for printing:

[Disclosure Form](#)

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