

PROGRAM INSTRUCTION

memorandum

NEW YORK STATE OFFICE FOR THE AGING
Bldg. 2, Empire State Plaza, Albany, NY 12223

No: 91-PI-5	Date: 1/24/91
Programs Affected:	
[X] III-B [X] III-C-1 [] III-C-2 [X] III-D [] SNAP [] CSE [] ELSEP [] EPIC [] JRPE [] HEAP [] OTHER:	
Contact Person(s) - Phone Number(s) John T. Phelan 518/474-5796	
For Your Information:	
PI Superseded by this document:	

TO: [X] AREA AGENCY ON AGING DIRECTORS
[X] All SOFA Federal Grantees
[]

Subject: Federal Anti-Lobbying Requirements

Due Date:

This Program Instruction supplements information contained in 90-PI-61 concerning the recent Federal "Anti Lobbying Act". As we have informed the network in that P.I. and in other communications from the State Office for the Aging in the past, prohibitions against the use of Federally appropriated funds to pay for lobbying activities are not new. 90-PI-61 alerted recipients that the Federal Government by Section 1352 of Title 31, United States Code, and new Interim Rules, has added additional restrictions on "lobbying" activities by recipients of Federally appropriated funds.

INTRODUCTION

90-PI-61 contained a brief summary of the provisions of the Federal Law and included a copy of a recently issued Federal Administration on Aging Program Instruction, AOA-PI-90-09. Since that time the State Office for the Aging has received numerous inquiries concerning this matter. While the Federal Government has not finalized its interpretation of the statute, the information in this PI should still be helpful to grantees and subcontractors in dealing with the requirements of the Statute. A copy of the AOA Program Instruction is attached to this Instruction. The AOA document includes the required Certification Regarding Lobbying and the Disclosure of Lobbying Activities form.

Here are some questions and answers on the Act:

-How do I know if I have to file a certification under the Act?

The Act requires, among other things, that the recipient of a Federal grant, contract, loan or cooperative agreement which exceeds \$100,000.00 submit a Certification Regarding Lobbying. In addition, a Disclosure of Lobbying Activity form must be filed when any lobbying event occurs. If you have not received a grant or contract exceeding \$100,000.00, the Certification Regarding Lobbying filing requirement does not apply to you and no filing of this is necessary. The Disclosure of Lobbying Activity form

generally applies whenever recipients or applicants have used non-federal funds to pay persons external to their organization for activities which would have been prohibited if Federal funds had been used.

-When and where do I send a required filing?

Filings of the "Certification Regarding Lobbying" and "Disclosure of Lobbying Activity" (copies of which are attached), if appropriate and not yet submitted, should be completed by the Area Agencies immediately and submitted to the State Office for the Aging. These files will be maintained for review by the appropriate Federal Agencies. Service providers should submit their certificates to the Area Agencies to be maintained for review. In addition, the "Disclosure of Lobbying Activity" form is to be filed when an event requiring disclosure occurs and at the end of each quarter in which there occurs any event that affects the information contained in any previous Disclosure form. The Interim Final Regulations refer to subsequent submission to Congress of this information but a procedure does not appear to have been established for this as yet. The Disclosure of Lobbying Activity form should be filed in the same manner as the Certification whenever a payment has been made from non-Federal funds for activities which would have been prohibited if Federal funds had been used.

Note that the requirement for filing the Certification Regarding Lobbying is also triggered by any extension, continuation, renewal, amendment, or modification of a covered (over \$100,000.00) Federal contract, grant, loan, or cooperative agreement.

Further, the Certification requires that the certification language of that document be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

-Exactly what actions are prohibited by the Act?

The Act prohibits a recipient of a Federal contract, grant, loan or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal Actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Some clarification of this language has been issued by the Federal Office of Management and Budget (OMB). In a recent memorandum sent to Federal procurement executives, OMB made clear that the

prohibition on the use of Federal appropriated funds is concerned only with lobbying in an attempt to influence the granting of a specific grant, loan, guarantee, or contract. Activities connected with work on legislation and regulations are not included in the prohibition.

These Anti Lobbying restrictions and filing requirements are now in full effect and are binding on those recipients of Federal funds to whom they apply. Grantees and contractors must comply and the State Office will include this program in our review of Area Agency compliance with Federal requirements. All Area Agency subcontracts to which it applies must require compliance with this Statute.

As more information becomes available, including Final Federal Regulations on this matter, the State Office for the Aging will issue updated guidance.



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PROGRAM INSTRUCTION
AoA-PI-90-09

TO : STATE AND AREA AGENCIES ON AGING
ADMINISTERING PLANS UNDER TITLE III AND
TRIBAL ORGANIZATIONS ADMINISTERING PLANS
UNDER TITLE VI OF THE OLDER AMERICANS
ACT, AS AMENDED

SUBJECT : New Restrictions on Lobbying

LEGAL AND RELATED
REFERENCES : Department of Interior and Related
Agencies Appropriations Act for
Fiscal Year 1990, Public Law 101-121;
and 45 CFR 93

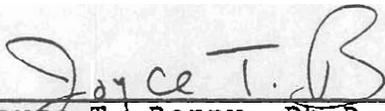
The purpose of this memorandum is to apprise Administration on Aging (AoA) grantees of the new lobbying requirements and to request the authorized official to submit a certification regarding lobbying.

In regard to Title III grantees, Public Law 101-121 requires that all grantees shall file a certification, as set forth in Appendix A of 45 CFR 93; and a disclosure form (Appendix B, 45 CFR 93), if appropriate, upon receipt of a Federal grant which exceeds \$100,000. Disclosure forms are to be filed when an event requiring disclosure occurs. In addition, the law requires a disclosure form be filed at the end of each calendar quarter in which there occurs any event that affects the information contained in any disclosure form previously filed. The Departmental regulation, 45 CFR 93, outlines the statutory requirements which are to be complied with by AoA grantees and are self-explanatory.

AoA grantees should note that these requirements apply to the Federal grantee (State Agency on Aging) as well as subgrantees (Area Agency on Aging and service provider) at any tier of the Federal grant.

In regard to Title VI grantees, the law excludes from these requirements Indian Tribes, tribal organizations, or any other Indian organizations with respect to expenditures specifically permitted by other Federal law.

- EFFECTIVE DATE : Certifications are due to the appropriate Regional Offices by September 17, 1990.
- ATTACHMENTS : Appendices A and B of 45 CFR 93, Certification Regarding Lobbying, and Disclosure of Lobbying Activities.
- INQUIRIES : State Agencies on Aging and Tribal Organizations should address inquiries to Regional Program Directors on Aging, HHS Regional Offices.

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Joyce T. Berry, Ph.D.
U.S. Commissioner on Aging

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans,
and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Organization

State

Authorized Signature

Title

Date

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D C 20503

**DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET**

Approved by OMB
0348-0046

Reporting Entity: _____

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