This program instruction summarizes Federal and State requirements concerning aging network involvement in political activities.

**INTRODUCTION**

Under the Federal Older Americans Act (42 U.S.C sec. 3001, et seq.) and Article 19-J of the New York State Executive Law, New York State’s aging network is required to help assure that older people have full access to their rights and benefits, including the right to vote and to participate in the public policy making process. The network is also responsible for advocacy on behalf of older people.

In meeting these responsibilities, each level of the aging network must work within specific constraints set forth in these laws, as well as restrictions on certain partisan (one-sided) political activity including those imposed by the Federal Hatch Act. General standards, such as the requirement that all activities financed with covered funds performed either by AAAs, or their sub-contractors must comply with area plans, also apply to network involvement in political activities. Similarly, SOFA grantees that are not Area Agencies must also comply with the terms of their applications and grant awards, including conditions prohibiting improper political activity.
This Program Instruction addresses specific Federal and State requirements applying to political involvement of Area Agencies on Aging, their subcontractors, and all SOFA grantees. Restrictions applicable to non-profit organizations are also described.

FEDERAL LAWS

HATCH ACT

The Federal Hatch Act (5 U.S.C. sec. 1501, et seq.) restricts the political activity of an individual employed by a State or local executive agency in connection with a program financed in whole or in part by Federal loans or grants, including Older Americans Act funds. The Hatch Act applies to an officer or employee of a State or local agency whose principal employment is in connection with an activity financed in whole or in part by federal loans or grants. It does not apply to employees of private non-profit organizations; however, such organizations, including those that are designated as local Area Agencies, are subject to Federal lobbying restrictions (see "Federal Anti-Lobbying Laws and Policies," below).

Accordingly, employees of AAAs, their governmental subcontractors and governmental SOFA grantees, are subject to the Hatch Act (if Federal funds are involved) and are prohibited from engaging in certain partisan political activities. These prohibited activities include being a candidate for public office in a partisan election (see below), using official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office, and directly or indirectly coercing contributions from subordinates in support of a political party or candidate. Violations of this act could result in an adverse determination by the Federal Merit Systems Protection Board requiring either dismissal of the violator or the forfeiture of a portion of Federal assistance equal to two years salary of the violating employee.

Title V Senior Employment Program enrollees working for public agencies are also subject to the Hatch Act's restrictions on partisan political activity and may not engage in these prohibited political activities.

The Hatch Act also prohibits such State and local government employees from being a candidate for partisan elective office. This restriction does not apply to the governor or lieutenant governor of a state, the mayor of a city, the duly elected head of an executive department of a state or municipality who is not classified under a state or municipal merit or civil service system or, an individual holding elective office, if such individual's involvement with the Federally funded program is solely by virtue of that elected office. An individual holding elective office who, during such elective office, undertakes employment in connection with an activity financed in whole or in part with Federal funds cannot run for re-election after assuming such employment.
The Hatch Act restrictions apply to State and local employees who are on annual leave, sick leave, leave without pay, administrative leave or furlough.

Individuals employed by governmental Area Agencies and governmental subcontractors and SOFA grantees retain their personal political rights, except for the right to be a candidate in a partisan election; however, any public political involvement of such individuals must be clearly represented as private and unrelated to Area Agency employment.

Attached to this PI is a copy of the most recent Federal Government booklet reviewing the provisions of the Hatch Act and related matters.

FEDERAL "ANTI LOBBYING" LAWS AND POLICIES

Section 1352 of Title 31, United States Code, among other things, 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 modification of any Federal contract, grant, loan, or cooperative agreement.

In 1990, the Federal Administration on Aging issued AOA-PI-90-09 to inform Administration on Aging grantees of the new lobbying requirements and to request authorized officials to submit Federal certifications regarding lobbying. Note that this requirement also applies to Area Agencies on Aging and their service providers upon receipt of a Federal grant exceeding $100,000. Also, please note that the required Certification, in paragraph (3), provides that the Federal grantee will include the language of the Certification in the award documents for all subawards and that all subrecipients shall also certify and disclose in the same manner. A copy of AOA-PI-90-09 is also attached to this Program Instruction.

Non-profit organizations (including non-governmental AAAs, subcontractors and SOFA grantees) are also subject to additional constraints under revisions to the U.S. Office of Management and Budget's Circular A-122, Cost Principles for Non-Profit Organizations. OMB Circular A-122 prohibits use of Federal or matching funds by non-profit organizations to attempt to influence the outcome of any referendum or other ballot issue. An exception exists for "any activity specifically authorized by statute to be undertaken" with specified Federal or matching funds. Thus, non-profit AAAs, subcontractors and SOFA grantees are exempt from A-122's restrictions on the use of Federal or matching funds for these purposes only to the extent that a specific statutory authorization covers such activities.
IRS PROVISIONS

Non-profit tax exempt organizations are also subject to Federal Internal Revenue Code restrictions prohibiting tax-exempt organizations from expending a substantial portion of their funds for lobbying.

STATE LAWS

CIVIL SERVICE LAW

The State Civil Service Law prohibits certain political activities engaged by, or directed at, State and local employees. (Civil Service Law, §107) The following is a brief description of the more pertinent provisions:

- No appointment, selection or removal of a civil service employee shall be affected or influenced by political opinions or affiliation;

- No civil service employee is under any obligation to contribute to any political fund or to render any political service; or shall be removed by refusing to do so;

- No civil service employee shall use his or her official authority or influence to coerce political action of any person or to interfere with any election;

- No person shall ask the political affiliation of any civil service employee as a test of fitness for office;

- No state or local officer or employee shall use his or her authority or official influence to compel or induce any other State or local officer or employee to pay any political contribution.

A violation of Civil Service Law, §107 may result in criminal sanctions.

ELECTION LAW

Pursuant to the Election Law, a state or local officer or employee who uses his authority or influence to compel any other state or local officer or employee to pay or promise to pay a political contribution is guilty of a class A misdemeanor. (Election Law, §17-158)

The Election Law also states that a state or local officer or employee who uses his or her authority or influence to affect the vote of any other state or local officer or employee is guilty of a felony. (Election Law, §17-158)
MISCELLANEOUS

VOTER REGISTRATION

Area Agencies on Aging are required to comply with Election Law, §5-211, as amended by Chapter 659 of the Laws of 1994. This section was enacted to implement the National Voter Registration Act (NVRA) in New York. Area Agency responsibilities under the NVRA include:

- promoting the Voter Registration Program;
- informing individuals of the opportunity to register to vote;
- taking Voter Registration applications;
- forwarding completed applications to the local Board of Elections; and,
- collecting and forwarding appropriate statistics to the local and State Board of Elections.

The New York State Office for the Aging has issued the following Program Instructions regarding Area Agency on Aging compliance with the NVRA:

- 95-PI-07 - AAA Voter Responsibilities
- 95-PI-37 - Compliance Issues
- 96-PI-08 - Compliance Issues
- 96-PI-27 - Training
- 96-PI-28 - HEAP and Reporting Procedures
- 96-PI-32 - Questions and Answers

Technical assistance for Area Agencies in meeting their responsibilities under the NVRA is available from this Office by contacting Edward J. Kramer at 518/474-5476.

INFORMATION ABOUT ISSUES AND CANDIDATES

Area Agencies, their subcontractors and SOFA grantees may provide or arrange for the provision of information concerning public issues, including elections, referenda, and other ballot issues, consistent with their grant awards and plans.

Groups of elderly service recipients may, in appropriate circumstances, be given the opportunity to hear or meet with public officials or candidates, provided that all such events are open on an equal basis to all candidates regardless of policy views or partisan affiliation. This does not require that all candidates be present at the same time but rather that all candidates be given a genuinely equal opportunity to appear and make their views known. No candidate endorsement or partisan advocacy by Area Agencies is permitted. (For more details, see 96-PI-40)
ACCESS TO POLLS

Area Agencies, their subcontractors and SOFA grantees may participate in non-partisan efforts to assure that all elderly have access to the polls, whether by absentee ballot or at polling places. No partisan access or partisan get-out-the vote efforts are permitted.

AAA Directors who have further questions regarding specific activities should contact SOFA's Counsel's office or, if they are part of county government, the county attorney for advice concerning that particular activity. Subcontractors should contact their AAA or other contracting entity with questions. SOFA grantees should contact SOFA's Counsel's office.

Attachment
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 1999, 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.

[Signature]
J. 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 subcontractor 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 3532. 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 subawardee recipient enter the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawardees include but are not limited to subcontractors, 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 8.
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 item 10 (a).
11. Enter last Name, First Name, and Middle Initial (Ml).
12. Check the appropriate box(es). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provides 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 preparation and related activity, not just time spent in actual contact with federal officials. Identify the Federal official(s) or employee(s) contacted by the official(s); employee(s); or Members 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 the collection of information, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0548-0046), Washington, D.C. 20503.
**Disclosure of Lobbying Activities**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1351

(See reverse for public bulletin disclosure.)

1. **Type of Federal Action:**
   - [ ] contract
   - [ ] grant
   - [ ] cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. **Status of Federal Action:**
   - [ ] bid/offer/application
   - [ ] initial award
   - [ ] post-award

3. **Report Type:**
   - [ ] initial filing
   - [ ] material change

For Material Change Only:
year: ________ quarter: ________
date of last report: ______

4. **Name and Address of Reporting Entity:**
   - [ ] Prime
   - [ ] Subcontractor Tier: ______

   Congressional District: ______

5. **Name and Address of Prime:**

   Congressional District: ______

6. **Federal Department/Agency:**

7. **CFDA Number:**

   Governmental Program Name/Description:

8. **Federal Action Number:**

   Award Amount: ______

9. **Award Amount:**

   Governmental Program Name/Description:

10. **Name and Address of Lobbying Entity:**
    (individual, last name, first name, M/L)

   Individuals Performing Services (including address if different from No. 10):
   (last name, first name, M/L)

11. **Amount of Payment (check all that apply):**
    - [ ] actual
    - [ ] planned

12. **Form of Payment (check all that apply):**
    - [ ] cash
    - [ ] in-kind, specify: ______

13. **Type of Payment (check all that apply):**
    - [ ] retainee
    - [ ] onetime fee
    - [ ] commission
    - [ ] contingent fee
    - [ ] deferred
    - [ ] other, specify: ______

14. **Brief Description of Services Performed or to be Performed and Date(s) of Service, including officers, employees, or Members contacted, for Payment Indicated in Item 13:**

15. **Continuation Sheet(s): SF-LLL-A attached:**
    - [ ] Yes
    - [ ] No

16. **Person(s) Required to Sign:**
    - Signature:
    - Position:
    - Title:
    - Telephone No.: ________ Date: ________

Federal Use Only: ________

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