

**STATE OF NEW JERSEY**  
**DEPARTMENT OF HUMAN SERVICES**

**SUBJECT:** Restrictions on the Use of Federal Funds to Influence the Awarding of Contracts or Subcontracts (Federal Lobbying)

**EFFECTIVE:** This policy circular shall become effective on September 1, 1993, and shall be implemented immediately.

**PROMULGATED:** September 1, 1993.

The purpose of this circular is to establish Department policy with regard to the federal Interim Final Rule promulgated by the Federal Office of Management and Budget. The policy circular prohibits Recipients and Subrecipients from using appropriated federal funds for lobbying the Executive or Legislative Branches of the federal government in connection with any specific Contract or subcontract.

I. SCOPE

This policy circular applies to all Provider Agencies that receive in excess of \$100,000 in federal funding via a specific federal grant program, contract, or cooperative agreement from a Departmental Component(s) through a Contract or subcontract.

II. DEFINITIONS

In addition to the defined terms included in the Glossary of the Manual, the following terms, when capitalized, shall have meanings as stated.

Executive and Legislative Branch(es) means an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress.

Person means an individual, corporation, company, association, authority, firm, partnership, society, state, or local government.

Recipient (Contractee or Provider Agency) means the legal entity that enters into a contractual arrangement with any Departmental Component.

Subrecipient (Subcontractee) means the legal entity that enters into a contractual arrangement with a Contractee or another Subcontractee, no matter how many interceding administrative Tiers (levels) separate the parties.

Tier means each successive, separate level of administrative organization beginning with the Department of Human Services and ending with the provider of service.

### III. POLICY

- A. Pursuant to Section 319 of Public Law 101-121, Title 31 of the United States Code, as amended per Section 1352, all Recipients and Subrecipients of federal grant, contract, or cooperative agreement funding are prohibited from using appropriated federal funds to pay a Person to lobby on their behalf with the Executive or Legislative Branch(es) of the federal government in the awarding of a specific Contract or subcontract.
- B. All Recipients and Subrecipients that request or receive in excess of \$100,000 from a specific federal grant, contract, or cooperative agreement through a Departmental Component Contract or Tier subcontract, shall complete and forward to the Tier directly above, a Certification Regarding Lobbying form (Attachment A) covering the term of the Contract or subcontract. The Certification Regarding Lobbying form certifies that no federal appropriated funding at the Recipient or Subrecipient level was used to pay a Person to lobby the Executive or Legislative Branch(es) of the federal government.
- C. All Recipients and Subrecipients that request or receive in excess of \$100,000 from a specific federal grant, contract or cooperative agreement through a Departmental Component Contract or Tier subcontract shall also complete and forward to the Tier directly above a Disclosure of Lobbying Activities form (Attachment B) covering the term of the Contract or subcontract when non-federal funds were used to pay a Person to lobby the Executive or Legislative Branch(es) of the federal government.
- D. A Disclosure of Lobbying Activities form must be completed at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under section III.C. above. Materiality includes:
  - 1. a cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
  - 2. a change in the Person(s) or individual(s) influencing or attempting to influence a covered federal action; and

3. a change in the officer(s), employee(s), or Member(s) of Congress contacted to influence or attempt to influence a covered federal action.
- E. A separate certification form is required for each specific federal grant, contract or cooperative agreement amount in excess of \$100,000 funded per Contract or subcontract. Federal grant, contract or cooperative agreement funding amounts in a Department Contract or Tier subcontract shall not be added together to provide "cumulative" totals for determining federal lobbying applicability. The Departmental Component shall notify the Contractee of the total federal grant, contract or cooperative agreement funding in the Contract that is subject to the Lobbying regulations.
- F. If a subsequent Contract Modification during a Contract, or subcontract term causes the federal funding to exceed \$100,000 during the term, a Recipient or Subrecipient shall complete and forward a certification, and if required, a completed disclosure form to the Tier above.
- G. The Departmental Component shall ensure that all applicable ensuing Tiers (Contractee or Subcontractee) are notified of all federal lobbying form(s) and filing requirements. This responsibility includes the obligation to make it clear to the next lower Tier that the information must be passed to each subsequent Tier thereafter until the eventual provider of service has been contacted.
- H. Submitting an erroneous certification or disclosure form shall constitute a failure to file the required certification or disclosure. If a Person fails to file a required certification or disclosure, the United States or the Department of Human Services may pursue all available remedies, including those listed in Attachment C of this circular, as authorized by section 1352, Title 31, of the United States Code.

#### IV. PROCEDURES

- A. All Recipients and Subrecipients shall complete and sign the Certification Regarding Lobbying form. The completed form shall be sent to the Tier above it; however, the form does not have to be forwarded any further. All Tiers that receive the Certification Regarding Lobbying form shall keep the completed form on file with their Contract documents.
- B. When Recipients or Subrecipients are required to complete the Disclosure of Lobbying Activities form, the form shall be forwarded to each successive Tier until it reaches the appropriate Departmental Component. The Disclosure of Lobbying Activities form(s) from the last non-Departmental

Tier must be submitted to the Departmental Component to allow sufficient time to transmit all required information to the federal government.

- C. If there is a cognizant Contract, the Cognizant contract administrator shall be responsible for placing the completed Certification Regarding Lobbying form and a copy of the Disclosure of Lobbying Activities form, if required, in the cognizant contract file. The Cognizant contract administrator shall forward the disclosure form to the Departmental Component of origin (non-cognizant division). The Departmental Component of origin shall forward the completed Disclosure of Lobbying Activities form to the appropriate Health & Human Services section of the federal government.
- D. The completed Disclosure of Lobbying Activities form(s) shall be compiled, collated and submitted by the Departmental Component on a calendar quarterly basis to the appropriate grant making section of the U.S. Department of Health and Human Services.

Issued by:

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Paul W. Maksimow  
Acting Assistant Commissioner  
Budget, Finance and Administration

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.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature of Authorized Official)

For: \_\_\_\_\_  
Name of Grantee Contract Number \_\_\_\_\_  
\_\_\_\_\_  
Title of Grant Program Contract Term \_\_\_\_\_



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 USC 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 1<sup>st</sup> 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 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 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: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

LOBBYING PENALTIES

- A. Any Person who makes expenditure prohibited herein shall be subject to a civil penalty of not less than \$10,000 nor more than \$100,000 for each such expenditure.
- B. Any Person who fails to file or amend the disclosure form, as required, shall be subject to a civil penalty of not less than \$10,000 nor more than \$100,000 for each such failure.
- C. A filing or amended filing on or after the date on which an administrative action for the imposition of a civil penalty is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date.
- D. In determining whether to impose a civil penalty and the amount of any such penalty, the nature, circumstances, extent and gravity of the violation shall be considered. Additional considerations shall include; the effect on the ability of the Person to continue in business, any prior violations by the Person, the degree of culpability of such Person, the ability of the Person to pay the penalty, and other matters as appropriate.
- E. First time offenders, absent aggravating circumstances, shall be subject to a civil penalty of \$10,000. Second and subsequent offenses shall be subject to appropriate civil penalty between \$10,000 and \$100,000 based on the circumstances.
- F. An imposition of a civil penalty under this section does not prevent the United States or Department from seeking any other remedy that may apply to the same conduct that is the basis for the imposition of such civil penalty.