

Examples of Legally Allowable and Restricted Activities for *Non-Government Grantees* **(Includes non-government sub-grantees of state and local governments)¹**

Language included in Section 503 of Division F, Title V, of the FY 12 Consolidated Appropriations Act (P.L. 112-74, excerpted below) reinforces and (in selected respects) expands long-standing statutory and other provisions governing the use of appropriated funds by CDC and its grantees for advocacy, lobbying, and related activities. These long-standing provisions include Office of Management and Budget (OMB) Circular A-122: Cost Principles for Non-Profit Organizations; OMB Circular A-87: and Cost Principles for State, Local, and Indian Tribal Governments.

Allowable Uses of CDC Appropriated Funding

Many non-profit grantees, in order to retain their tax-exempt status, have long operated under settled definitions of “lobbying” and “influencing legislation.” These definitions are a useful benchmark for all non-government grantees, regardless of tax status. Under these definitions, **grantees are permitted to prepare and disseminate certain**

- (1) nonpartisan analysis, study, or research reports;
- (2) examinations and discussions of broad social, economic, and similar problems in conferences and reports;
- (3) information provided upon request by a legislative body or committee for technical advice and assistance.

Along these lines, analysis, study, or research should contain a balanced, objective exposition of the facts to enable the public or an individual to form an independent opinion or conclusion. Materials must be posted or circulated widely to a diverse and numerous audience on a nonpartisan basis and ***must not contain an overt “call to action.”***

Other examples of allowable activities:

- Educating the public on personal health behaviors and choices.
- Conducting research on policy alternatives and their impact.
- Conducting educational campaigns that explain both the advantages and disadvantages of certain public policies or that demonstrate the efficacy and possible ineffectiveness of certain measures, as long as those communications are widely disseminated, balanced in their analysis, and avoid an express call to action with respect to specific legislation.

¹ CDC’s Guidance for Grantees on Anti-Lobbying Restrictions, http://www.cdc.gov/od/pgo/funding/grants/Anti-Lobbying_Restrictions_for_CDC_Grantees_July_2012.pdf.

- Compiling and communicating the results of research on health issues and policy approaches that have successfully addressed them (e.g., presenting evidence on rates of injury associated with mandatory bike helmet laws and the extent to which different approaches may be more or less effective at preventing injuries based on the evidence). Such communication should contain a balanced view of the evidence that allows the public to form an independent opinion or conclusion.
- **Upon formal, written request**, providing public officials with technical advice or assistance concerning evidence of program or policy effectiveness (e.g., an NGO funded wholly by a CDC grant may respond to a county commission's written request to provide technical assistance to the county commission on a draft ordinance banning smoking in public buildings).
- Educating the public with examples of best practices or success stories across states or localities. Such communication should contain a balanced view of the evidence that allows the public to form an independent opinion or conclusion.
- Identifying and broadly disseminating balanced, objective evidence on options and alternatives for legislative or executive actions that would achieve a policy outcome (e.g., identifying and ranking effectiveness of policy options based on scientific evidence); provided the communications do not refer to specific legislation or administrative action, do not state a point of view on that legislation or action, and do not make an explicit "call to action" encouraging the public to contact the legislative or executive body responsible for passing the law or issuing the order.
- Identifying approaches for tracking and evaluating implementation of policy actions.
- Compiling and sharing best practices and success stories from jurisdictions adopting policy approaches, provided such tools are not designed as a call to action on a proposed or pending matter or are a "how-to guide" for lobbying.
- Broadly sharing balanced, objective information across large groups of interested parties (such as groups of other NGOs or state/local governments), e.g., meeting with an association of state or local education agencies to highlight evidence-based policy approaches to improve healthy choices in school lunches. This information may not make an explicit call that such policy approaches be adopted.
- Developing information to inform the public on potential policy solutions and their impact (e.g., balanced, objective materials designed to educate community groups or the public on the extent to which policies such as healthy food choices and indoor air quality policies can

lead to health improvements). Communications should be designed to allow individuals and the public to form an independent conclusion.

- Communicating with the public about health issues and potential policy solutions (e.g., undertaking community outreach, media, or other campaigns designed to broadly disseminate the information described in the preceding example).
- Working with private sector organizations to achieve institutional or systems changes that do not require governmental or executive action.
- Communicating with the public about health risks and their consequences, provided that they do not include in these communications a call for the public to engage in the policy process.

Restricted/Non-Allowed Uses of CDC Appropriated Funding

Grassroots lobbying. No appropriated Federal funds can be used by CDC grantees for grassroots lobbying activity, *defined as: any activity directed at inducing members of the public to contact their elected representatives to urge support of, or opposition to, proposed or pending legislation or appropriations or any regulation, administrative action, or order issued by the executive branch of any Federal, state or local government.* Grantee communications from which an external audience may infer that it should contact legislators concerning specific legislation should be considered carefully because they may run afoul of the prohibition, unless the communications fall within certain recognized exceptions to the definition of “lobbying” or “influencing legislation.” It is this restriction on grassroots lobbying that prevents grantees’ calling upon the public to take action and direct efforts on the part of grantees to encourage participation by others in advocacy.

Direct lobbying by grantees: Except in certain cases of state and local government communication, as part of their normal and recognized executive-legislative relationships, as discussed above, *grantees are restricted from using federal funds to attempt to influence deliberations or actions by Federal, state, or local legislative or executive branches.* This includes communications to a legislator or executive official that refer to and reflect a view on specific measure (legislative or executive).

Other examples of prohibited activities:

- Federally-funded lobbying activities are prohibited
- Direct lobbying in support (or in opposition) to a matter proposed or pending before a legislature, including a state or local legislature or the US Congress, or to a proposed or pending decision by an executive agency (including regulations, executive orders, or other administrative action).

- Presenting materials relating to public policies that may require legislative or executive action that do not include an objective, balanced presentation of evidence.
- Presenting materials relating to public policies that may require legislative or executive action that are only made available to allies or a narrow or selective audience.
- Developing and/or disseminating materials that exhibit *all* three of the following characteristics: (1) reference to specific legislation or other order; (2) reflecting a point of view on that legislation or other order; and (3) containing an overt call to action.
- Encouraging the public or other entities to support or oppose specific action proposed or pending before the US Congress, also referred to as grassroots lobbying.
- Encouraging the public or other entities to support or oppose specific legislation or executive action by a state or local government, also referred to as grassroots lobbying.
- Advocating to perpetuate or increase their own funding from the Federal government.

Note: This discussion addresses legal aspects of work by CDC non-government grantees with CDC funding. Even when operating within what are *thought* to be legal limits, attention must be paid to appropriateness of policy positions, Congressional intent regarding the use of appropriations, and the appropriateness of grantee activities.

The descriptions are a general summary based on tax law exceptions to the definition of “lobbying” and “influencing legislation.” Consequently, grantees are referred to the Internal Revenue Code and implementing regulations for a complete statement of applicable requirements. Grantees may wish to consult their tax and/or accounting advisors for assistance.

Note also that grantee activities are not restricted under Section 503 if grantees use funding sources other than Federal appropriations for those activities. At the same time, grantee activities may be limited by state law or other applicable restrictions.