

## **Lobbying Activity, Certification and Reporting Related to Federal Grants, Contracts, and Cooperative Agreements**

### **Overview**

Federal law<sup>1</sup> **prohibits** recipients of federal funds, whether through grants, contracts, or cooperative agreements, from using those funds to influence or attempt to influence (lobby) a federal official<sup>2</sup> in connection with obtaining, extending or modifying any federal contract, grant, loan, or cooperative agreement.

Further, as detailed below, federal law requires that applicants for federal funds certify:

- 1) that they abide by the above restriction;
- 2) that they disclose any permissible (*non-federal*) paid lobbying on the Federal Awards being applied for; and
- 3) that such certification requirements will also be included in any subawards meeting the applicable thresholds.

It is the policy of the University that no federally appropriated funds will be expended, by or on behalf of the University, to lobby any federal official in connection with a federal award, and to comply with all certification and disclosure requirements regarding lobbying on federal awards. This policy summarizes certain key requirements and outlines the procedures that the University has established to maintain compliance with those requirements.

### **Restrictions on Lobbying by Employees**

University employees are prohibited from lobbying any federal official in connection with a federal award while drawing pay from federally appropriated funds. University employees are also prohibited from utilizing federally appropriated funds for travel to engage in lobbying of any federal official in connection with a federal award. General background information relating to a proposal, such as the timing relating to funding decisions, and ordinary exchanges relating to the progress or status of work may be exchanged. Similarly, individuals may discuss the details and progress of research projects going on at the University or within a School or Department. However, advocacy in support of a particular proposal (including pending or new proposals) is not permitted.

### **Disclosures of Paid Lobbying**

As detailed below, if any funds *other than federally appropriated funds* have or will be used to pay for lobbying of a federal official in connection with a specific federal award by an individual or entity not regularly employed by the University, an appropriate **disclosure form** (see below) shall be submitted with the proposal for such award (or upon receipt of the award if the disclosure report was not submitted with the application), and thereafter at the end of each calendar quarter in which there occurs any event requiring disclosure or affecting the accuracy of the information contained in

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<sup>1</sup> 31 U.S.C. § 1352 and regulations associated with multiple federal agencies, including but not limited to 49 CFR Part 20 (Transportation) and 45 CFR Part 93 (Health and Human Services).

<sup>2</sup> An officer or employee of a federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress.

any previously filed disclosure. No disclosure is necessary for lobbying conducted by regularly employed individuals<sup>3</sup> at the University who are not otherwise prohibited from lobbying.

### **Approval to Hire Third Party Lobbyists**

Hiring of paid lobbyists must be approved through the Office of Government Relations.

### **Penalties for Non-Compliance**

Penalties under federal law for violating 31 U.S.C. § 1352 could include fines of not less than \$10,000 and not more than \$100,000 per violation and any other remedies, including loss of the particular award and/or suspension or debarment as an institution from further federal funding. Any university employee who violates this policy may be subject to appropriate disciplinary action, up to and including termination.

### **Summary of Roles and Responsibilities**

#### **The Office of Government Relations**

- The primary point of contact for and coordinates lobbying on behalf of the University, based on priorities identified by University leadership and the Office of the Vice Provost for Research and Economic Development (VPRED).
- Will maintain records regarding paid lobbying on behalf of the University.

#### **The Office of Vice Provost for Research and Economic Development**

- Works with the GOVR to coordinate lobbying on behalf of the University.
- Informs RSSP of any activity requiring a Disclosure of Lobbying Activities using Standard Form-LLL.
- Informs RSSP of any material change in previously reported activity, such as new activity or a change in lobbying personnel.

#### **The Office of Research and Sponsored Programs**

- Signs and submits Certifications as required by 31 U.S.C. § 1352 and 45 CFR Part 93.
- Prepares and submits SF-LLL to the sponsor as required.
- Flows down certification and reporting requirements to subawardees and subcontractors, in coordination with the Office of Business Affairs, as required.
- Provides GOVR with any SF-LLL report submitted by a subawardee or subcontractor.

### **Certification and Disclosure Procedures**

This section of the policy describes two related but distinct processes: **certification** and **disclosure**.

Note that the **Certification Regarding Lobbying** is submitted in connection with **all** applications for federal funds, when required; **Form SF-LLL, Disclosure of Lobbying Activities** is **only** submitted in connection with those federal awards where reportable lobbying activity **actually occurs**.

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<sup>3</sup> A regularly employed individual is one who has been continuously employed by the University for at least 130 days in the previous 12 months.

## Certification

### What does the University certify?

- 1) The **Certification Regarding Lobbying** attests that the University has not used Federal funds to lobby a federal agency or Congress in connection with a Federal contract, grant, loan or cooperative agreement.
- 2) The **Certification** further promises that if any funds (other than Federal funds) have been (or will be) paid to any person to lobby an officer or employee of any agency or of Congress, or a Member of Congress, in connection with a specific Federal contract, grant, loan, or cooperative agreement, RSSP will submit **the standard form described below** to the appropriate agency.
- 3) Finally, the **Certification** promises that the certification requirements will also be included in any subawards meeting applicable thresholds.

The text of the standard lobbying **Certification** is attached as **Exhibit A**.

**Who submits the Certification?** When a Certification is required, the Certification Regarding Lobbying is submitted to the sponsor by RSSP as a part of the application. Copies of all Certifications are kept with the institution's submitted applications in RSSP's central files.

## Disclosure – Standard Form LLL

### What conditions require the University to submit form SF-LLL, Disclosure of Lobbying Activities?

- Consistent with the certification described above, using **Standard Form LLL, Disclosure of Lobbying Activities**, the University must **disclose** any outside lobbying registrant (paid lobbyist) retained by the institution whose efforts are associated with a particular grant, contract, or cooperative agreement that exceeds \$100,000 or loan or loan commitment that exceeds \$150,000.
- The University will generally submit **SF-LLL** at the time an application is submitted to a federal agency. Alternatively, RSSP may submit SF-LLL upon receipt of the award if the disclosure was not submitted with the application.

There are 3 exceptions to this rule in which the University does NOT have to submit an SF-LLL:

1. Reporting is not required for activities conducted by regularly employed officers or employees of the University, OR
2. for a federal contract, grant, cooperative agreement, or subcontract that does not exceed \$100,000, OR
3. for a federal loan or loan commitment that does not exceed \$150,000.<sup>4</sup>

A copy of **Standard Form LLL, Disclosure of Lobbying Activities**, and its

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<sup>4</sup> See 49 CFR § 20.110 and 45 CFR § 93.110.

instructions are attached as **Exhibit B**.

### **When must additional disclosures be filed?**

- RSSP must also submit SF-LLL at the end of each calendar quarter (March 31, June 30, September 30, or December 31) in which there occurs any event that **materially affects** the accuracy contained in any declaration previously filed. Material changes include an increased payment to lobbying firms, a change in lobbying personnel, or a change in the persons or offices lobbied in connection with the covered Federal action.<sup>5</sup>

### **How will RSSP know when a material change has taken place such that reporting of a material change is required?**

- VPRED will advise RSSP of any material changes in the information previously reported. RSSP will maintain copies of all SF-LLL disclosures that it has submitted. The University will require any lobbying registrant that it retains to periodically update GOVR on lobbying activity and any material changes that would require submission of a new SF-LLL.

## **Subawards and Subcontracts**

### **What about subawards and subcontracts?**

- As required by the funding agency, RSSP (in coordination with the Office of Business Affairs, as required.) will require that the Certification be included in all subcontracts, subgrants, and contracts exceeding \$100,000<sup>6</sup> under federally funded grants, loans and cooperative agreements.
- Such subawardees or subcontractors must agree to the Certification; if they have reportable activity they must submit their SF-LLL disclosures to RSSP or the Office of Business Affairs, as applicable, and RSSP will send copies of SF-LLL disclosures from sub-recipients to the sponsoring agency.<sup>7</sup>

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<sup>5</sup> Per 49 CFR§ 20.110(c) and 45 CFR§ 93.110(c), an event that **materially affects** the accuracy of the information reported 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; or
- (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
- (3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

<sup>6</sup> 49 CFR § 20.110(d) and 45 CFR §93.110(d).

<sup>7</sup> 49 CFR § 20.110(e) 45 CFR §93.110(e).

## **References**

31 U.S.C. §1352  
45 CFR Part 93  
49 CFR Part 20

December 4, 2014