

LOBBYING RESTRICTIONS FOR COUNCILS AND COUNCIL MEMBERS



Prepared by Adam Issenberg
NOAA Office of General Counsel, Fisheries and Protected Resources Section

Presented by Molly Watson
NOAA Office of General Counsel, Alaska Section

PERSONAL CAPACITY LOBBYING

Council members may engage in lobbying activities in their personal capacity when they are not on “Council time” provided that they do not:

- ❧ Use any Council equipment or materials;
- ❧ Draft the letter on Council time; OR
- ❧ Reference Council membership, unless they clearly state that the comments are their own and not those of the Council.



LOBBYING THE LEGISLATIVE BRANCH

Federal regulations (2 C.F.R. 200.450(c)(1) & 50 C.F.R. 600.227(b)(3)) prohibit the use of grant funds for the following:

(iii) Any attempt to influence:

(A) The introduction of Federal or State legislation;

(B) The enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature (including efforts to influence State or local officials to engage in similar lobbying activity);

(C) The enactment or modification of any pending Federal or State legislation by preparing, distributing, or using publicity or propaganda or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or

(D) Any government official or employee in connection with a decision to sign or veto enrolled legislation;

(iv) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

- **No lobbying Congress!**



WHAT IS LOBBYING?

Lobbying = any attempt to influence the introduction, enactment, or modification of legislation, including by urging others to do so.

- Applies to direct and indirect activities
- Applies to Federal and State legislation

Lobbying does not include providing a technical or factual presentation directly related to performance of the grant in response to a documented request (2 C.F.R. 200.450(c)(2)(i) & 50 C.F.R. 600.227(b)(4)).

Two criteria:

- Documented request from a member of Congress or staff
- Technical or factual presentation directly related to performance of the Council's grant



TECHNICAL OR FACTUAL PRESENTATION

“Directly related to the performance of a grant”

1. Be specific
2. Focus on how legislation affects the Council in its work under the MSA
3. Avoid phrases like “we support,” “we recommend,” “we oppose”
 - These suggest advocacy
 - Use “this proposal would affect our FMPs by...”
4. Avoid high level policy discussion
5. Example: Avoid saying that the ten year rebuilding rule is insufficiently flexible. Instead, describe the impacts of the ten year rebuilding rule on the Council’s ability to develop rational fishery management plans, focusing specifically on issues in the particular region.



LOBBYING THE EXECUTIVE BRANCH

Federal regulation (2 C.F.R. 200.450(b)) provides:

Executive lobbying costs. Costs incurred in attempting to improperly influence, either directly or indirectly, an employee or officer of the executive branch of the Federal Government to give consideration or to act regarding a Federal award or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merit.

- **Stick to the Merits of the Matter!**



GRASS ROOTS LOBBYING

❧ Lobbying prohibition applies to “grass roots” lobbying:

- ❧ urging members of the general public, or any segment thereof, to contribute to or participate in any demonstration, march, rally, fundraising drive, lobbying campaign, or letter writing or telephone campaign (2 C.F.R. 200.450(c)(1)(iii)(C) & 50 C.F.R. 600.227(b)(3)(ii))
- ❧ i.e. urging others to lobby

