



U. S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
DIRECTIVES SYSTEM

Subject Number:

PRC-10

Transmittal Number:

692

Date: 10/24/91

Subject: Anti-Lobbying Statute - Restrictions on Lobbying and Semi-Annual Reporting Requirements

Approval:

Title:

Director

1. **Purpose.** This directive implements the reporting requirements prescribed in the Department of the Interior Acquisition Policy Release (DIAPR) 90-25, incorporates the contents into the Office of Surface Mining Reclamation and Enforcement (OSM) Directives System (Appendix 1), and requires all OSM offices involved in covered transactions to comply with the semi-annual reporting requirements of the Anti-Lobbying Statute.

The applicability of this directive to grants and cooperative agreements awarded under OSM's regulatory and reclamation programs is limited to the consolidation and submittal of disclosure forms to the Department. Guidance for these grants/cooperative agreements is found in the February 7, 1990, memorandum from the Deputy Director, Operations and Technical Services, Subject: Grants Management: New Restrictions on and Reporting about Lobbying (Appendix 2). When the lobbying regulation is finalized, guidance for grants/cooperative agreements will be incorporated into the Federal Assistance Manual.

2. **Summary.** This directive describes agency consolidation procedures and identifies individuals responsible for obtaining disclosure forms from affected recipients of Federal contracts, grants, loans, and cooperative agreements.

3. **Definition.** As defined in DIAPR 90-25.

4. **Policy/Procedures.**

a. **Policy.** It is agency policy to assure that:

(1) Lobbying restrictions are included in all covered OSM transactions.

(2) OSM offices involved in awarding covered transactions shall obtain completed disclosure forms from recipients and shall place the original form(s) in the official file for the action.

(3) Semi-annual reports of disclosure forms shall be submitted to OSM Headquarters for agency consolidation and submission to the Office of Acquisition and Property Management (PAM), Department of the Interior.

b. Responsibilities.

(1) Assistant Directors and Field Office Directors are responsible for monitoring the implementation of this directive.

(2) The Division of Regulatory Programs is responsible for collecting disclosure forms for grants and submitting them to Headquarters Division of Management Services.

(3) The Headquarters Division of Management Services is responsible for collecting and consolidating disclosure forms.

(4) The Assistant Director, Administration as the Head of the Contracting Activity, is responsible for submitting consolidated disclosure forms to PAM.

c. Procedures.

All OSM offices involved in the awarding of covered transactions shall obtain a completed disclosure form(s) from the recipient whenever the requirements of Federal Acquisition Regulation (FAR) 3.803(a)-(d) are met. Original disclosure statement(s) shall be placed in the official file(s) for covered transactions. Copies of all disclosure statement(s) shall be submitted to the Division of Management Services, Branch of Procurement.

5. Reporting Requirements.

a. Semi-annual reports Standard Form (SF)-LLL and SF-LLL-A (Appendix 3) are required to be provided to Headquarters for consolidation as follows:

<u>End of Reporting Period</u>	<u>Reports to Head of Contracting Activity</u>	<u>Reports to PAM</u>	<u>DOI Reports to Congress</u>
September 30 March 31	November 05 April 05	November 15 May 15	November 30 May 31

6. Effect on Other Documents. None.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APPENDIX 1

MAR 8 1990

Department of the Interior Acquisition Policy Release (DIAPR) 90-25

Subject: Federal Acquisition Regulation (FAR) Anti-Lobbying Reporting Requirements

1. Purpose. This DIAPR implements the reporting requirements prescribed in FAR 3.804.

2. Effective Date.

3. Expiration Date. This DIAPR will remain in effect until cancelled or superseded.

4. Background.

A. Public Law 101-121 (31 U.S.C. 1352) generally prohibits recipients of Federal contracts, grants, loans, and cooperative agreements from using appropriated funds for lobbying either the executive or legislative branches of the Federal Government in connection with a specific contract, grant, loan, or cooperative agreement.

B. P.L. 101-121 further requires that each person must disclose any lobbying activities accomplished with other than appropriated funds whenever that person requests or receives:

(1) a Federal contract, grant, or cooperative agreement in excess of \$100,000, or

(2) a loan or a Federal commitment to insure or guarantee a loan in excess of \$150,000.

C. Additional detailed information on the background may be found in:

(1) Office of Management and Budget (OMB) guidance dated, December 18, 1989, which was published in the Federal Register on December 20, 1989, (FR 32306), and

(2) FAC 84-55, which was published in the Federal Register, Tuesday, January 30, 1990, on pages 3190 through 3195 and distributed via DIAPR 90-14 which was dated January 31, 1990.

5. Explanation of Changes.

A. Attached is a copy of Standard Form (SF)-LLL, the instructions for completing SF-LLL and SF-LLL-A Continuation Sheet.

B. The contracting officer shall obtain a completed disclosure form from the contractor whenever the requirements of FAR 3.803 (a) through (d) are met.

C. The contracting officer, in accordance with FAR 3.804, shall place the original form(s) submitted by the contractor in the official contract file. Copies of all disclosure statements are to be provided to the Office of Acquisition and Property Management (PAM), Automated Systems Division (ASD), MS 5512-MIB, Washington, D.C. 20240.

D. The Office of Acquisition and Property Management will consolidate all reports received and will prepare the necessary report to the Congress as prescribed.

6. Action Required.

A. The first report on contracts awarded between December 23, 1989, and March 31, 1990, is due to Congress by May 31, 1990. Therefore, copies of the completed disclosure forms must be received by PAM on or before May 15, 1990, for this first report.

B. Subsequent semi-annual reports are to be provided as follows:

<u>End of Reporting Period</u>	<u>Reports to PAM</u>	<u>DOI Reports to Congress</u>
September 30	November 15	November 30
March 31	May 15	May 31

C. Bureaus and offices will consolidate their disclosure forms and the Head of the Contracting Activity will forward the required copies to PAM by the required dates.

D. Note that similar guidance is being prepared covering grants, cooperative agreements, loans and loan guarantees.

E. If there are any questions concerning policy matters, please contact Miriam Phillips at 343-6705. If there are any questions concerning the reporting requirements, please contact Mark Mergler at 343-3437.


Harry D. Cardwell
Director, Office of Acquisition
and Property Management

Attachments



United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
WASHINGTON, D.C. 20240



FEB 7

Memorandum

To: Assistant Director, Eastern Field Operations
Assistant Director, Western Field Operations

From: Deputy Director, Operations and Technical Services *Signed*

Subject: Grants Management: New Restrictions on and Reporting
about Lobbying

On October 23, 1989, President Bush signed into law the Department of the Interior and Related Agencies Appropriations Act of Fiscal Year 1990. Section 319 of the Act amended Title 31 of the United States Code by adding a new Section 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions" (Attachment 1).

Section 1352 generally prohibits recipients of Federal grants and cooperative agreements from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific grant or cooperative agreement. Section 1352 also requires that each person who requests or receives a Federal grant or cooperative agreement must disclose any lobbying efforts with nonappropriated funds.

As required by Section 1352, the Office of Management and Budget (OMB) has prepared interim final guidance (Attachment 2) for implementation of, and compliance with, the requirements of Section 1352. The following requirements of the OMB guidance are applicable to the Office of Surface Mining Reclamation and Enforcement's grant programs.

- o **Grants/Grantees Affected.** The provisions of Section 1352 are applicable to new awards to States (Indian tribes are excluded) that exceed \$100,000 and are approved on or after December 23, 1989. Subawards (subgrants and contracts under grants) that exceed \$100,000 are also included.
- o **Grantee Compliance.** In order to comply with requirements of Section 1352, grantees must:
 - Submit a certification form (DI 1963) (Attachment 3) as part of the application package; and
 - Submit a disclosure form (SF-LLL) (Attachment 4) as part of the application package, if the grantee has made or has agreed to make any payments using nonappropriated funds for lobbying efforts. The disclosure form shall also be submitted at the end of each calendar quarter in which actual payments occur or when there are changes that materially affect the accuracy of the information contained in any disclosure form previously filed.

- For applicable awards already approved, the Field Office Director should notify the grantee in writing of this requirement and request compliance within 30 days of receipt of the notification.
- For applicable grants currently being reviewed, the Field Office Director should request the grantee to provide the certification and disclosure forms prior to award. However, if the receipt of the forms will interfere with the planned approval date, the grantee shall be given 30 days from notification to submit the forms.
- Applicable subrecipients (subawards that exceed \$100,000) shall submit the DI-1963 form to the grantee. In addition, those subrecipients shall submit the SF-LLL form to the grantee if the subrecipient has made or has agreed to make any payment using nonappropriated funds for lobbying efforts. Those subrecipients shall also submit the disclosure form to the grantee whenever actual payments occur or when there are changes that materially affect the accuracy of the information contained in any disclosure form previously filed.
- o **Departmental Reporting.** Section 1352 requires the heads of agencies to collect and compile the disclosure reports and, semi-annually, submit to Congress a report containing a compilation of the information received.
 - In order to comply with this requirement, grantees shall submit disclosure forms for themselves and their subrecipients to the appropriate Field Office 15 days after the end of each calendar quarter.
 - Field Office Directors shall submit the forms to the Division of Regulatory Programs, through the appropriate Assistant Director for Field Operations, by the 30th day after the end of each calendar quarter.

If you have any questions or concerns, please contact Arthur W. Abbs, Chief, Division of Regulatory Programs, at FTS 343-5351.

Attachments

cc: Field Office Directors

SEC. 319.

(a)(1) Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end thereof the following new section:

§1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions

(a)(1) None of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement 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 Federal action described in paragraph (2) of this subsection.

(2) The prohibition in paragraph (1) of this subsection applies with respect to the following Federal actions:

- (A) The awarding of any Federal contract.
- (B) The making of any Federal grant.
- (C) The making of any Federal loan.
- (D) The entering into of any cooperative agreement.
- (E) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b)(1) Each person who requests or receives a Federal contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency, in accordance with paragraph (4) of this subsection --

- (A) a written declaration described in paragraph (2) or (3) of this subsection, as the case may be; and
- (B) copies of all declarations received by such person under paragraph (5).

(2) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a Federal contract, grant, loan, or cooperative agreement shall contain --

- (A) a statement setting forth whether such person --
- (i) has made any payment with respect to that Federal contract, grant, loan, or cooperative agreement, using funds other than appropriated funds, which would be prohibited by subsection (a) of this section if the payment were paid for with appropriated funds; or
 - (ii) has agreed to make any such payment;
- (B) with respect to each such payment (if any) and each such agreement (if any) --
- (i) the name and address of each person paid, to be paid, or reasonably expected to be paid;
 - (ii) the name and address of each individual performing the services for which such payment is made, to be made, or reasonably expected to be made;
 - (iii) the amount paid, to be paid, or reasonably expected to be paid;
 - (iv) how the person was paid, is to be paid, or is reasonably expected to be paid; and
 - (v) the activity for which the person was paid, is to be paid, or is reasonably expected to be paid; and
- (C) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).
- (3) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a commitment providing for the United States to insure or guarantee a loan shall contain --
- (A) a statement setting forth whether such person --
- (i) has made any payment to influence or attempt 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 that loan insurance or guaranty; or
 - (ii) has agreed to make any such payment; and
- (B) with respect to each such payment (if any) and each such agreement (if any), the information described in paragraph (2)(B) of this subsection.
- (4) A person referred to in paragraph (1)(A) of this subsection

shall file declaration referred to in that paragraph --

- (A) with each submission by such person that initiates agency consideration of such person for award of a Federal contract, grant, loan, or cooperative agreement, or for grant of a commitment providing for the United States to insure or guarantee a loan;
 - (B) upon receipt by such person of a Federal contract, grant, loan, or cooperative agreement or of a commitment providing for the United States to insure or guarantee a loan, unless such person previously filed a declaration with respect to such contract, grant, loan, cooperative agreement or commitment pursuant to clause (A); and
 - (C) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by such person in connection with such Federal contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.
- (5) Any person who requests or receives from a person referred to in paragraph (1) of this subsection a subcontract under a Federal contract, a subgrant or contract under a Federal grant, a contract or subcontract to carry out any purpose for which a particular Federal loan is made, or a contract under a Federal cooperative agreement shall be required to file with the person referred to in such paragraph a written declaration referred to in clause (A) of such paragraph.
- (6)(A) The head of each agency shall collect and compile the information contained, pursuant to paragraphs (2)(B) and (3)(B) of this subsection, in the statements filed under this subsection and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained, pursuant to such paragraphs, in the statements received during the six-month period ending on March 31 or September 30, respectively, of that year. The report, including the compilation, shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.
- (B) Notwithstanding subparagraph (A) --
- (i) information referred to in subparagraph (A) that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of

Representatives in accordance with procedures agreed to by such committees;

- (ii) information referred to in subparagraph (A) that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, is classified in accordance with such order, and is available only by special access shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Armed Services of the Senate and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees; and Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees; and
 - (iii) information reported in accordance with this subparagraph shall not be available for public inspection.
- (7) The Director of the Office of Management and Budget, after consulting with the Secretary of the Senate and the Clerk of the House of Representatives, shall issue guidance for agency implementation of, and compliance with, the requirements of this section.
- (C)(1) Any person who makes an expenditure prohibited by subsection (a) of this section shall be subject to a civil penalty of not less than \$ 10,000 and not more than \$ 100,000 for each such expenditure.
 - (2)(A) Any person who fails to file or amend a declaration required to be filed or amended under subsection (b) of this section shall be subject to a civil penalty of not less than \$ 10,000 and not more than \$ 100,000 for each such failure.
 - (B) A filing of a declaration of a declaration amendment on or after the date on which an administrative action for the imposition of a civil penalty under this subsection is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. For the purposes of this subparagraph, an administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

- (3) Sections 3803 (except for subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812 of this title shall be applied, consistent with the requirements of this section, to the imposition and collection of civil penalties under this subsection.
- (4) An imposition of a civil penalty under this subsection does not prevent the United States from seeking any other remedy that the United States may have for the same conduct that is the basis for the imposition of such civil penalty.

(d)(1) The official of each agency referred to in paragraph (3) of this subsection shall submit to Congress each year an evaluation of the compliance of that agency with, and the effectiveness of, the requirements imposed by this section on the agency, persons requesting or receiving Federal contracts, grants, loans, or cooperative agreements from that agency, and persons requesting or receiving from that agency commitments providing for the United States to insure or guarantee loans. The report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

- (2) The report of an agency under paragraph (1) of this subsection shall include the following:
- (A) All alleged violations of the requirements of subsections (a) and (b) of this section, relating to the agency's Federal actions referred to in such subsections, during the year covered by the report.
- (B) The actions taken by the head of the agency in such year with respect to those alleged violations and any alleged violations of subsections (a) and (b) of this section that occurred before such year, including the amounts of civil penalties imposed by the head of such agency in such year, if any.
- (3) The Inspector General of an agency shall prepare and submit the annual report of the agency required by paragraph (1) of this subsection. In the case of an agency that does not have an inspector general, the agency official comparable to an inspector general shall prepare and submit the annual report, or, if there is no such comparable official, the head of the agency shall prepare and submit such annual report.

(e)(1)(A) Subsection (a)(1) of this section does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection (a)(2) of this section.

- (B) Subsection (a)(1) of this section does not prohibit any reasonable payment to a person in connection with, or any payment of reasonable compensation to an officer or employee of a person requesting or receiving, a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.
- (C) Nothing in this paragraph shall be construed as permitting the use of appropriated funds for making any payment prohibited in or pursuant to any other provision of law
- (2) The reporting requirement in subsection (b) of this section shall not apply to any person with respect to --
- (A) payments of reasonable compensation made to regularly employed officers or employees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan;
- (B) a request for or receipt of a contract (other than a contract referred to in clause (C)), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (C)), or subgrant that does not exceed \$100,000; and
- (C) a request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed \$ 150,000, including a contract or subcontract to carry out any purpose for which such a loan is made.
- (f) The Secretary of Defense may exempt a Federal action described in subsection (a)(2) from the prohibition in subsection (a)(1) whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such determination.

(g) The head of each Federal agency shall take such actions as are necessary to ensure that the provisions of this section are vigorously implemented and enforced in such agency.

(h) As used in this section:

- (1) The term "recipient", with respect to funds received in connection with a Federal contract, grant, loan, or cooperative agreement --
 - (A) includes the contractors, subcontractors, or subgrantees (as the case may be) of the recipient; but
 - (B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures that are by such tribe or organization for purposes specified in subsection (a) and are permitted by other Federal law.
- (2) The term "agency" has the same meaning provided for such term in section 552(f) of title 5, and includes a Government corporation, as defined in section 9101(1) of this title.
- (3) The term "person" --
 - (A) includes an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit; but
 - (B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures by such tribe or organization that are made for purposes specified in subsection (a) and are permitted by other Federal law.
- (4) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.
- (5) The term "local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, the following entities:
 - (A) A local public authority.

- (B) A special district.
 - (C) An intrastate district.
 - (D) A council of governments.
 - (E) A sponsor group representative organization.
 - (F) Any other instrumentality of a local government.
- (6)(A) The terms "Federal contract", "Federal grant", "Federal cooperative agreement" mean, respectively --
- (i) a contract awarded by an agency;
 - (ii) a grant made by an agency or a direct appropriation made by law to any person; and
 - (iii) a cooperative agreement entered into by an agency.
- (B) Such terms do not include --
- (i) direct United States cash assistance to an individual;
 - (ii) a loan;
 - (iii) loan insurance; or
 - (iv) a loan guaranty.
- (7) The term "Federal loan" means a loan made by an agency. Such term does not include loan insurance or a loan guaranty.
- (8) The term "reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.
- (9) The term "reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.
- (10) The term "regularly employed", with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such

person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

- (11) The terms "Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)."
- (2) The table of sections for subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new item:

(b) The first report submitted under subsection (b)(6) of section 1352 of title 31, United States Code (as added by subsection (a)), shall be submitted on May 31, 1990, and shall contain a compilation relating to the statements received under subsection (b) of such section during the six-month period beginning on October 1, 1989.

(c) The Director of the Office of Management and Budget shall notify the head of each agency that section 1352 of title 31, United States Code (as added by subsection (a)), is to be complied with commencing 60 days after the date of the enactment of this Act. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue the guidance required by subsection (b)(7) of such section.

(d) Section 1352 of title 31, United States Code (as added by subsection (a)), shall take effect with respect to Federal contracts, grants, loans, cooperative agreements, loan insurance commitments, and loan guaranty commitments that are entered into or made more than 60 days after the date of the enactment of this Act.

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.

DEC 18 1989

OFFICE OF MANAGEMENT AND BUDGET

Governmentwide Guidance for New Restrictions on Lobbying

AGENCY: Office of Management and Budget

ACTION: Interim Final Guidance

SUMMARY: This interim final guidance is called for by Section 319 of Public Law 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, must disclose lobbying.

DATE: This guidance is effective December 23, 1989. Comments on OMB's interim final guidance must be in writing and must be received by [60 days from publication]. Late-filed comments will be considered to the extent practicable.

ADDRESS: Office of Management and Budget, 10300 New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For contracts, contact Richard C. Loeb, Office of Federal Procurement Policy, OMB (telephone: 202-395-3300). For grants and loans, contact Barbara F. Kahlow, Financial Management Division, OMB (telephone: 202-395-3053).

SUPPLEMENTARY INFORMATION:

A. Background.

On October 23, 1989, the President signed into law the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 ("the Act"). Section 319 of the Act amends title 31, United States Code, by adding a new Section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions." Section 1352 takes effect with respect to Federal contracts, grants, loans, cooperative agreements, loan insurance commitments, and loan guarantee commitments that are entered into or made more than 60 days after the date of the enactment of the Act, i.e., December 23, 1989.

Section 1352 requires the Director of the Office of Management and Budget to issue governmentwide guidance for agency implementation of, and compliance with, the requirements of this section. The Conference Report indicates that the conferees "expect that all agencies shall expeditiously promulgate regulations to implement the requirements of this section, and

that all such regulations shall be uniform and shall comply with the government-wide guidance issued by the Director of the Office of Management and Budget pursuant to paragraph (b)(7). Also, major agencies, as designated by OMB, shall issue a common rule complying with the guidance issued by OMB."

B. Interim Final Guidance.

OMB's interim final guidance is prepared in regulation format to facilitate its use by the executive departments and agencies in preparing the common rule called for in the Conference Report. There will be two common rules issued by the executive departments and agencies as interim final rules within 90 days of this interim final guidance: a common rule to appear in the Federal Acquisition Regulation (FAR) for most contracts; and a common rule for contracts not subject to the FAR, grants, loans, cooperative agreements, loan insurance commitments, and loan guarantee commitments ("nonprocurement"). The FAR common rule will contain the same substance as the OMB guidance, without elaboration, but will be reformatted, with additional instructions. The nonprocurement common rule will be verbatim to the OMB guidance. All three documents (OMB's interim final guidance and the two interim final common rules) will share a public docket. The final versions of all three will be published simultaneously.

The FAR common rule will be co-signed by the three agencies (the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration) authorized to issue the FAR rulemaking, effective for all executive departments and agencies. The nonprocurement common rule will be signed by the following 29 major agencies: Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, Treasury, Veterans Affairs; ACTION, Agency for International Development, Environmental Protection Agency, Export-Import Bank of the United States, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, National Endowment for the Arts, National Endowment for the Humanities, National Science Foundation, Overseas Private Investment Corporation, Peace Corps, Small Business Administration, Tennessee Valley Authority and United States Information Agency.

The following Circulars of the Office of Management and Budget (OMB) will be revised to indicate a cross reference to the requirements in the OMB guidance: OMB Circular A-21, "Cost Principles for Educational Institutions;" OMB Circular A-87, "Cost Principles for State and Local Governments;" and, OMB Circular A-122, "Cost Principles for Nonprofit Organizations." Costs made specifically unallowable by the requirements in the guidance are not made allowable under any of the provisions of

these Circulars. Conversely, costs that are specifically unallowable under the provisions of these Circulars are not made allowable under the requirements in the guidance.

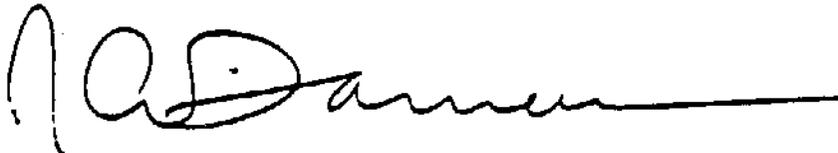
Costs made specifically unallowable by the requirements in the OMB guidance will not be made allowable under any of the provisions of the FAR. Conversely, costs that are specifically unallowable under the provisions of the FAR are not made allowable under the requirements in the OMB guidance.

The guidance calls for an annual report to be prepared by each Inspector General and to be submitted to Congress. Copies of these reports should be forwarded to the Financial Management Division of OMB as well.

The guidance also calls for semi-annual compilations of disclosure reports to be prepared by each agency and to be submitted to Congress. Agencies shall submit a "negative" report if no disclosure reports were received.

C. Paperwork Reduction Act.

This interim final guidance contains information collection requirements. Accordingly, a Paperwork Reduction Act emergency approval was requested pursuant to 44 U.S.C. 3507(g) and 5 C.F.R. 1320.18 and was granted under OMB control number 0348-0046. OMB estimates the reporting burden for this information collection to average 30 minutes per response. The time necessary for filing the first disclosure may differ from that for the subsequent disclosures. However, in the absence of experience with such reporting, OMB does not have sufficient data to determine the universe of total covered Federal actions or the volume of activity that will be affected by this guidance. Therefore, an estimate of the total burden of this information collection requirement is not provided at this time. Public comment is requested to assist in accurately estimating the burden of this information collection, including: (1) estimates of the amount of time required to comply with this reporting requirement, (2) estimates of the number of expected disclosure reports, and (3) the basis for these estimates. OMB is also interested in comments on the feasibility of electronic or other methods for filing the information on the disclosure standard form to the Federal Government.



Richard G. Darman
Director.

PART ____ - NEW RESTRICTIONS ON LOBBYING

Subpart A - General

Sec.

- ____.100 Conditions on use of funds.
- ____.105 Definitions.
- ____.110 Certification and Disclosure.

Subpart B - Activities by Own Employees

- ____.200 Agency and legislative liaison.
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Subpart C - Activities by Other than Own Employees

- ____.300 Professional and technical services.

Subpart D - Penalties and Enforcement

- ____.400 Penalties.
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- ____.410 Enforcement.

Subpart E - Exemptions

- ____.500 Secretary of Defense.

Subpart F - Agency Reports

- ____.600 Semi-annual compilation.
- ____.605 Inspector General report.

Appendix A to Part ____ - Certification Regarding Lobbying

Appendix B to Part ____ - Disclosure Form to Report Lobbying

Appendix C to Part ____ - Contract Clause

Authority: Section 319, Public Law 101-121 (31 U.S.C. 1352);
[citation to Agency rulemaking authority].

Subpart A - General

{____.100 Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement 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, and the extension, continuation, renewal,

amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, set forth in Appendix A, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form, set forth in Appendix B, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, set forth in Appendix A, whether that person has made or has agreed to make any payment to influence or attempt 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 that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form, set forth in Appendix B, if that person has made or has agreed to make any payment to influence or attempt 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 that loan insurance or guarantee.

(____.105 Definitions.

For purposes of this part:

(a) Agency, as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

(b) Covered Federal action means any of the following Federal actions:

- (1) The awarding of any Federal contract;
- (2) The making of any Federal grant;
- (3) The making of any Federal loan;
- (4) The entering into of any cooperative agreement; and,
- (5) The extension, continuation, renewal, amendment, or

modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan. Loan guarantees and loan insurance are addressed independently within this part.

(c) Federal contract means an acquisition contract awarded by an agency, including those subject to the Federal Acquisition Regulation (FAR), and any other acquisition contract for real or personal property or services not subject to the FAR.

(d) Federal cooperative agreement means a cooperative agreement entered into by an agency.

(e) Federal grant means an award of financial assistance in the form of money, or property in lieu of money, by the Federal Government or a direct appropriation made by law to any person. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, loan insurance, interest subsidies, insurance, or direct United States cash assistance to an individual.

(f) Federal loan means a loan made by an agency. The term does not include loan guarantee or loan insurance.

(g) Indian tribe and tribal organization have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

(h) Influencing or attempting to influence means making, with the intent to influence, any communication to or appearance before 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 covered Federal action.

(i) Loan guarantee and loan insurance mean an agency's guarantee or insurance of a loan made by a person.

(j) Local government means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

(k) Officer or employee of an agency includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under title 5, U.S. Code, including a position

under a temporary appointment;

(2) A member of the uniformed services as defined in section 101(3), title 37, U.S. Code;

(3) A special Government employee as defined in section 202, title 18, U.S. Code; and,

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, U.S. Code appendix 2.

(l) Person means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

(m) Reasonable compensation means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

(n) Reasonable payment means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

(o) Recipient includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

(p) Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guarantee commitment. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

(q) State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or

possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(____.110 Certification and Disclosure.

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

- (1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or**
- (2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.**

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

- (1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or**
 - (2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,**
- unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.**

(c) Each person shall file a disclosure form 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 paragraphs (a) or (b) of this section. 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.**

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

- (1) A subcontract exceeding \$100,000 at any tier under a Federal contract;**
- (2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;**
- (3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,**
- (4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement,**

shall file a certification, and a disclosure form, if required, to the next tier above.

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

(g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

(h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either Subpart B or C.

Subpart B - Activities by Own Employees

(____.200 Agency and legislative liaison.

(a) The prohibition on the use of appropriated funds, in (____.100 (a), does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(b) For purposes of paragraph (a) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.

(c) For purposes of paragraph (a) of this section, the following agency and legislative liaison activities are allowable at any

time only where they are not related to a specific solicitation for any covered Federal action:

- (1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,
- (2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) For purposes of paragraph (a) of this section, the following agency and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:

- (1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
- (2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,
- (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by this section are allowable under this section.

(___).205 Professional and technical services.

(a) The prohibition on the use of appropriated funds, in (___).100 (a), does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

(b) For purposes of paragraph (a) of this section, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a

licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by this section are allowable under this section.

(____.210 Reporting.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

Subpart C - Activities by Other than Own Employees

(____.300 Professional and technical services.

(a) The prohibition on the use of appropriated funds, in (____.100 (a), does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

(b) The reporting requirements in (____.110 (a) and (b) regarding filing a disclosure form by each person, if required, shall not apply with respect to professional or technical services rendered

directly in the preparation, submission, or negotiation of any commitment providing for the United States to insure or guarantee a loan.

(c) For purposes of paragraph (a) of this section, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(d) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(e) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(f) Only those services expressly authorized by this section are allowable under this section.

Subpart D - Penalties and Enforcement

(___).400 Penalties.

(a) Any person who makes an expenditure prohibited herein shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

(b) Any person who fails to file or amend the disclosure form (see Appendix B) to be filed or amended if required herein, shall be subject to a civil penalty of not less than \$10,000 and not 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. An administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

(d) In determining whether to impose a civil penalty, and the amount of any such penalty, by reason of a violation by any person, the agency shall consider the nature, circumstances, extent, and gravity of the violation, the effect on the ability of such person to continue in business, any prior violations by such person, the degree of culpability of such person, the ability of the person to pay the penalty, and such other matters as may be appropriate.

(e) First offenders under paragraphs (a) or (b) of this section shall be subject to a civil penalty of \$10,000, absent aggravating circumstances. Second and subsequent offenses by persons shall be subject to an appropriate civil penalty between \$10,000 and \$100,000, as determined by the agency head or his or her designee.

(f) An imposition of a civil penalty under this section does not prevent the United States from seeking any other remedy that may apply to the same conduct that is the basis for the imposition of such civil penalty.

(___).405 Penalty procedures.

Agencies shall impose and collect civil penalties pursuant to the provisions of the Program Fraud and Civil Remedies Act, 31 U.S.C. sections 3803 (except subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812, insofar as these provisions are not inconsistent with the requirements herein.

(___).410 Enforcement.

The head of each agency shall take such actions as are necessary to ensure that the provisions herein are vigorously implemented and enforced in that agency.

Subpart E - Exemptions

(___).500 Secretary of Defense.

(a) The Secretary of Defense may exempt, on a case-by-case basis, a covered Federal action from the prohibition whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such a determination.

(b) The Department of Defense may issue supplemental regulations to implement paragraph (a) of this section.

Subpart F - Agency Reports

(___).600 Semi-annual compilation.

(a) The head of each agency shall collect and compile the disclosure reports (see Appendix B) and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained in the disclosure reports received during the six-month period ending on March 31 or September 30, respectively, of that year.

(b) The report, including the compilation, shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.

(c) Information that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees. Such information shall not be available for public inspection.

(d) Information that is classified under Executive Order 12356 or any successor order shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Armed Services of the Senate and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees. Such information shall not be available for public inspection.

(e) The first semi-annual compilation shall be submitted on May 31, 1990, and shall contain a compilation of the disclosure reports received from December 23, 1989 to March 31, 1990.

(f) Major agencies, designated by the Office of Management and Budget (OMB), are required to provide machine-readable compilations to the Secretary of the Senate and the Clerk of the House of Representatives no later than with the compilations due on May 31, 1991. OMB shall provide detailed specifications in a memorandum to these agencies.

(g) Non-major agencies are requested to provide machine-readable compilations to the Secretary of the Senate and the Clerk of the House of Representatives.

(h) Agencies shall keep the originals of all disclosure reports in the official files of the agency.

(____).605 Inspector General report.

(a) The Inspector General, or other official as specified in paragraph (b) of this section, of each agency shall prepare and submit to Congress each year, commencing with submission of the President's Budget in 1991, an evaluation of the compliance of that agency with, and the effectiveness of, the requirements herein. The evaluation may include any recommended changes that may be necessary to strengthen or improve the requirements.

(b) In the case of an agency that does not have an Inspector General, the agency official comparable to an Inspector General shall prepare and submit the annual report, or, if there is no such comparable official, the head of the agency shall prepare and submit the annual report.

(c) The annual report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

(d) The annual report shall include the following: All alleged violations relating to the agency's covered Federal actions during the year covered by the report, the actions taken by the head of the agency in the year covered by the report with respect to those alleged violations and alleged violations in previous years, and the amounts of civil penalties imposed by the agency in the year covered by the report.

Appendix A to Part _____ - 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.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any 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 commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement 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 statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Appendix B to Part ___ - Disclosure Form to Report Lobbying.

[See attached.]

Instructions for Certification

1. This certification and a disclosure form should be filed by each person as required, with each submission that initiates agency consideration of such person for: (1) award of a Federal contract, grant, or cooperative agreement exceeding \$100,000 or (2) an award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.
2. This certification and a disclosure form should be filed by each person as required, upon receipt by such person of (1) a Federal contract, grant, or cooperative agreement exceeding \$100,000; or (2) a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000, unless such person previously filed a certification, and a disclosure form, if required, at the time agency consideration was initiated.
3. Any person who requests or receives from a person referred to in paragraphs (1) and (2) above: (1) a subcontract exceeding \$100,000 at any tier under a Federal contract; (2) a subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant; (3) a contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or, (4) a contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement, shall file a certification, and a disclosure form, as required, to the next tier above.
4. All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (1) or (2) above. That person shall forward all disclosure forms to the appropriate Bureau/Office within the Department of the Interior.
5. Any certification or disclosure form filed under paragraph (4) above shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by Section 1352, title 31, U.S. Code.

**DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET**

Approved by OMB
0348-0046

Reporting Entity: _____

Page _____ of _____

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 U.S.C. 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 1st 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 expected 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 time 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 OM
0348-0046

Reporting Entity: _____ Page _____ of _____

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