

**Congress of the United States**  
**Washington, DC 20515**

May 11, 2012

Daniel R. Levinson  
Inspector General  
U.S. Department of Health and Human Services  
330 Independence Avenue SW  
Washington, DC 20024

Dear Mr. Levinson,

As Members of the House Appropriations Subcommittee on Labor, Health and Human Services, and Education, we write to request that you immediately initiate an investigation into the use of federal dollars by Department of Health and Human Services (HHS) grantees for lobbying activities. By way of example, we have attached a list of Centers for Disease Control and Prevention (CDC) grants under which grantees have publicly disclosed their use of tax dollars to influence laws, regulations or policies at the state or local level.

Congress has long imposed general prohibitions on the use of tax dollars to lobby any level of government. This policy is important both to upholding principles of federalism and preserving the integrity of the right of private citizens to petition the government. Specifically, 18 U.S.C. 1913 prohibits the use of tax dollars to “influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy or appropriation[.]”

The CDC’s own internal guidance, Additional Requirement (AR) 12, states clearly that it is illegal for grantees to use federal dollars influence federal, state and local legislation. The guidance prohibits:

“lobbying for or against pending legislation, as well as indirect “grassroots” lobbying efforts by award recipients that are directed at inducing members of the public to contact their elected representatives at the Federal or State levels to urge support of, or opposition to, pending legislative proposals[.]”

Furthermore, AR 12 “extends the prohibitions to lobbying with respect to local legislation and local legislative bodies.”

Congress has also reinforced statutory prohibitions with annual appropriations language. Most recently, Section 503 of the FY12 Consolidated Appropriations Act clarified the intent of Congress to prohibit the use of tax dollars to lobby any government action at the federal, state or local level. Section 503 prohibits the use of tax dollars to support:

“any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body[.]”

The more blatant examples we have attached involve direct advocacy for the introduction or adoption of legislation, including tax increases and the regulation of consumer markets and products. In other

examples, tax dollars appear to have been spent to promote other specific government policies or actions. This is precisely the type of lobbying activity for which Congress prohibits the use of tax dollars. This subcommittee demands effective enforcement of these prohibitions by the departments and agencies under our jurisdiction.

These alleged violations appear to flout the law and cast doubt on the integrity of Department processes both for awarding grants as well as monitoring them for impermissible purposes. We ask you to investigate and report to Congress and the public on these specific alleged violations and in the following manner:

- Conduct a statistically relevant initial review of the grant applications and award processes of grant intensive agencies, including the CDC, National Institutes of Health (NIH) and Health Resources and Services Administration, in order to ascertain the extent to which grantees are provided notice of the prohibitions on lobbying activities. Under this and any of the following directives, please expand your review to other agencies as you deem appropriate.
- Assess whether, and how, all HHS organizations implement, monitor, oversee, and require compliance certifications with all lobbying prohibitions to ensure execution of grant funds do not support impermissible uses.
- Review both current and pre-FY12 policies, procedures, and guidance from all levels of HHS. Specifically identify and assess the validity of changes due to the enactment of Section 503 in the FY 2012 Appropriations Act.
- Validate and test the effectiveness of Departmental oversight and enforcement mechanisms.
- Provide recommendations to ensure that: HHS and its organizations have strong policies, procedures, and guidance established and implemented; grantees do not violate lobbying prohibitions; violators are identified and their funding revoked; and there exists a mechanism for the Department to field, review, and if necessary enforce allegations of lobbying submitted by Congress or the public.

Thank you in advance for your attention to this request. We ask that you periodically update our subcommittee on the status of your review. Please contact us or our staff should you require any clarification of this request.

Sincerely,



Cynthia M. Lummis  
Member of Congress

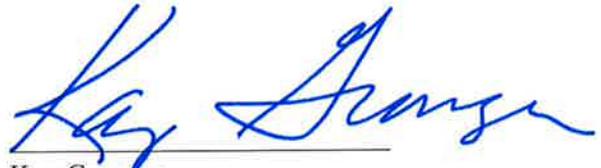


Denny Rehberg  
Member of Congress

  
Jerry Lewis  
Member of Congress

  
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Member of Congress

  
Jack Kingston  
Member of Congress

  
Kay Granger  
Member of Congress

  
Mike Simpson  
Member of Congress

  
Jeff Flake  
Member of Congress

## Allegations of CDC Funds Used for Lobbying Activities

### **Example 1:**

**Award Number: 1U58DP002592-01**

Grantee report excerpt: “A local policymaker identified to support the smoke-free ordinance”; and “drafts and model policies supporting...tobacco excise tax.”

### **Example 2:**

**Award Number: 3U58DP002007-01S2**

Grantee report excerpts: “advance policy changes that address the sale of sugar-sweetened electrolyte replacement beverages”; “wrote a legislative concept paper...sent forward to the Governor for consideration”; “Reduce density of fast food establishments and convenience stores without healthy food options”; and “enact a moratorium on new drive-throughs.”

### **Example 3:**

**Award Number: 3U58DP001958-01S4**

Grantee report excerpt: “new Colorado laws passed creating Food Systems Advisory Council and Farm to School Task Force.”

### **Example 4:**

**Award Number: 3U58DP002006-01S2**

Grantee report excerpt: hired a “grassroots coordinator” who spent “163 hours” and is responsible for “establish[ing] community support by educating and advocating for the adoption of smoke-free policies.”

### **Example 5:**

**Award Number: 3U58DP001960-01S3**

Grantee report excerpts: “By January 1, 2012, increase the tax on other tobacco products from 15% of the wholesale price to 68% (or a number equal to the state’s cigarette tax based on a per price or per dose basis)”; and “seek sponsorship of bill that increases excise tax on other tobacco products.”

### **Example 6:**

**Award Number: 3U58DP001962-01S2**

Grantee report excerpt: “obtained support from three (3) lawmakers to introduce future legislation.”

### **Example 7:**

**Award Number: 3U58DP001967-01S2**

Grantee report excerpt: “support passage of a statewide tobacco free school campus law.”

**Example 8:**

**Award Number: 3U58DP001969-01S2**

Grantee report excerpts: “work to enact a comprehensive smoke-free law”; and “reducing exposure to secondhand smoke through local and state laws.”

**Example 9:**

**Award Number: 3U58DP001971-01S2**

Grantee report excerpts: “media work on menu labeling project with various partners to pave the way for federal legislation”; and “worked with the Licensing Sub-committee to formulate language changes in licensing legislative efforts...conducted research and coordinated with legislative staff concerning pending legislation.”

**Example 10:**

**Award Number: 3U58DP001975-01S4**

Grantee report excerpt: “pass a comprehensive, statewide smoke-free air law...[t]he initiative will include strategies that will: 1) increase public support for smoke-free workplaces; 2) use a comprehensive media strategy that complements existing, state-funded health communication and counter-marketing activities.”

**Example 11:**

**Award Number: 1U58DP002452-01**

Grantee report excerpt: “identify a County Council member willing to introduce amendments to strengthen the County’s smokefree ordinance.”

**Example 12:**

**Award Number: 3U58DP002003-01S2**

Grantee report excerpt: “Workgroups have been established, legislation is being introduced and youth programs are developing a research program on childhood obesity”; “Legislation is being proposed to codify the Wellness School Policy”; “Legislation is proposed to increase the tax on all tobacco products”; and “[C]reation of a tobacco possession law.”

**Example 13:**

**Award Number: 3U58DP001963-01S2**

Grantee report excerpts: “The statewide legislative proposal to ban the display of tobacco products in stores open to youth was prepared for the Governor’s Office”; “working to finalize a policy proposal to amend the Tax Law to restrict the number, type and location of licensed tobacco retailers”; “provided TA for contractors to use in their education & mobilization activities in support of statewide legislative objectives”; and “drafted legislation in support of the ARRA objectives.”

**Example 14:**

**Award Number: 3U58DP001998-01S2**

Grantee report excerpt: “lobby for implementation of systems and policies to promote the prevention of chronic diseases and obesity.”

**Example 15:**

**Award Number: 3U58DP001992-01S2**

Grantee report excerpt: “six communities will be selected for successful smoke-free ordinance initiatives” and grantees will work to “restrict point of purchase advertising.”

**Example 16:**

**Award Number: 3U58DP001995-01S2**

Grantee report excerpt: “promote a comprehensive clean indoor air act within the state.”