

DEPARTMENT OF HEALTH, EDUCATION; AND WELFARE
Public Health Service
Health Services Administration
Indian Health Service
Rockville, Maryland

INDIAN HEALTH SERVICE CIRCULAR NO. 80-3

L O B B Y I N G

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1. PURPOSE

To publicize and bring to the attention of all Indian Health Service (IHS) employees and employees of tribal governments and organizations the Federal law and Indian Health Service policy with respect to the statutory prohibition against the use of Federal funds and Federal employees engaging in lobbying activities with individual congressmen and staffs of congressional committees, and congressmen to influence congressional action.;

2. BACKGROUND

The provisions of 18 U.S.C. 1913 (62 Stat. 792) Lobbying with appropriated moneys, Sec. 607(a) of the Treasury, Postal Service, and General Government Appropriations Act, 1979 (92 Stat.-1001; P.L. 95-429) and Sec. 206 of the Act of June 10, 1921 (42 Stat. 21; 31 U.S.C. 15) are the controlling statutory authority reflecting prohibition against influencing congressional action. These authorities are supplemented by Sec. 304 of the Department of the Interior and Related Agencies Appropriations Act for 1979 (92 Stat. 1279); 1302; P.L. 95-465) and the Senate Appropriations Committees Report (96-363) on the bill that becomes the Department of the Interior and Related Agencies Appropriations Act, 1980; and the Indian Health Service policy Appearances before Congressional Committees found in IHS Circular No. 71-2 dated 12/15/71 and Prohibition Against the Reimbursement of Lobbying Costs to Contractors found in IHS Contracts Management Staff Guide - CM #55 and its Amendment No. 1 dated 8/1/79 and 11/26/79 respectively.

These authorities are directed against (1) the use of Federal funds to influence Congressional action and (2) Federal employees requesting appropriations not requested by the President. The prohibition on the use of funds to influence congressional action applies to all funds available for use by the Indian Health Service (IHS). The prohibition applies whether the use of funds is directed by IHS staff or through a contract, grant, or cooperative agreement. Special note should be made of the fact that the prohibition extends to the payment of travel expenses for tribal representatives to testify before congressional committees.

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--Your attention is directed to the following provisions of these authorities.

1. 18 U.S.C. t913 (62 Stat. 792) Lobbying with appropriated money.

"No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone; letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section shall be fined not more than \$500 or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment."

2. sec. 607(a) Treasury Postal Service and General Government Appropriations Act, 1979 (92 Stat. 1001; P.L.95-429).

"No part of any appropriation contained in this or any other Act, or of the funds available for expenditure by any *** agency, shall be used for publicity or propaganda purposes designed to support or defeat legislation before Congress."

3. 31 U.S.C. 15 (42 Stat. 21) Sec. 206, Act of June 10, 1921.

"No estimate or request for an appropriation and no request for an increase in an item of any such estimate or request, *** shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress,"

4. Sec. 304 Department of the Interior and Related Agencies Appropriations Act of 1979 (92 Stat. 1279, 1302; P.L. 95-415).

"No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete, in accordance with 18 U.S.C. 1913."

5. Senate Report No. 93-363, Page 94, dated 10/10/79 Senate Appropriations Committee Report on the Department of Interior and Related Agencies Appropriation Act, 1980.

"The Committee is equally disturbed over continuing evidence of lobbying activities by the IHS. Whether planned or spontaneous, IHS personnel have helped tribes draft congressional testimony and have actively advised Indian leaders when and how to approach Congress for additional health program funding. In one instance, IHS facilities were used to transmit tribal testimony to Washington for presentation to Congress., Similar problems have existed from time to time with the Bureau of Indian Affairs. Often it is difficult if not impossible to pinpoint these practices.

Federal law (18 U.S.C. 1913) forbids lobbying at public expense and the general provisions in the accompanying bill specifically prohibit., the use of any. funds for activities that tend to influence congressional action on pending legislation. Often it is admittedly difficult to distinguish between acceptable advice and assistance and improper activities that tend to influence legislation. The IHS must make every effort to define that thin line, however, and see that its personnel observe it. The Committee will expect the Indian Health Service Director to implement the necessary controls and report his progress to the Committee in conjunction with the fiscal 1981 budget hearings . "

6. Indian Health Service Circular No. 71-2, 12/15/71 Appearances before Congressional Committees;

See IHS Circular No. 71-2. Provides that the Director, IHS will be notified immediately of all requests received by IHS staff from Congressional Committees to present testimony or to provide technical assistance. Also requires prior clearance of all proposed testimony before congressional committees.

- . 7. Indian Health Service Staff Guide - CM #55 - 8/1/79 & 11/26/79.

The Contracts Management Staff Guide CM #55 as amended, requires that the following clause be included in all IHS contracts.

"No part of any funds under this contract shall be used to pay the salary or expense of any contractor, or agency acting for the contractor, to engage in any activity designed to influence legislation or appropriations pending before the Congress."

3. POLICY

It is the policy of the Indian Health Service that all IHS employees and employees of tribal governments be advised of the prohibition against (1) the use of Federal funds' to influence congressional action and (2) federal employees requesting appropriations not requested by the President as prescribed by 18 U.S.C. 1913, P.L. 95-429, 31 U.S.C. 15 P.L. 95-415, Senate Report No. 96-363 'and IHS Circular No. 71-2 and IHS staff Guide CM #55 as amended.

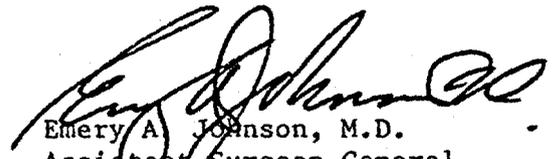
Since the enactment of the Budget and Accounting Act of 1921, it has been Executive policy to consider budget estimates transmitted to the Congress with the approval of the President to be binding upon the executive departments and agencies. Employees are expected to conform to this policy by refraining from efforts to promote an increase in the Department budget as approved by the President. Employees are also required to refrain from promoting or opposing legislation relating to programs of the Department without the official sanction of the proper Department authority. It' should be clearly understood, however, that nothing in this policy is to be considered as restraining or interfering with (1) the obligation of employees to respond freely and candidly to any congressional inquiries made of them in regard to appropriations or related matters and (2) an employee's right as a citizen to communicate with Congress on Congressional matters which affect him personally or adversely affect his professional performance.

4. RESPONSIBILITY

It shall be the responsibility of each Headquarters Division/Office Director and each Indian Health Area/Program Director to ensure that all IHS employees under their jurisdiction and employees of tribal governments and organizations within their respective area of authority are advised of the statutory prohibition and restrictions of lobbying for or with appropriated moneys in accordance with the provisions of this issuance and IHS Circular No. 71-2 and IHS contracts management staff guide - CM #55.

This responsibility necessarily includes ensuring that (1) all IHS contracts, grants, and agreements include the clause required by IHS Staff Guide CM 855 that prohibits the use of Federal funds to influence Congressional action and (2) monitoring and review protocols include a specific audit criterion to ensure that the laws and policy prescribed herein have not been violated.

In addition, the Director, Indian Health Service shall be notified immediately in writing of all requests received from or communicated to Congressional Committees and their staff, individual congressmen and their staff, tribal representatives and other interested parties that solicit an increase or decrease in appropriations affecting the Indian people or the IHS program from the Congress or its members or staff.


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