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WESTERN STATES
SEISMIC POLICY
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Communicating with Policy Makers: Is it Advocacy or Lobbying?

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How is the communication defined?

- Advocacy – Activities that support an issue, proposal or cause; includes lobbying. Activities could include - media campaigns, public speaking, and commissioning and publishing research or polls.
- Lobbying – A communication to legislators, whether directly or indirectly, intended to influence specific legislation.

Two Types of Lobbying

Examples of Direct Lobbying	Examples of Grass Roots Lobbying
Emailing a member of Congress to vote yes on NEHRP reauthorization legislation.	Sending an action alert to a listserv encouraging members to email their Congress member to vote yes on NEHRP reauthorization.
Speaking out to a Congressional staff member about funding cuts to TWEA.	Putting out a request to the public for them to speak out about funding cuts to TWEA.
Asking a member of Congress to support the President's budget for the USGS.	Urging colleagues to express their support of the President's budget for the USGS to their elected officials.

Statutory Restrictions to Lobbying

- “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, **a jurisdiction, or an official of any government**, to favor, adopt, or oppose, by vote or otherwise, any legislation, **law, ratification, policy**, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; ...”
U.S. Code Title 18, Sec. 1913
- Appropriations Riders

Federal Agencies/Employees

Prohibited	Permitted
Prohibits officers and employees of federal agencies from using appropriations to lobby or influence a Member of Congress on legislation.	Direct personal contacts and communications with members of Congress by executive officials and executive agencies.
Prohibits a federal agency from expending any federal funds or resources assisting private groups in their efforts to influence Congress.	Congress initiates a request or if Congress requests legislation or appropriations levels necessary for the “efficient conduct of public business.”
Appropriations riders- restricts use of appropriated funds for “publicity or propaganda purposes directed at legislation pending before Congress.”	Communications to the public if the material is “essentially expository in nature” and did not urge or suggest that Congress be contacted.

State Agencies/Employees

- All 50 states define **who** is a lobbyist and **what** is lobbying
- Definitions reflect that lobbying is an attempt to influence a government action
- Require lobbyist registration
- Require Lobbyist reporting

- National Conference of State Legislatures
- <http://www.ncsl.org/legislatures-elections/ethicshome/50-state-legislative-ethics-and-lobbying-laws.aspx>

Non-profit Organizations 501(c)(3)

- – “Persons who hold federal contracts and federal grants may generally not be reimbursed from that federal contract or grant, and may not use contract or grant funds directly, to lobby the United States Congress unless there is clear congressional authorization to engage in such activities with federal funds.” *Congressional Research Service, 1996.*

Non-profit Organizations 501(c)(3)

Restrictions on Lobbying

1. Appropriations laws – Provides limits on the use of federal grant or contract funds from a federal agency to pay for lobbying activities. Comptroller General of GAO would adjudicate rather than DOJ.

2. Byrd Amendment – *31 USC Section 1352 and OMB 55 FR 6736* (Feb. 26, 1990) prohibits the use of grant or contract funds to lobby Congress concerning awarding of federal contracts, making of federal grants or loans, and entering into cooperative agreements.

3. Regulations and Guidelines – Sets forth unallowable lobbying costs, expressed in *OMB Circular A-122 paragraph B25* and incorporated in Federal Acquisition Regulations at *48 CFR Section 31.701 et seq.*

4. IRS Regulations – Non profit organizations may not expend a “substantial” part of resources on lobbying activities: Two rules: General and “bright line” (*26 USC Section 501(h) election*).

In Conclusion

- 1. Have permission to communicate
- 2. Know your legal limits
- 3. Communicate the issues in a nonpartisan way
- Educate the public on the issues

References - Websites

- Congressional Research Service, 1996, Restrictions on Lobbying Congress with Federal Funds, 15 p., <http://wikileaks.org/wiki/CRS-97-57>
- National Conference of State Legislatures, 2013, Links to States' Legislative Ethics and Lobbying Laws. <http://www.ncsl.org/legislatures-elections/ethicshome/50-state-legislative-ethics-and-lobbying-laws.aspx>

References - Statutes

- 18 US Code, Section 1913, Lobbying with Appropriated Moneys
- 26 US Code, Section 501(c)(3), Exemption from tax on corporations, certain trusts, etc.
- 26 US Code, Section 501(h), Expenditures by public charities to influence legislation
- 31 US Code, Section 1352, Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions