

Anti-Lobby Law and Guidance

STATUTES:

18.U.S.C. 1913, a criminal anti-lobbying law provides “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 under this title 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”.

To date, there are no known convictions under this law.

Section 8012 of the FY2002 DoD Appropriations Act provides:

None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional actions on any legislation or appropriation matters pending before the Congress.

Every recent DoD appropriations act has contained identical language.

CASES:

The Justice Department, which is responsible for the enforcement of 18 U.S.C. sect. 1913, has interpreted this provision as prohibiting the expenditure of appropriated funds for substantial grass roots lobbying campaigns of telegrams, letters and other private forms of communication designed to encourage members of the public to pressure members of

Congress to support Administration or Department legislative or appropriations proposals. The Justice Department has stated that a “substantial” grass-roots lobbying campaign is one which involves the expenditure of \$50,000 or more. Lobbying Activity in support of China Permanent Normal Trade Relations B-285298, May 22, 2000.

Statutory provisions like Section 8012 of the FY2002 DoD Appropriation Act apply primarily to indirect or grass-roots lobbying, and not to direct contact with or appeals to Members of Congress. Thus, this type of statutory language prohibits agency appeals to members of the public that they contact their elected representatives to indicate support of or opposition to pending legislation. See 60 Comp.Gen. 423, 428 (1981) and B-270875, July 5, 1996.

In Forest Service Violation of Section 303 of the 1998 Interior Dept. B-281637, May 14, 1999, GAO found that agency activities urging members of the public during a meeting to contact Congress in support of road funding initiatives in legislation and in the budget, and a campaign to promote public support for a budget proposal seeking to change the way certain payments to the states from Forest Service revenues are calculated violated section 303 of the 1998 Interior Dept. Appropriation Act which prohibited the expenditure of funds for certain lobbying activities undertaken by covered Federal Officials.

Section 303 provided “No part of any appropriation contained in this Act should be available for an 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 1997, Agency Officials began to develop a Natural Resource Agenda and a Communication plan. The Agenda contained three legislative goals; the first two dealt with legislative funding goals for Forest service roads and third with a change to the way payments were made to the states. Congressional consideration was not complete on this legislative proposal during the time period in which the lobbying activities took place. The Communication plan’s goal was to have key advisors receive and understand the Natural Resource Agenda. The audience targeted included employees, Congress, the media and external groups. Communications were affected by internet and intranet sites, speeches to interested groups at their functions, roundtables, feature articles, op-ed pieces, one on one briefing, posters, brochures, electronic newsletters, and press conferences ...”to name a few”... Agencies officials were requested to work aggressively

with employee interest groups and congressionals to move the full agenda forward.

GAO held the agency's activity intended to promote public support for the road funding legislative proposals as proscribed by section 303. Agency employees, at the very least, used appropriated funds in terms of their salaries to urge members of the public to inform Congress of their position on proposed legislation. Furthermore, section 303, not only prohibits grassroots lobbying of the sort engaged in here, but it works more broadly to restrict even implicit appeals. GAO found that this explicit appeal to the public is certainly encompassed within the ambit of section 303 and therefore is a violation of that provision.

GUIDELINES:

On December 10, 1999, AMC published a policy Memorandum entitled Congressional Relations and Contacts – AMC Headquarters and Major Subordinate Commands. This memorandum was intended to remind the staff and subordinate activities of their responsibility in keeping the AMC leadership and chain-of-command informed of Congressional interaction. The memorandum enclosed guidelines and a summary sheet.

The Guidelines generally provide that significant Congressional activity must be coordinated within the Headquarters, AMC, Congressional Liaison Office (AMCLL). This involves official visits to Headquarters and visits by the AMC Command Group to AMC installations. Coordination is through AMCLL.

The published Congressional relations and contact guidance is also covered in Army Regulation (AR) 1-20, Legislative Liaison; the Congressional Responsibilities, Standing Operating Procedures; and AMC-R 1-16 Congressional Relations.

CONCLUSION:

The above statutes, regulation, case law and AMC policy provide direction for individual and group interaction with Congress. Government employees should be cognizant of the various restrictions prohibiting lobbying Congress on government time using government personnel and resources.

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