

To: All Corporation-supported grantees and sponsoring organizations

From: Frank R. Trinity *Frank R. Trinity*
General Counsel

Date: February 12, 2007

Re: Restrictions on legislative lobbying and partisan politics.

This memorandum is for those overseeing, operating, and serving in, national and community service programs supported by the Corporation. It covers the rules concerning legislative lobbying and partisan politics.

You should keep in mind the following rule: Grantee staff and program participants may not (1) attempt to influence legislation or (2) participate in, or endorse, political events or activities, if they are doing so while charging time to a Corporation-supported program, accumulating service or training hours towards an education award, or otherwise performing activities supported by the Corporation.

Individuals may exercise their First Amendment rights, including participating in the political process, on their own initiative, on their own time, and using non-Corporation funds and resources. But in doing so, it is very important to avoid even a perception that national and community service staff or participants are engaging in political activities in those capacities. For example, if your organization engages in lobbying activities you must be careful to document that such activities are outside the scope of your Corporation-funded program. Separate accounting for costs is crucial on this particular point. As another example, wearing AmeriCorps gear while participating in a political event may result in an allegation that the AmeriCorps program is supporting political activities, even if that is not the case. If your organization signs a public petition advocating some legislative action, you should be sure it identifies itself by its organizational name rather than as an AmeriCorps program. It is paramount that AmeriCorps and all of our national and community service programs proceed with utmost care to avoid perceptions that Federal resources are being mis-directed to political activities.

I am attaching answers to frequently-asked questions on this topic. If you need additional guidance, please contact your program officer at the Corporation.

FREQUENTLY-ASKED QUESTIONS

Our program's annual report shows the value of national and community service and is designed, in part, to persuade our community to support our program and other programs supported by the Corporation. Is this permitted?

The restrictions on legislative lobbying do not apply to efforts like this to educate the general public, provided that the materials are not specifically designed to generate lobbying activities.

What if I provide a factual, technical presentation to a legislator who is visiting our program and at the end the legislator makes an unexpected announcement that he or she has decided to co-sponsor legislation to support national service?

There is nothing wrong with hosting an informational site visit by an elected official. If your presentation is informational and focuses on a topic directly related to your organization's performance under a grant program, the fact that a legislator reaches and announces this conclusion spontaneously does not in itself make the presentation unallowable.

May a local program supervisor visit elected officials in Washington, D.C.?

The threshold question is whether the costs of such a trip would be a reasonable and necessary program expense given your approved budget and the specific purposes of your grant award. In addition, assuming this first criterion is met, the OMB Cost Principles for nonprofits and institutions of higher education have an additional requirement: travel, lodging, and meal costs may be allowed only if they are incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the hearing's convener. Because such costs are allowable under very limited circumstances, you should seek guidance from your program officer at the Corporation ahead of time.

As a program director, I periodically travel to Washington, D.C. to educate our elected officials about our program's achievements. What happens if the Corporation determines that the costs of my visits are not reasonable and necessary expenses of the program?

If the Corporation determines that the costs are not reasonable and necessary, the costs would be disallowed as a program expense and your organization would not be reimbursed for them.

An elected official who is running for re-election wants to have a campaign publicity event at our service site. Is this type of site visit permitted?

No, you should steer clear of any event that could appear to be partisan in nature.

While I am in Washington, D.C. attending a program director's conference, am I prohibited from visiting my elected officials during a break in the conference?

The restrictions would not apply to such activities as long as they are incidental to your primary purpose in traveling to Washington for a training event. But don't charge the cab fare to your grant!

I work for a national non-profit organization that receives a grant to operate an AmeriCorps program. My position is partially funded under the AmeriCorps grant and partially funded by non-federal sources. Can I lobby on issues related to AmeriCorps when I am not on AmeriCorps time?

The restrictions apply only to the use of Federal grant funds (including matching funds) and to projects and programs supported by the Corporation. You should be careful to document that any lobbying is done during the time that is not charged to your Corporation grant and that your lobbying activities are not part of the AmeriCorps program.

I am the executive director of a State Commission. Our Cost Principles say nothing about legislative lobbying being an unallowable cost. What are the rules for States?

For States that receive grants from the Corporation, the absence of guidance in the OMB Cost Principles requires you to review your grant award's provisions. For example, the Corporation has made it a condition of grant awards to State Commissions that its subgrantee AmeriCorps programs (including staff and participants) may not engage in any effort to influence legislation.

This leaves situations when the State Commission is acting solely on its own behalf. If the activity is not charged to the administrative grant provided to the State Commission by the Corporation, the activity is outside our oversight authority. If the activity is charged to the Corporation grant, the standard is whether the proposed activity or cost is reasonable and necessary given your approved budget and the purpose of the grant. You should direct any specific question on this point to your Corporation program officer.

If a particular activity is not specifically disallowed under the applicable OMB Cost Principles or grant terms, does that mean it is allowed?

Not necessarily. OMB Cost Principles do not authorize costs or expenditures; they merely limit the allowability of costs or expenditures. The burden is on the grantee to demonstrate that a particular cost is consistent with the approved budget and properly chargeable to the grant as reasonable and necessary -- not merely that it is not on the list of disallowed costs. This is ultimately a determination for the Corporation to make.

Doesn't the Domestic Volunteer Service Act give programs specific statutory authority to lobby concerning appropriations or authorization legislation?

You are right about the authority in the DVSA, but DVSA programs are currently subject to a superceding proviso in their annual appropriations statute which prohibits the use of appropriated funds to engage in any activity that is designed to influence legislation or appropriations pending before the Congress or any State legislature.

May a Corporation-funded program sponsor or endorse an event, such as a debate between candidates, which itself is not partisan, but which likely will include advocacy for or against political parties, platforms, candidates, proposed legislation or elected officials?

Corporation-funded programs should avoid any connection with such political events, and individuals enrolled in a national service program who attend such events should avoid any appearance that they are doing so as part of the national service program.

Does that mean an organization receiving Corporation funds may not take part in the political process?

No, but an organization that receives Corporation funds may only sponsor or endorse political events if it does so without using Corporation support, and if it avoids the appearance that it is doing so in its capacity as a Corporation grantee or that the event has any connection to the Corporation-funded project.