

# Rules of Conduct on Lobbying and Conflicts of Interest

# General Rules of Conduct

**Council members, as Federal office holders, and Council employees are subject to most Federal criminal statutes covering bribery, conflict-of-interest, disclosure of confidential information, and lobbying with appropriated funds. 50 CFR § 600.225**

# Lobbying Activities


**The term "lobbying" can be generally defined as a direct or indirect attempt to influence government decision making in the legislative or executive branches.**

- **Direct lobbying involves contacts with legislators, their staffs, or other government officials, either in person or through written or oral communication.**
- **Indirect or "grassroots" lobbying involves contacting others and urging them to support or to advocate changes to legislation or policy.**

# Overview of Lobbying Restrictions

**Councils must comply with federal cost principles applicable to Regional Fishery Management Council Grants.**

- **These cost principles are specified at 2 C.F.R. part 230 and generally prohibit use of funds to influence Federal, state, local elections and Federal and state legislation by direct contact or by publicity or propaganda (including indirect/"grassroots" lobbying).**
- **The purpose of the cost principles at is to define what costs can be paid from Federal awards issued to non profit organizations.**



**2 types of lobbying restrictions for Council members are summarized in 50 CFR § 600.227.**

- 1. The use of Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with the award of such funds is prohibited. Violation of this provision can result in criminal and civil penalties.**

## **2. Funds cannot be used to influence:**

**--The introduction of Federal or state legislation;**

**--The enactment or modification of any pending legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public to contribute to or to participate in any demonstration, march, rally, fundraising drive, lobbying campaign, or letter writing or telephone campaign.**



- **Exceptions:**

- Costs associated with providing a technical and factual presentation directly related to the performance of a grant, through hearing testimony, Statements, or letters to Congress if made in response to a documented request.**

- Costs associated with lobbying to influence State legislation in order to reduce the cost or to avoid material impairment of the organization's authority to perform the grant.**



- **Remedial Action**

**--The Council must provide an estimate of the costs incurred in any use of non-allowed lobbying activities to determine the level of cost disallowance on the award.**

**-- In accordance with internal operating procedures, the Council must impose appropriate disciplinary measures against Council staff who have misused award funds.**

**--Civil penalties for violation of federal regulations may also apply.**




# Private Lobbying

- **Private lobbying by a Council member is allowed as long as there is no nexus to funding of Council activities.**
- **However, a Council member may not represent an identified person or entity before a federal agency or court on a matter in which the member personally and substantially participated.**

# Conflict of Interest

- **Rules of Conduct. 50 CFR § 600.225 (b)(9)(i).** Under general federal law concerning conflict of interests, a council member would be prohibited from voting on matters in which they have a financial interest.
- **MSA provides a limited exception to this general rule under terms specified at Section 302 (j) and in regulations at 50 CFR § 600.CFR 235.**

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- **The provisions of 18 U.S.C. 208 regarding conflicts of interest do not apply to a Council member voting on Council actions if the Council member has filed a financial disclosure report as described in federal regulations.**
  - **However, a Council member must still recuse him/herself if a vote on Council decision would have a significant and predictable effect on the financial interests described in the financial disclosure report.**

- **A “significant and predictable effect” means a close causal link between the decision and an expected and substantially disproportionate benefit to the financial interest.**
- **“Expected and substantially disproportionate benefit” means a quantifiable positive or negative impact with regard to a matter likely to affect a fishery or sector of the fishery in which the affected individual has a significant interest, as indicated by having a greater than a 10 % interest in:**
  - the total harvest of the fishery or sector of the fishery in question;**
  - the marketing or processing of the total harvest of the fishery or sector of the fishery in question; or**
  - Full or partial ownership of the vessels using the same gear type within the fishery or sector of the fishery in question.**

- **“Council decision” refers to decisions to adopt an FMP, Amendment or other action such as a framework, emergency action request or comments on a Secretarial amendment. It does not include a committee action.**
- **Council member may still participate in deliberations and indicate which way the member would vote.**
- **To recuse oneself, the Council member must announce to the Council an intent not to vote on the decision and identify the financial interest that would be affected.**

- **Unlawful for an affected individual to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required by this section, or to knowingly vote on a Council decision in violation of this section. In addition to the penalties applicable under § 600.735, a violation of this provision may result in removal of the affected individual from Council.**

# Personal Conflict of Interest

- **Rules of Conduct. 50 CFR § 600.225(b)(9)(ii). No Council member may participate personally and substantially as a member through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a particular matter primarily of individual concern, such as a contract, in which he or she has a financial interest, even if the interest has been disclosed in accordance with § 600.235. Violation of this provision may result in removal of the affected individual from the council.**