§ 1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions

(a)(1) None of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal contract, grant, loan, or cooperative agreement; and

(b)(1) Each person who requests or receives a Federal contract, grant, loan, or cooperative agreement shall contain—

(A) the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).

(2) The prohibition in paragraph (1) of this subsection applies with respect to the following Federal actions:

(A) The awarding of any Federal contract.

(B) The making of any Federal grant.

(C) The making of any Federal loan.

(D) The entering into of any cooperative agreement.

(E) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b)(2) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a commitment providing for the United States to insure or guarantee a loan shall contain the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee.

(4) A person referred to in paragraph (1)(A) of this subsection shall file a declaration referred to in that paragraph—

(A) with each submission by such person that initiates agency consideration of such person for award of a Federal contract, grant, loan, or cooperative agreement, or for grant of a commitment providing for the United States to insure or guarantee a loan; and

(B) upon receipt by such person of a Federal contract, grant, loan, or cooperative agreement or commitment pursuant to clause (A); and

(C) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by such person in connection with such Federal contract, grant, loan, cooperative agreement or commitment pursuant to clause (A); and

(D) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by any person referred to in paragraph (1)(A) of this subsection in connection with that loan insurance or guarantee.

(5) Any person who requests or receives from a person referred to in paragraph (1) of this subsection a subcontract under a Federal contract, a subgrant or contract under a Federal grant, a contract or subcontract to carry out any purpose for which a particular Federal loan is made, or a contract under a Federal cooperative agreement shall be required to file with the person referred to in such paragraph a written declaration referred to in clause (A) of such paragraph.

(6) The Director of the Office of Management and Budget, after consulting with the Secretary of the Senate and the Clerk of the House of Representatives, shall issue guidance for agency implementation of, and compliance with, the requirements of this section.

(c)(1) Any person who makes an expenditure prohibited by subsection (a) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

(2)(A) Any person who fails to file or amend a declaration required to be filed or amended under subsection (b) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(B) A filing of a declaration of a declaration amendment on or after the date on which an administrative action for the imposition of a civil penalty under this subsection is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date.

For the purposes of this subparagraph, an administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.
(3) Sections 3803 (except for subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812 of this title shall be applied, consistent with the requirements of this section, to the imposition and collection of civil penalties under this subsection.

(4) An imposition of a civil penalty under this subsection does not prevent the United States from seeking any other remedy that the United States may have for the same conduct that is the basis for the imposition of such civil penalty.

(d)(1)(A) Subsection (a)(1) of this section does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection (a)(2) of this section.

(B) Subsection (a)(1) of this section does not prohibit any reasonable payment to a person in connection with, or any payment of reasonable compensation to an officer or employee of a person requesting or receiving, a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

(C) Nothing in this paragraph shall be construed as permitting the use of appropriated funds for making any payment prohibited in or pursuant to any other provision of law.

(2) The reporting requirement in subsection (b) of this section shall not apply to any person with respect to—

(A) payments of reasonable compensation made to regularly employed officers or employees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, that are made for purposes specified in subsection (a) and are permitted by other Federal law.

(B) a request for or receipt of a contract (other than a contract referred to in clause (C)), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (C)), or subgrant that does not exceed $100,000; and

(C) a request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater, including a contract or subcontract to carry out any purpose for which such a loan is made.

(e) The Secretary of Defense may exempt a Federal action described in subsection (a)(2) from the prohibition in subsection (a)(1) whenever the Secretary determines, in writing, that such an exemption is in the national interest.

The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such determination.

(f) The head of each Federal agency shall take such actions as are necessary to ensure that the provisions of this section are vigorously implemented and enforced in such agency.

(g) As used in this section:

(1) The term “recipient”, with respect to funds received in connection with a Federal contract, grant, loan, or cooperative agreement—

(A) includes the contractors, subcontractors, or subgrantees (as the case may be) of the recipient; but

(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures that are by such tribe or organization for purposes specified in subsection (a) and are permitted by other Federal law.

(2) The term “agency” has the same meaning provided for such term in section 552(f) of title 5, and includes a Government corporation, as defined in section 9101(1) of this title.

(3) The term “person”—

(A) includes an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit; but

(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures by such tribe or organization that are made for purposes specified in subsection (a) and are permitted by other Federal law.

(4) The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(5) The term “local government” means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, the following entities:

(A) A local public authority.

(B) A special district.

(C) An intrastate district.

(D) A council of governments.

(E) A sponsor group representative organization.

(F) Any other instrumentality of a local government.

(6)(A) The terms “Federal contract”, “Federal grant”, “Federal cooperative agreement” mean, respectively—

(i) a contract awarded by an agency;

(ii) a grant made by an agency or a direct appropriation made by law to any person; and

(iii) a cooperative agreement entered into by an agency.

(B) Such terms do not include—
(i) direct United States cash assistance to an individual;
(ii) a loan;
(iii) loan insurance; or
(iv) a loan guaranty.

(7) The term "Federal loan" means a loan made by an agency. Such term does not include loan insurance or a loan guaranty.

(8) The term "reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

(9) The term "reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

(10) The term "regularly employed", with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

(11) The terms "Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).


REFERENCES IN TEXT

Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), referred to in subsection (g)(11), was classified to section 450b of Title 25, Indians, prior to editorial reclassification as section 5984 of Title 25.

CODIFICATION
Another section 1352 was renumbered section 1353 of this title.

AMENDMENTS
1995—Subsection (b)(2). Pub. L. 104–106, §4301(a)(2), which directed amendment of par. (2) by inserting "and" after the semicolon at the end of subpar. (A) and by striking out subpar. (C), was not executed because subsection (b)(2) did not contain a subpar. (C) subsequent to amendment by Pub. L. 104–65, §10(a)(1). See 1995 Amendment note below.

Subsection (b)(6)(A). Pub. L. 104–106, §1064(c)(1), which directed insertion of "(other than the Secretary of Defense and Secretary of a military department)" after "The head of each agency", could not be executed because subsection (b)(6) did not contain a subpar. (A) subsequent to amendment by Pub. L. 104–65, §10(a)(3). See 1995 Amendment note below.

Subsection (d)(1). Pub. L. 104–106, §1064(c)(2), which directed the insertion of "(other than in the case of the Department of Defense or a military department)" after "paragraph (3) of this subsection", could not be executed because subsection (d)(1) did not contain phrase "paragraph (3) of this subsection" subsequent to amendment by Pub. L. 104–65, §10(b). See 1995 Amendment note below.

1995—Subsection (b)(2). Pub. L. 104–65, §10(a)(1), added subpars. (A) and (B) and struck out former subpars. (A) to (C) which read as follows:

"(A) a statement setting forth whether such person—

"(i) has made any payment with respect to that Federal contract, grant, loan, or cooperative agreement, using funds other than appropriated funds, which would be prohibited by subsection (a) of this section if the payment were paid for with appropriated funds; or

"(ii) has agreed to make any such payment;

"(B) with respect to each such payment (if any) and each such agreement (if any)—

"(i) the name and address of each person paid, to be paid, or reasonably expected to be paid;

"(ii) the name and address of each individual performing the services for which such payment is made, to be made, or reasonably expected to be made;

"(iii) the amount paid, to be paid, or reasonably expected to be paid;

"(iv) how the person was paid, is to be paid, or is reasonably expected to be paid; and

"(v) the activity for which the person was paid, is to be paid, or is reasonably expected to be paid; and

"(C) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a)."

Subsection (b)(3). Pub. L. 104–65, §10(a)(2), substituted "shall contain the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee." for "shall contain—" and struck out subpars. (A) and (B) which read as follows:

"(A) a statement setting forth whether such person—

"(i) has made any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee; or

"(ii) has agreed to make any such payment; and

"(B) with respect to each such payment (if any) and each such agreement (if any), the information described in paragraph (2)(B) of this subsection.

Subsection (b)(6). Pub. L. 104–65, §10(a)(3), redesignated par. (7) as (6), and struck out former par. (6) which directed head of each agency to collect and compile detailed information on any unappropriated payments under Federal contracts, and report such information to the appropriate congressional officer or committee.

Subsection (d)(1). Pub. L. 104–65, §10(b), and Pub. L. 104–66, §3001(b), amended section identically, redesignating subsecs. (e) to (h) as (e) to (g), respectively, and striking out former subsec. (d) which directed the Inspector General or official of each agency to submit annual reports to Congress on the compliance of each agency with the requirements imposed by this section.


1 See See References in Text note below.
§ 1353. Acceptance of travel and related expenses from non-Federal sources

(a) Notwithstanding any other provision of law, the Administrator of General Services, in consultation with the Director of the Office of Government Ethics, shall prescribe by regulation the conditions under which an agency in the executive branch (including an independent agency) may accept payment, or authorize an employee of such agency to accept payment on the agency’s behalf, from non-Federal sources for travel, subsistence, and related expenses with respect to attendance of the employee (or the spouse of such employee) at any meeting or similar function relating to the official duties of the employee. Any cash payment so accepted shall be credited to the appropriation applicable to such expenses. The name of the person making the payment, the nature of the meeting or similar function, the time and place of travel, the nature of the expenses, and such other information as the Administrator of General Services may prescribe by regulation under subsection (a) shall be submitted not later than May 31 of each year with respect to payments in the preceding period beginning on October 1 and ending on September 30.