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talented elementary school students—an authorized activity under the Federal statute. However, the LEA does not consult with interested parties and does not amend its application. Result: 20 percent of the LEA's subgrant must be returned. The LEA had no legal authority to use Federal funds for programs or activities other than those described in its approved application, and its actions with respect to 20 percent of the subgrant not only impaired the integrity of the application process, but caused significant harm to other Federal interests associated with the program as follows: the required planning process was circumvented because the LEA did not consult with the specified local interests; program accountability was impaired because neither the SEA nor the various local interests that were to be consulted had an opportunity to review and comment on the merits of the gifted and talented program activities, and the LEA never had to justify those activities to them; and fiscal accountability was impaired because the SEA and those various local interests were, in effect, misled by the LEA's unamended application regarding the expenditure of Federal funds.

(13) *Harmless violation.* Under a Federal program, a grantee is required to establish a 15-member advisory council of affected teachers, school administrators, parents, and students to assist in program design, monitoring, and evaluation. Although the law requires at least three student members of the council, a grantee's council contains only two. The project is carried out, and no damage to the project attributable to the lack of a third student member can be identified. Result: No financial recovery is required, although the grantee must take other appropriate steps to come into compliance with the law. The grantee's violation has not measurably harmed a Federal interest associated with the program.

(Authority: 20 U.S.C. 1221e-3, 1234(f)(1), 1234b(a), and 3474(a))

[54 FR 19512, May 5, 1989; 54 FR 21622, May 19, 1989]

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APPENDIX A TO PART 82—CERTIFICATION REGARDING LOBBYING

APPENDIX B TO PART 82—DISCLOSURE FORM TO REPORT LOBBYING

AUTHORITY: Section 319, Pub. L. 101-121 (31 U.S.C. 1352); 20 U.S.C. 3474.

CROSS REFERENCE: See also Office of Management and Budget notice published at 54 FR 52306, December 20, 1989.

SOURCE: 55 FR 6737, 6752, Feb. 26, 1990, unless otherwise noted.

**Subpart A—General**

**§82.100 Conditions on use of funds.**

(a) No appropriated funds 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 of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, set forth in appendix A, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form, set forth in appendix B, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, set forth in appendix A, whether that person has made or has agreed to make 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.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form, set forth in appendix B, if that person has made or has agreed to make 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.

#### § 82.105 Definitions.

For purposes of this part:

(a) *Agency*, as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

(b) *Covered Federal action* means any of the following Federal actions:

- (1) The awarding of any Federal contract;
- (2) The making of any Federal grant;
- (3) The making of any Federal loan;
- (4) The entering into of any cooperative agreement; and,
- (5) The extension, continuation, renewal, amendment, or modification of

any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan. Loan guarantees and loan insurance are addressed independently within this part.

(c) *Federal contract* means an acquisition contract awarded by an agency, including those subject to the Federal Acquisition Regulation (FAR), and any other acquisition contract for real or personal property or services not subject to the FAR.

(d) *Federal cooperative agreement* means a cooperative agreement entered into by an agency.

(e) *Federal grant* means an award of financial assistance in the form of money, or property in lieu of money, by the Federal Government or a direct appropriation made by law to any person. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, loan insurance, interest subsidies, insurance, or direct United States cash assistance to an individual.

(f) *Federal loan* means a loan made by an agency. The term does not include loan guarantee or loan insurance.

(g) *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). Alaskan Natives are included under the definitions of Indian tribes in that Act.

(h) *Influencing or attempting to influence* means making, with the intent to influence, any communication to or appearance before an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

(i) *Loan guarantee* and *loan insurance* means an agency's guarantee or insurance of a loan made by a person.

(j) *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, including a local