



March 16, 2012

VIA CERTIFIED MAIL

Attorney General Eric Holder
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

RE: Violations of 18 U.S.C. § 1913

Dear Attorney General Holder:

We write on behalf of Cause of Action, a nonprofit, nonpartisan public interest organization that uses public advocacy and legal reform strategies to ensure greater transparency in government and protect taxpayer interests and economic freedom.

It has come to our attention that numerous grantees that received taxpayer funds from the Centers for Disease Control (CDC) through the Communities Putting Prevention to Work (CPPW) grant program may have violated federal law by lobbying with taxpayer dollars. The CPPW grant program was created by the American Recovery and Reinvestment Act of 2009 to inform the public about the dangers of obesity and tobacco use.¹ Instead, it appears that many grantees used grant dollars to lobby state and local officials for the creation of new taxes and other legislation.

Grantees used CPPW funds to lobby.

In a letter to the House Committee on Oversight and Government Reform, the Department of Health and Human Services (HHS) noted that it was aware that at least one CPPW grant recipient, the South Carolina Department of Health, violated HHS's restrictions on using grant money for lobbying,² but there are other instances of grantees lobbying with federal dollars which have not received appropriate official oversight.

For example, in March of 2010, the Philadelphia Department of Public Health (PDPH) received a \$15 million CPPW grant for obesity prevention.³ A PDPH

¹ THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, 123 Stat. 115, 180 (2009).

² LETTER, Jim R. Esquea, Ass't Sec'y for Legislation, U.S. Dep't Health and Human Services, to Darrell Issa, Chrmn., Comm. Oversight & Gov't Ref., (Jun. 17, 2011) at 9.

³ AWARD SUMMARY, Philadelphia Department of Public Health, Award Overview, (Mar. 19, 2010), available at

presentation, bearing a CPPW grant logo, noted that the Department planned to use CPPW monies to “[i]nitate, enforce, and evaluate **supportive policy and regulatory initiatives**” and to “implement a two-cent per ounce **excise tax on sugar-sweetened beverages** in Philadelphia.”⁴

Los Angeles County went a step further and hired outside lobbyists. The statement below is from a November 15, 2010 quarterly update prepared by the Los Angeles County Department of Public Health regarding their use of CPPW funds:

Project RENEW has **contracted** with the **California Center for Public Health Advocacy (CCPHA)** to **encourage the adoption of policies** to increase access to healthy foods and beverages and decrease access to sugar sweetened beverages in cities with childhood obesity rates above the county average. CCPHA staff is currently identifying cities within Los Angeles County with high levels of need that also have an **interest in adopting nutrition policies for targeted outreach**. In addition, RENEW has executed contracts with the cities of Pasadena and Long Beach to **pursue local nutrition policy change**. . . .⁵

The CCPHA subsequently received a \$795,000 sub-award from Los Angeles’s \$16 million CPPW grant.⁶ In 2010, CCPHA sponsored S.B. 1210, a bill to tax soda to fund childhood obesity prevention.⁷

Lobbying with CPPW funds was not limited to state and local governments. In May of 2010, the American Lung Association of Idaho/Nevada Inc. was awarded a \$1.4 million sub-award from a \$14.6 million grant that went to the Southern Nevada Health District.⁸ According to a 2010 American Lung Association report entitled “State of Tobacco Control”:

<http://www.recovery.gov/Transparency/RecipientReportedData/Pages/RecipientProjectSummary508.aspx?AwardIdSur=93904&AwardType=Grants> (Emphasis added).

⁴ POWERPOINT PRESENTATION, Philadelphia Department of Public Health, *available at* http://www.phila.gov/health/pdfs/NPA_CPPW_PPT.pdf. (Emphasis added).

⁵ QUARTERLY UPDATE: PROJECT RENEW & PROJECT TRUST at 1-2, Jonathan E. Fielding, (November 15, 2010), *available at* http://file.lacounty.gov/bc/q4_2010/cms1_154085.pdf (Emphasis added).

⁶ AWARD SUMMARY, Los Angeles County, CA, Award Overview, (Mar. 18, 2010), *available at* <http://www.recovery.gov/Transparency/RecipientReportedData/pages/RecipientProjectSummary508.aspx?AwardIdSur=97369&AwardType=Grants> (Emphasis added).

⁷ PRESS RELEASE, California Center for Public Health Advocacy, SB 1210 (Florez) – Taxing Soda to Fund Childhood Obesity Prevention, *available at* http://www.publichealthadvocacy.org/PDFs/CCPHA%20Fact%20Sheet_SB%201210.pdf (Emphasis added).

⁸ AWARD SUMMARY, Southern Nevada Health District, Sub-Award Transactions, (May 1, 2010), *available at*

<http://www.recovery.gov/Transparency/RecipientReportedData/pages/RecipientProjectSummary508.aspx?AwardIdSur=94104&AwardType=Grants>.

The office received \$1.4 million over two years from a larger Communities Putting Prevention to Work federal stimulus grant. This exciting initiative allows the Las Vegas office to offer our traditional tobacco cessation programs as well as take on **advocacy and policy work**. In addition, the Las Vegas office became the fiscal agent for the Nevada Tobacco Prevention Coalition, a statewide coalition that works on **policy issues**; especially strengthening the **Nevada Clean Indoor Act** and a **tobacco tax increase**.⁹

While these are some of the starkest examples of the misuse of CPPW funds, Cause of Action has found evidence that a number of other grantees used federal funds to lobby. Enclosed in this letter is a catalogue of evidence suggesting widespread misapplication of CPPW funds by grantees.

Federal law prohibits using CPPW grant funds to lobby.

As you are aware, 18 U.S.C. § 1913 prohibits any:

money appropriated by any enactment of Congress . . . [to] 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] jurisdiction, or an official of any government, **to favor**, adopt, or oppose, by vote or otherwise, **any legislation, law, ratification, policy, or appropriation**[.]¹⁰

Violation of this statute exposes offenders to civil liability pursuant to 31 U.S.C § 1352, namely, “. . . a civil penalty of not less than \$ 10,000 and not more than \$ 100,000 for each such expenditure.”¹¹ In an October 6, 2011 letter to Health and Human Services Inspector General (IG) Daniel R. Levinson, we requested that the IG “launch an investigation into . . . violations of 18 U.S.C. §1913 that may have occurred with funds from the Communities Putting Prevention to Work grant.”¹² At present, it appears no investigation has taken place.

⁹ PRESS RELEASE, The American Lung Association, The State of Tobacco Control 2010 at 103, *available at* http://ftpcontent.worldnow.com/wkbt/PDF/Final_report.pdf (Emphasis added).

¹⁰ 18 U.S.C. § 1913 (Emphasis added).

¹¹ 31 U.S.C § 1352(c).

¹² Letter, William H. Hild III, Attorney, Cause of Action, to Daniel R. Levinson, Inspector General, Department of Health and Human Services, (Oct. 6, 2011), at 3.

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Given the widespread nature of the suspicious activities compiled herein, we request that the DOJ launch a comprehensive investigation into the use of CPPW grant monies to lobby and influence state and local officials in favor of anti-soda and anti-tobacco legislation. American citizens deserve to know whether their tax dollars are being funneled to lobbyists in violation of federal law.

Sincerely,



DANIEL Z. EPSTEIN
EXECUTIVE DIRECTOR

Encl. 20 Liability Alert Letters from Cause of Action to CPPW grant recipients