



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

## OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

MAR -5 2012

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES TRANSPORTATION  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ACQUISITION AND PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING)  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Department of Defense Inspector General (DoDIG) Report 2012-030, "Contractor Compliance Varied with Classification of Lobbying Costs and Reporting of Lobbying Activities (Project No. D2010-DOOOCF-0145.000)"

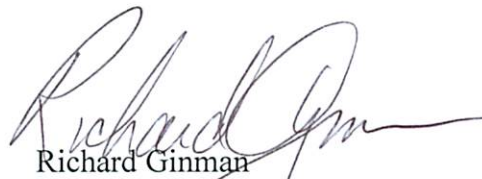
The DoDIG conducted an audit to determine whether recipients of earmarks complied with requirements of Federal law on the use of appropriated funds. Specifically, the DoDIG assessed whether DoD contractors properly classified lobbying costs as unallowable expenses. Of 24 earmark recipients reviewed, 18 properly classified lobbying expenses as unallowable and 6 may have classified them as allowable. Please take time to review the full DoDIG Report 2012-030, Contractor Compliance Varied with Classification of Lobbying Costs and Reporting of Lobbying Activities (Project No. D2010-D000CF-0145.000), issued December 12, 2011, available at <http://www.dodig.mil/PUBS/index.html>. Attached are the Results in Brief.

The DoDIG has recommended that the Director, Defense Procurement and Acquisition Policy issue a policy memorandum to reinforce the DoD contracting community's understanding of the requirements of the Federal Acquisition Regulation (FAR) and provide guidance to explain how and where to report Lobbying Disclosure Act violations in accordance with the Lobbying Disclosure Act, implemented by section 1603, title 2, United States Code.

The procurement policies and procedures of 31 U.S.C. 1352, limitation on use of appropriated funds to influence certain Federal contracting and financial transactions, as implemented in FAR Subpart 3.8, restricts the use of appropriated funds to pay any person 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. The FAR requires offerors to furnish a declaration consisting of both a certification and a disclosure. Please take time to review FAR Subpart 3.8, the provision at 52.203-11 -- Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions and the clause at 52.203-12 -- Limitation on Payments to Influence Certain Federal Transactions.

In accordance with Lobbying Disclosure Act, the Secretary of the Senate and the Clerk of the House of Representatives are required to provide guidance and assistance on the registration and reporting of lobbying activities. If a company or individual knowingly and corruptly fails to comply with any provision of this Act, it may be subject to civil fines and/or imprisonment. The military departments, defense agencies, and DoD field activities shall notify through agency channels to the Deputy Director, Defense Procurement and Acquisition Policy (Contract Policy and International Contracting), [cpic@osd.mil](mailto:cpic@osd.mil) if a violation or potential violation of 31 U.S.C. 1352 has occurred. Upon notification, the Office of the Director, Defense Procurement and Acquisition Policy will take the appropriate action to inform the Senate, House of Representatives and/or appropriate investigative authorities.

Please contact Mr. Jeff Grover, 703-697-9352, or email [jeffrey.grover@osd.mil](mailto:jeffrey.grover@osd.mil) if additional information is required.



Richard Ginman  
Director, Defense Procurement  
and Acquisition Policy

Attachment:  
As stated



# Results in Brief: Contractor Compliance Varied With Classification of Lobbying Costs and Reporting of Lobbying Activities

---

## What We Did

We reviewed the accounts of 24 DoD contractors that were the recipients of 50 earmarks, valued at \$115.6 million, to determine whether DoD contractors that lobbied for and were the recipients of earmarks complied with the requirements of the United States Code and the Federal Acquisition Regulation and properly classified lobbying costs as unallowable expenses. We also determined whether earmark recipients submitted Office of Management and Budget Standard Forms LLL, "Disclosure of Lobbying Activities," (Standard Forms LLL) to contracting officers and whether lobbyists reported their lobbying activities in the Lobbying Disclosure Act Database.

## What We Found

Eighteen contractors properly accounted for \$5.3 million in lobbying costs. Six other contractors properly accounted for \$1.7 million in lobbying costs; however, they—

- improperly classified an additional \$83,610 in lobbying costs as allowable because they did not have or did not comply with their own written policies, and
- may have improperly charged an additional \$258,016 in unsupported costs because the invoices lacked sufficient detail for us to determine whether the costs were for lobbying.

As a result, DoD may have reimbursed six contractors for unallowable lobbying costs. During the audit, the contractors properly reclassified \$83,347 of the improperly classified lobbying costs.

In addition, eight lobbyists working for six of the contractors did not report their lobbying activities. Consequently, DoD and congressional officials were not aware of those lobbyists or their activities.

Eighteen contractors did not submit Standard Forms LLL because the contractors were unaware of the requirement.

## What We Recommend

The Director, Defense Procurement and Acquisition Policy, issue guidance to reinforce the Federal Acquisition Regulation requirements for disclosure of lobbying activities and explain how and where to report Lobbying Disclosure Act violations.

## Management Comments and Our Response

The Director, Defense Procurement and Acquisition Policy, agreed with the recommendations, and his comments were responsive. Please see the recommendations table on the back of this page.

## Recommendations Table

<b>Management</b>	<b>Recommendations Requiring Comment</b>	<b>No Additional Comments Required</b>
Director, Defense Procurement and Acquisition Policy		1 and 2