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New Presidential Memo: Why Federal Grantees Should Engage in Byrd Watching

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What Happened:

On August 28, 2025, the Administration issued a significant Presidential Memorandum addressed to the Attorney General entitled *"Use of Appropriated Funds for Illegal Lobbying and Partisan Political Activity by Federal Grantees".* The Memorandum signals the Administration's intent to enforce limits on how federal grant money is used, especially concerning lobbying and partisan political activity.

The Memorandum specifically directs the Attorney General to investigate whether federal grant funds are being used illegally for lobbying (citing the Byrd Amendment in 31 U.S.C. § 1352) and to take enforcement action if appropriate. Grantees should treat this as a red flag to review practices and ensure compliance with these lobbying restrictions.

Who It Impacts:

Organizations that receive federal contracts or grants—including businesses, nonprofits, and social welfare groups—face several legal limitations on using those funds for political or lobbying activities.

One such limitation is the Byrd Amendment (31 U.S.C. § 1352), which forbids the use of Congress appropriated funds for lobbying with respect to obtaining or influencing a federal award (including a contract, grant, loan, or cooperative agreement). Violations can result in civil penalties between $10,000 and $100,000 per incident, along with possible loss of funding or suspension from future federal awards.

Aside from the Byrd Amendment, there are other, less well-known restrictions that grantees should nevertheless be aware of. For example, the Simpson Amendment generally bars 501(c)(4) organizations from using federal funds for *any* lobbying activities. Moreover, the Lobbying Disclosure Act and the Foreign Agents Registration Act require affirmative disclosures for certain activities. Grantees should be sure to understand their grant terms and determine what lobbying regulations apply.

What You Can Do:

Organizations should maintain clear records of how federal grant funds are allocated and used. If in doubt whether an activity might be viewed as political or advocacy, document rationale, and seek legal advice. Moreover, organizations receiving federal grants should reassess internal policies on:

- What constitutes lobbying or advocacy vs. allowable educational or outreach activities.
- Whether budget line items, staffing, or program activities might violate the prohibition on use of appropriated funds for partisan political activity.
- Whether adequate training exists for staff and grant managers on compliance.

If grant agreements or lobbying requirements are unclear, you can seek legal advice for clarification and guidance on compliance. In the meantime, we will continue Byrd watching and monitor further developments affecting Federal grantees.