

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

May 9, 2013

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20221

Dear Secretary Sebelius:

Pursuant to Rules X and XI of the U.S. House of Representatives, we write to you regarding the Center for Disease Control's (CDC) Communities Putting Prevention to Work program (CPPW). CPPW has received funding through both the American Recovery and Reinvestment Act (ARRA) and the Patient Protection and Affordable Care Act's (PPACA) Prevention and Public Health Fund (PPHF).

We first wrote you about this program on August 13, 2012. In that letter, we noted that the Department of Health and Human Services's (HHS) Office of Inspector General (OIG) had sent an "Early Alert" letter¹ to CDC Director Thomas Frieden regarding potential "inappropriate lobbying activities using CPPW funds." The OIG's notice stated that CDC-provided information "appear[s] to authorize, or even encourage, grantees to use grant funds for impermissible lobbying. Furthermore, grantee activity reports posted online make troubling assertions that, on their face, raise the possibility that...anti-lobbying provisions were violated." The OIG also found the CDC had offered "potentially mislead[ing]" guidance for grantees on the use of Federal funds relating to lobbying.² Finally, the OIG had recommended, among other things, the CDC "reconsider" its "potentially confusing (perhaps even contradictory) statements" contained in its guidance materials.³

For this reason, we asked HHS for certain documents relating to grants under the CPPW and Community Transformation Grants (CTG) programs. More than seven months later, HHS finally responded on April 1, 2013, but provided only a small number of the documents requested by the Committee. For example,

- While the Committee requested that HHS provide all the CDC grant files for the CPPW and CTG programs, HHS produced files for only four specific grants out of a potential

¹ Letter to CDC Director Thomas Frieden from HHS Inspector General Daniel Levinson re CPPW (June 29, 2012).

² *Id.* at 5.

³ *Id.* at 6.

188 CPPW grants based on the list provided on April 1, 2013. HHS provided no grant information regarding CTG grants.

- The Committee asked that HHS provide all communications and/or guidance regarding lobbying restrictions to HHS and CDC employees, but HHS provided only a few Funding Opportunity Announcements and certain guidance documents to grantees and other publicly available documents.⁴
- The Committee asked for all communications and guidance given to HHS and CDC employees as well as CPPW and CTG grantees regarding the lobbying restrictions. HHS provided only a summary of these efforts that is not fully responsive.
- The Committee asked for a detailed plan of the corrective measures that the CDC plans to undertake in response to the OIG's June 29, 2012, Early Alert Letter. HHS did not provide this plan.

Though HHS has failed to provide the documents requested by this Committee on August 13, 2012, the few documents HHS did provide raise new questions about the use of CPPW funding. For example, the FY 2009 cooperative agreement to the Pacific Islands requested that the applicant "provide a comprehensive plan to reduce tobacco use both through legislative, regulatory, and educational arenas."⁵ A \$6,119,677 grant to the Boston Public Health Commission encourages "[c]ommunity engagement to support regulatory and other policy changes."⁶ These goals seem to directly contradict the Anti-Lobbying Restrictions for CDC Grantees, which provide that "No appropriated Federal funds can be used by CDC grantees for grassroots lobbying activity directed at inducing members of the public to contact their elected representatives to urge support of, or opposition to, proposed or pending legislation or appropriations or any regulation, administrative action, or order issued by the executive branch of any Federal, state or local government."

We continue to have questions about how CPPW funds have been spent by HHS. The Committee supports initiatives designed to improve health outcomes and reduce chronic diseases. However, the emphasis placed in CPPW grants on State and local public policy outcomes raises questions about whether they would be better and more legitimately spent on priorities that actually improve public health. For example, the Administration recently announced that sick and chronically ill Americans would be denied access to health care coverage through the Pre-Existing Condition Insurance Plan (PCIP) because the Administration has exhausted the \$5 billion allocated to the program. Potential funding of wasteful and illegal lobbying activity using CPPW funds, particularly at a time when the Administration is choosing not to redirect resources to provide aid to Americans with pre-existing conditions, is of grave concern to the Committee.

The Committee is equally concerned with a similar HHS program financed through the PPHF. CTG grants, like the CPPW grants, appear to fund lobbying activities contrary to the laws, regulations, and guidance governing the use of federal funds. In addition, we understand

⁴ The Committee would like to note, that there were several duplicates contained in the submission and these were not included in the total above as well as several publicly available documents.

⁵ CDC-RFA-DP09-90201ARA09; *Pacific Islands Supplemental Funding for Five-Year US Affiliated Pacific Island Collaborative Performance Agreement for Tobacco Control, Diabetes Prevention and Control, and the Behavioral Risk Factor Surveillance Systems.*

⁶ Grant Number: 1U58DP002478-01, issued to the Boston Public Health Commission by the CDC under the Communities Putting Prevention to Work Program.

that these CTG grants are only subject to bi-annual reports, drafted by CDC program staff and subject to CDC and HHS review and editing. Given these factors, we have substantial concerns regarding the integrity and transparency of the program and whether the activities funded by this program are consistent with the letter and spirit of 18 U.S.C. 1913 and Pub. L. No. 112-74, §§ 503(a) & (b), 124 Stat. at 1110.

In order to resolve the questions about whether CTG and CPPW funds have been spent in accordance with the anti-lobbying provisions of 18 U.S.C. 1913 and Pub. L. No. 112-74, §§ 503(a) & (b), 124 Stat. at 1110, and because HHS failed to produce the documents we requested by the Committee on August 13, 2012, we renew the requests made in our August 13, 2012, letter and ask that you provide the following documents and information no later than May 24, 2013. Please note as a direct result of new information acquired in the last eight months, we are requesting additional material in questions 6 and 7.

1. **All CDC grantee files for the CPPW grants**, including but not limited to: grant applications; reviews of the applications, announcements, solicitations, award notices, and financial and progress reports (annual and quarterly); staff reviews of financial and progress reports; records of communications with grant recipients, including correspondence and telephone calls related to amendments or administration of the grants; monitoring reports, including site visit reports, technical progress and performance reports, formal actions, audit resolutions, and conflict resolutions; evaluation reports of review committee or peer review panels; and lists of the special conditions placed on the requested grants.
2. **All CDC grantee files for the CTG grants**, including but not limited to: grant applications; reviews of the applications, announcements, solicitations, award notices, and financial and progress reports (annual and quarterly); staff reviews of financial and progress reports; records of communications with grant recipients, including correspondence and telephone calls related to amendments or administration of the grants; monitoring reports, including site visit reports, technical progress and performance reports, formal actions, audit resolutions, and conflict resolutions; evaluation reports of review committee or peer review panels; and lists of the special conditions placed on the requested grants. We note that CTG grants appear to fund a similar scope of activities paid for by the CPPW program.
3. **All communications and/or guidance** given to HHS and CDC employees regarding the lobbying restrictions by either the Office of the Secretary, the Office of General Counsel, or the Office of the Director of the CDC. This includes but is not limited to guidance related to "MAPPS Interventions for Communities Putting Prevention to Work."
4. **All communications and/or guidance** given to CPPW and CTG grantees regarding the lobbying restrictions by either the Office of the Secretary, the Office of General Counsel, the Office of the Director of the CDC, or CDC grant managers. This includes but is not limited to guidance related to "MAPPS Interventions for Communities Putting Prevention to Work."

5. **A detailed plan of corrective measures that CDC will undertake in response to the OIG's June 29, 2012, Early Alert Letter.**
6. **A clear interpretation of Pub. L. No. 112-74, §§ 503(a) & (b), 124 Stat. at 1110.**
7. **All minutes from the CDC Advisory Committee to the Director Meetings from January 2011 through the date of this letter.**

An attachment to this letter provides additional information about how to respond to the Committee's request. Should you have any questions regarding this request, please contact Carl Anderson with the Committee staff at (202) 225-2927. Thank you for your attention to this matter.

Sincerely,



Fred Upton
Chairman



Joseph R. Pitts
Chairman
Subcommittee on Health



Ed Whitfield
Chairman
Subcommittee on Energy and Power



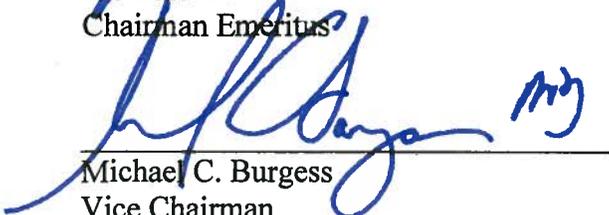
Tim Murphy
Chairman
Subcommittee on Oversight and Investigations



Joe Barton
Chairman Emeritus



Marsha Blackburn
Vice Chairman



Michael C. Burgess
Vice Chairman
Subcommittee on Health and
and Subcommittee on Oversight and
Investigations



Brett Guthrie
Member

Letter to the Honorable Kathleen Sebelius

Page 5

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Frank Pallone, Jr., Ranking Member
Subcommittee on Health

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations
