



**U.S. Department of
Transportation**

The Inspector General

Office of Inspector General
Washington, DC 20590

August 30, 2017

The Honorable Peter A. DeFazio
Ranking Member
Committee on Transportation and Infrastructure
United States House of Representatives
Washington, DC 20515

The Honorable Nita M. Lowey
Ranking Member
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

The Honorable David E. Price
Ranking Member
Subcommittee on Transportation, Housing and Urban Development,
and Related Agencies
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

Dear Ranking Member DeFazio, Ranking Member Lowey, and Ranking Member Price:

Thank you for your letter of August 2, 2017, requesting that we determine whether U.S. Department of Transportation (DOT) officials have engaged in conduct that violates Federal law, including the Anti-Lobbying Act.¹ Your letter specifically identified concerns with communications from DOT officials to Members of Congress and non-Federal stakeholders regarding the 21st Century Aviation Innovation, Reform, and Reauthorization Act (AIRR Act).²

¹ 18 U.S.C. § 1913.

² H.R. 2997, the AIRR Act, includes provisions, among other purposes, to “transfer operation of air traffic services currently provided by the Federal Aviation Administration (FAA) to a separate not-for-profit corporate entity” governed by a Board of Directors, and to establish a Safety Oversight and Certification Advisory Committee that “shall provide advice to the Secretary on policy-level issues facing the aviation community” and carry out other functions related to FAA certification and safety oversight programs and activities.

As you know, in June 2017, DOT announced the Smarter Skies initiative to promote the Administration's positions on Federal Aviation Administration (FAA) restructuring.³ As part of this effort, DOT created a public website along with corresponding Facebook and Twitter social media feeds, in addition to communicating with non-Federal stakeholders via email regarding the Administration's positions. DOT officials have stated that the AIRR Act is consistent with the Department's views regarding air traffic control.

In summary, our review did not identify any conduct or correspondence by DOT officials that violates the Anti-Lobbying Act. Department officials told us they consulted with the Office of General Counsel (OGC) prior to and during the course of their correspondence with stakeholders regarding the AIRR Act and FAA restructuring. In addition, we concluded that the materials provided in your request did not violate the Department's appropriations restriction on lobbying. Our review did identify one potential concern regarding a retweet and like on the Smarter Skies Twitter feed, which we are referring to the Government Accountability Office (GAO) to determine whether they comply with the restriction on DOT's current appropriations.⁴

To respond to your request, we reviewed the materials you submitted with your letter, which included emails from DOT officials to stakeholders, news articles, and materials from the DOT Smarter Skies website and corresponding social media accounts.⁵ We also reviewed air traffic control-related content posted on other official DOT social media accounts, as well as additional emails and documents provided to us by DOT officials. We reviewed applicable laws and guidance, including opinions issued by the Department of Justice (DOJ) Office of Legal Counsel and GAO regarding statutory constraints on lobbying activities. Additionally, we interviewed DOT officials and OGC to determine the scope and content of any communications between DOT officials and non-Federal stakeholders. The results of our analysis are discussed below.

Background

Both the Anti-Lobbying Act, initially enacted in 1919, and DOT's annual appropriations restrict the extent to which an Agency official may communicate or promote the Administration's positions on matters related to pending legislation. Specifically:

³ For purposes of this letter, the term "FAA restructuring" refers to proposals to separate the air traffic function from FAA.

⁴ Pub. L. No. 115-31, the Consolidated Appropriations Act, 2017, contains the following language at Division E, Title VII (General Provisions—Government-wide), Sec. 715: "No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself."

⁵ <https://www.smarterskies.gov> (accessed Aug. 29, 2017).

- Anti-Lobbying Act.** As you noted in your letter, DOJ’s Office of Legal Counsel has interpreted the Anti-Lobbying Act to prohibit Administration officials from engaging in “substantial ‘grass roots’ lobbying campaigns designed to encourage members of the public to pressure Members of Congress to support Administration or Department legislative or appropriations proposals.”⁶ According to DOJ guidelines,⁷ as long as Government employees are not engaged in “substantial ‘grass roots’ lobbying,” the Anti-Lobbying Act does not prohibit them from communicating privately with members of the public to promote Administration positions or from using public speeches and published writings to call on the public to contact Members of Congress in support of or opposition to legislation. Therefore, based on DOJ’s interpretation, communications by Government employees that urge the public to contact a Member of Congress do not necessarily trigger a violation of the Anti-Lobbying Act; only communications that are part of a “substantial grass roots lobbying” effort will result in such a violation.
- Appropriations Acts.** Similar to the Anti-Lobbying Act, DOT’s appropriations do not prohibit Agency officials from promoting Administration policies entirely. However, according to GAO, a “clear appeal by an agency to the public to contact Members of Congress in support of, or in opposition to, pending legislation,” or other “particularly egregious” examples of lobbying violate the restrictions on lobbying efforts contained in an agency’s annual appropriations.⁸ In GAO’s interpretation, the appropriations provision is a stronger restriction than the Anti-Lobbying Act.⁹ Whereas the Anti-Lobbying Act only prohibits “substantial¹⁰ grass-roots lobbying efforts,” GAO has confirmed that a violation of the appropriations provision may occur even in cases involving a “minimal expenditure of appropriated funds” if the communication “on its face directly appeals” to others to contact Members of Congress.¹¹ GAO has stated that the evidence of a “clear” or “overt” appeal is a “bright-line rule” in determining whether an agency’s communication violates common anti-lobbying restrictions in annual appropriations acts. The requirement that an agency’s appeal must be “substantial” or part of a “large scale, high-expenditure campaign,” which has been

⁶ Department of Justice, *Constraints Imposed by 18 U.S.C. § 1913 on Lobbying Efforts* (Sept. 28, 1989).

⁷ Department of Justice, *Memorandum for Heads of All Executive Departments and Agencies re: Anti-Lobbying Act Guidelines* (Apr. 18, 1995).

⁸ See B-326944 (Comp. Gen.), 2015 WL 8618591 at 12 (Dec. 14, 2015); GAO Principles of Federal Appropriations Law Vol. 1, Page 4-216 (Jan. 2004).

⁹ While the Anti-Lobbying Act has primarily been interpreted by OLC, the lobbying restrictions contained in agencies’ annual appropriations have primarily been interpreted by GAO pursuant to GAO’s reporting, investigative, and audit authority regarding Government accounts and agency expenditures. See 31 U.S.C. §§ 712, 719, 3523, 3526, 3529; Congressional Research Service, *Lobbying Congress with Appropriated Funds: Restrictions on Federal Agencies and Officials* (Aug. 13, 2015) at 5-6.

¹⁰ In 1989, DOJ suggested \$50,000 as a guideline for whether the effort was substantial; however, DOJ has not addressed the issue since the criminal penalties were removed in 2002. See Department of Justice, *Constraints Imposed by 18 U.S.C. § 1913 on Lobbying Efforts* (Sept. 28, 1989); Congressional Research Service, *Lobbying Congress with Appropriated Funds: Restrictions on Federal Agencies and Officials* (Aug. 13, 2015) at 1.

¹¹ B-285298, *Lobbying Activity in Support of China Permanent Normal Trade Relations*, (May 22, 2000).

applied to Anti-Lobbying Act violations, has not been applied to the relevant appropriation act restrictions.¹²

We Did Not Identify Any Violations of the Anti-Lobbying Act or Appropriations Restriction in DOT's Emails and Phone Calls

Based on the correspondence we reviewed and our conversations with DOT officials regarding the AIRR Act and FAA restructuring, we have not identified any violations of the Anti-Lobbying Act or the Department's appropriations in DOT's emails and phone calls to non-Government stakeholders.

Specifically, we interviewed six DOT officials who have been involved with the Department's FAA restructuring initiative.¹³ Additionally, we spoke with the then-Acting DOT General Counsel to determine the extent to which OGC was consulted regarding the Department's public communication and correspondence with non-Federal stakeholders on FAA restructuring efforts. All of the officials were responsive to our inquiries and forthcoming in providing us with requested documents and information.

We learned that DOT took a number of steps to ensure its email and phone communications did not violate anti-lobbying restrictions. For example, the officials who were directly involved in drafting and sending the emails in question informed us that all outgoing FAA restructuring-related correspondence to non-Federal stakeholders and other DOT-prepared materials was sent to OGC for preclearance before it was transmitted. In addition, on May 11, 2017, the then-Acting DOT General Counsel provided a memo to the Senior Advisor to the Secretary for Air Traffic Organization (ATO) Modernization outlining the applicable restrictions on lobbying activities by the Department. (DOT's memo is enclosed with this letter.) Furthermore, each of the officials we interviewed stated that they did not personally urge non-Federal stakeholders to contact Members of Congress in any phone call or correspondence related to the AIRR Act or FAA restructuring.

The emails we reviewed, including those included as an appendix in your letter, explain the Administration's position on the AIRR Act and provide a link to the Department's Smarter Skies website with additional background information and an invitation to recipients to "read the full facts and commentary." Our review of these emails did not identify any instance of DOT officials asking recipients to contact Members of Congress regarding the proposals in the AIRR Act. Furthermore, these

¹² See B-325248, *Department of Housing and Urban Development—Anti-Lobbying Provisions* at 7 (Sept. 9, 2014); B-322882, *Matter of: Consumer Product Safety Commission-Prohibitions on Grassroots Lobbying and Publicity or Propaganda* 2012 WL 5489123 at 2 (Nov. 8, 2012); B-270875, 1996 WL559651 at 5 (July 5, 1996); Department of Justice, *Constraints Imposed by 18 U.S.C. § 1913 on Lobbying Efforts* (Sept. 28, 1989).

¹³ We spoke with the FAA Assistant Administrator for Government and Industry Affairs, the FAA Assistant Administrator for Communications, the Senior Advisor to the Secretary for ATO Modernization, the DOT Deputy Assistant Secretary for Intergovernmental Affairs, a DOT Deputy Press Secretary, and a DOT Governmental Affairs Officer.

communications do not provide any evidence of a “large scale, high-expenditure campaign” or “significant expenditure of appropriated funds” in support of the Administration’s position that the Anti-Lobbying Act was intended to prohibit.

One of the emails sent by a DOT official to State and local officials¹⁴ included an attachment with an editorial in support of FAA restructuring that appeared in the Kansas City Star on June 29.¹⁵ The editorial states that certain Members of Congress named in the editorial have a “unique opportunity to show leadership” by passing a bill, and that they should “seize this opportunity and get on board.” While this language could reasonably be viewed as likely to influence the public to contact Members of Congress, GAO has stated clearly that such language does not violate GAO’s “bright-line rule” for anti-lobbying appropriations provisions.¹⁶ GAO requires evidence of a “clear” or “direct” appeal to the public to contact Members of Congress or a “particularly egregious” example of lobbying in order to result in a violation.¹⁷ Therefore, this editorial and other content included in email correspondence by the Department regarding FAA restructuring did not violate the restriction in the Department’s annual appropriations. Statutory restrictions do not preclude DOT officials from communicating the Administration’s position directly to Members of Congress and the public.¹⁸

We Did Not Identify Violations of the Anti-Lobbying Act in DOT’s Smarter Skies Website or Social Media, but Noted One Area of Concern With the Smarter Skies Twitter Account

Based on our review of DOT’s Smarter Skies website and social media accounts, the content we reviewed does not constitute “substantial ‘grass roots’ lobbying” and therefore does not violate the Anti-Lobbying Act. However, we are referring one retweet and like from the Smarter Skies Twitter account to GAO to determine whether they comply with the restriction on DOT’s annual appropriations, as detailed below.

Specifically, we reviewed all content the Department has posted on the Smarter Skies website, as well as the corresponding Smarter Skies Facebook and Twitter accounts

¹⁴ The emails were sent to a mailing list that included both members of congressional staff and various non-Federal stakeholders.

¹⁵ <http://www.kansascity.com/opinion/readers-opinion/guest-commentary/article158938634.html> (accessed Aug. 24, 2017).

¹⁶ See B-304715 at 4-5 (“Assessing whether an agency statement is ‘likely to influence’ the public to contact Congress in support of the agency’s position is highly speculative and we harbor significant reservations about our ability to objectively make such a determination”); see also B-325248 at 4-5, *citing* B-304715 (“communication [that] merely consisted of language likely to influence the public to contact members of Congress, absent a clear appeal,” did not violate appropriations provision).

¹⁷ See B-325248 (letter from HUD Deputy Secretary constituted a “clear, direct appeal to the public” based on the following language: “I am humbly asking you to let your Senators especially the ones listed below know how important it is that the cloture motion passes so that the Senate THUD bill MOVES FORWARD to a vote and TO VOTE for the Senate THUD bill... It is critical that your Senator hears from you NOW”); see also GAO Principles of Federal Appropriations Law Vol. 1, Page 4-216 (Jan. 2004).

¹⁸ The 1995 DOJ Anti-Lobbying Act Guidelines state that, under the Anti-Lobbying Act, Government employees may “communicate directly with members of Congress and their staffs in support of Administration or department positions. The Act does not apply to such direct communications.”

from their inception in early June 2017 through August 29, 2017.¹⁹ We also reviewed all activity on the official DOT and FAA Facebook and Twitter accounts. We noted the following:

- **Smarter Skies Website.** The Smarter Skies website contains separate sections that clearly distinguish the Administration’s official position from statements made by private citizens, non-Governmental associations, and former DOT officials. Based on our review, we did not identify any content from the Smarter Skies website that violates the Anti-Lobbying Act or the restriction on the Department’s annual appropriations.²⁰
- **Facebook.** The Smarter Skies Facebook account had 20 people who liked the page and 25 people who follow the page as of August 29.²¹ Of the 13 individual posts we identified on the Smarter Skies Facebook page, 4 contain links to opinion editorials from various news publications, 3 contained links to the Smarter Skies website, 2 contain links to the House Transportation and Infrastructure Committee website, 2 contain photos or graphics with no additional text, 1 contains a link to a relevant radio broadcast segment on “Bloomberg Markets AM,” and 1 contains a statement on the ways FAA restructuring will benefit consumers. We also reviewed the official DOT and FAA Facebook accounts for relevant content. We only identified one post on the DOT Facebook page that linked to a section of the Smarter Skies website. Based on our review, we did not identify any FAA restructuring-related content from these Facebook accounts that violates the Anti-Lobbying Act or restrictions on the Department’s annual appropriations.
- **Twitter.** The Smarter Skies Twitter account had 18 tweets and 99 followers as of August 29.²² Of the 18 tweets appearing on the site as of that date, 9 contain direct links to articles and opinion editorials from various news publications, 3 contain links to the Smarter Skies website, 3 contain links to the House Transportation and Infrastructure Committee website, 1 contains a link to an article on RStreet.org, 1 contains a link to a relevant radio broadcast segment on “Bloomberg Markets AM,” and 1 contains a statement about the introduction of the AIRR Act in the House of Representatives. In addition to the Smarter Skies Twitter account, we identified 12 tweets on the official DOT Twitter account and 2 tweets on the official FAA Twitter account related to FAA restructuring.²³ Based on our review,

¹⁹ We reviewed the Smarter Skies website and social media accounts periodically throughout the course of our review to determine whether any content was added or deleted throughout the period of our review. August 29 is the final date on which we reviewed these materials.

²⁰ On August 29, an official from the Office of the Chief Information Officer confirmed that OCIO has not been asked to remove any materials from the Smarter Skies website since the website was created.

²¹ <https://www.facebook.com/smarterskies/> (accessed Aug. 29, 2017); <https://www.facebook.com/USDOT/> (accessed Aug. 21, 2017); <https://www.facebook.com/FAA> (accessed Aug. 21, 2017).

²² <https://twitter.com/SmarterSkies> (accessed Aug. 29, 2017).

²³ <https://twitter.com/USDOT> (accessed Aug. 21, 2017); <https://twitter.com/FAANews> (accessed Aug. 21, 2017).

we did not identify any FAA restructuring-related content on these Twitter accounts that violates the Anti-Lobbying Act.

We did identify one issue that raised concerns with respect to the appropriations restriction. Through our review of the emails we obtained from the Department, we learned about a retweet that had been removed from the Smarter Skies Twitter feed prior to the time we began our review. On July 12, the Smarter Skies Twitter account had both retweeted and liked a tweet posted on the @SteveForbesCEO Twitter account that stated: “We need to modernize air traffic control. Current system is 70 years old. Tell Congress to Pass the AIRR Act.” The tweet included a link to the webpage for Citizens for On Time Flights.²⁴ Near the bottom of the linked page, the website states, “Tell Congress to support air traffic control reform!” and contains data fields for individuals to enter their contact information and send an auto-generated email message to their Members of Congress. Neither the retweet nor the like had been reviewed by OGC prior to the time it was posted.

On July 13, as part of its review of the Smarter Skies website, OGC noticed the retweet on the Smarter Skies Twitter account and directed that it be removed immediately. A DOT official confirmed that the retweet was deleted within an hour after OGC instructed them to do so. However, as part of our review, we discovered that DOT had not yet unliked the tweet on August 15. Although the like occurred on the @SteveForbesCEO Twitter feed, we note that Twitter’s user interface allows a user to view all of the tweets that another account has liked, if he or she is logged into a Twitter account at the time he or she visits the account.²⁵ Consequently, until the Forbes tweet was unliked, it was possible to see it by visiting the Smarter Skies Twitter account and clicking on the “Likes” tab. When we brought this to the Department’s attention, DOT immediately unliked the Forbes tweet.

We did not find any GAO guidance addressing how retweeting or liking another Twitter user’s tweet should be treated for the purposes of determining whether an agency complied with the restrictions placed in an agency’s appropriations bill prohibiting the use of appropriated funds for grassroots lobbying and publicity or propaganda purposes. We also consulted with GAO informally to ensure that we did not overlook any existing guidance on this subject. Because this is an emerging issue with no guidance directly on point, we concluded that we should refer the matter to GAO to determine how retweets and likes should be treated in this context.²⁶

²⁴ <http://www.ontimeflights.org/> (accessed Aug. 17, 2017).

²⁵ Because OGC did not review the Smarter Skies Twitter feed while logged into a Twitter account they would not have seen the “Likes” tab and did not realize that the Forbes tweet had been liked.

²⁶ It is not necessary to refer the anti-lobbying issue to GAO because any non-compliance was not “substantial grass roots lobbying,” as described in the 1995 DOJ Anti-Lobbying Act Guidelines.

According to the Senior Advisor to the Secretary for ATO Modernization, prior to the creation of the Smarter Skies website and corresponding social media accounts, he consulted with OGC to ensure that the Department's communications complied with Federal law. We were advised that DOT-prepared content was provided to OGC before it was transmitted or posted on the website or social media; emails provided by DOT confirm that. However, we were advised that OGC was not consulted prior to Twitter retweets and may not have been consulted on all Facebook reposts.

Conclusion

The communications by DOT officials regarding the AIRR Act and FAA restructuring that we reviewed are in compliance with the Anti-Lobbying Act. In addition, except for one retweet and like on the Smarter Skies Twitter account, all communications by DOT officials that we reviewed comply with the restriction found in the Department's annual appropriations. With respect to the retweet and like in question, the Department acted promptly to remove the relevant content once it was brought to the Department's attention. While we have concluded that they do not violate the Anti-Lobbying Act, we are referring the retweet and like to GAO to determine whether either one constitutes a violation of the lobbying restriction contained in the Department's annual appropriations.

Thank you for your attention to the Department's compliance with restrictions on lobbying activities. If you have any questions or need further information, please contact me at (202) 366-1959 or Nathan Richmond, Director and Counsel for Congressional and External Affairs, at (202) 493-0422.

Sincerely,



Calvin L. Scovel III
Inspector General

cc: The Honorable Elaine L. Chao, Secretary of Transportation
The Honorable Michael P. Huerta, Administrator, Federal Aviation Administration

Enclosure



**U.S. Department of
Transportation**


Office of the Secretary
of Transportation

GENERAL COUNSEL

1200 New Jersey Ave. S.E.
Washington, D.C. 20590

MEMORANDUM

TO: Michael Britt
Senior Advisor to the Secretary

FROM:  Judy Kaleta 5-11-17
Acting General Counsel

SUBJECT: Restrictions on Lobbying Activities

This memorandum discusses the prohibitions on lobbying activities imposed by Federal law, provides guidelines to ensure compliance with those laws, and contains examples of specific activities that are and are not prohibited.¹

General Overview of Anti-lobbying Laws

Prohibitions on lobbying activities are found in 18 U.S.C. §1913, commonly known as the Anti-Lobbying Act (the Act), and provisions routinely contained in annual appropriations acts restricting the use of appropriated funds for “publicity or propaganda purposes,” including the preparation and distribution of pamphlets and other media, designed to support or defeat pending legislation. See, for example, Division E, Title VII, Sections 715 and 718 Title VII, of the Consolidated Appropriations Act, 2017 (Pub. L. 115-31).

The Act prohibits the use of appropriated funds, 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 Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy or appropriation.” Civil penalties may be assessed between \$10,000 and \$100,000 per violation.

¹ This memorandum does not address the ability of DOT employees who are members of labor organizations to present views of their organizations to members of Congress, State legislatures, or the general public. The Federal Service Labor-Management Relations Statute (5 U.S.C. §§ 7101-7135) specifically authorizes representational lobbying on behalf of labor organization members, and such activities are not prohibited by the anti-lobbying restrictions discussed in this memorandum.

The Department of Justice and the Government Accountability Office have consistently interpreted the Act and the annual appropriations act provisions as applying to and prohibiting “grass roots” lobbying that intends to encourage third parties, members of special interest groups, or the general public to contact members of Congress in support of or opposition to a legislative matter. The prohibition against “grass roots” lobbying also applies to activities directed at State and local government officials.

The Act and the appropriations act provisions do not prohibit an employee acting in an official capacity from communicating with members of Congress or State and local government officials to provide information on or to solicit support for DOT’s positions. This is true whether or not the contact is invited and whether or not any specific legislation is pending. An employee may also provide informational background material to the public to explain DOT’s policies and positions. However, in doing so, the employee may not ask the recipients of the information to contact public officials.

Finally, unsolicited mass distribution of public documents or electronic media containing DOT positions must be analyzed carefully, as these efforts could be related to pending legislative matters. DOT employees should consult the General Counsel’s Office or appropriate Chief Counsel’s Office before undertaking any major mass information campaign.

Specific Statutory Restrictions on the National Highway Traffic Safety Administration (NHTSA)

Separate restrictions on NHTSA’s activities can be found in 49 U.S.C. § 30105, which prohibits the use of NHTSA funds for any activity specifically designed to urge a State or local legislator to favor or oppose any specific legislative proposal. The law does, however, permit NHTSA officials to testify before any State or local legislative body in response to an invitation from a member of the legislature or State executive office. NHTSA officials and employees should consult its Office of Chief Counsel for specific guidance concerning this provision.

I have attached a list of tips for employees with examples. However, the determination of whether a proposed course of action involves a violation of Federal law will require an analysis of all relevant facts.

Attachment

Tips for Employees

Under current anti-lobbying laws, DOT employees **MAY**:

- Communicate directly with Congress and State and local government officials in support of Administration and DOT positions.
 - Example: “Senator Smith, I’m calling from the Federal Railroad Administration, and I’d like to talk with you about S. 1234, and explain our position and why we support this proposed bill.”
 - Exception: NHTSA employees are prohibited from using NHTSA funds to communicate with State and local government officials in any way that is specifically designed to urge a legislator to favor or oppose a specific pending measure. The law does, however, permit NHTSA officials to testify before any State or local legislative body in response to an invitation from a member of the legislature or State executive office. NHTSA officials and employees should consult its Office of Chief Counsel for specific guidance concerning this provision.
- Communicate with the public through speeches, appearances, writings or other material, or through radio, television, cable television, or other medium of mass communication to support and explain Administration or DOT positions.
 - Example: During a media interview, a DOT official is asked about his views of pending FAA reauthorization legislation. The DOT official replies: “DOT’s position on this pending legislation is that it is vital to the American people.”
- Communicate individually with members of the public to inform them of Administration or DOT positions and to promote those positions, but only to the extent that such communications do not contravene the grass roots lobbying prohibition.
 - Example: During a small business stakeholder meeting at DOT Headquarters, a member of the public asks a DOT official about DOT’s views on pending legislation affecting small business involvement in federal contracting opportunities. The DOT official can respond: “We at DOT take this position because...”
- Prepare and publicly disseminate model transportation-related legislation intended to be informational in nature and provide interested parties with examples of basic elements and core provisions that should be considered in developing and acting upon legislative proposals involving transportation issues. The method and manner of dissemination will require closer scrutiny to avoid violating anti-lobbying restrictions on grass roots activities.

- Provide informational background materials to the public to explain DOT policies and positions.

Under current anti-lobbying law, DOT employees **MAY NOT**:

- Engage in “grass roots” lobbying campaigns encouraging third parties, members of special interest groups, or the general public to contact members of Congress or State and local government officials in support of or in opposition to a position.
 - Examples:
 - “After leaving here today, contact your Senator and tell her to oppose this bill.”
 - “Thank you for meeting with me, Mr. Transportation Industry Representative. I want you to call your Congressman and support the pending legislation that will help us both out.”
 - “As a DOT employee, I urge all of you to sign this petition and show the Hill your opposition to this pending law.”