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April 28, 2005

The Honorable Michael Leavitt
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Leavitt:

Until April of 2004, when the World Health Organization or another international group wanted an NIH or CDC expert on health issues to consult, they could simply contact the appropriate person and invite them to attend a meeting or conference. However, as of April 15, 2004, all that changed. On that date the Assistant for International Affairs to then-Secretary Tommy Thompson put out guidance to all Health and Human Services (HHS) employees ending this practice.

Instead, multilateral organizations would be required to apply to the Office of Global Health Policy seeking an appropriate expert, not by name, but by skill set or terms of reference. The Office of Global Health Policy would then work with other HHS units to determine the appropriate person to send to a meeting or conference. National Institutes of Health employees received still more detailed guidance about how to follow this policy. That guidance indicates that if they received personal invitations, they were not to respond directly but to forward those to the Office of Global Health which is a subunit of the Deputy Secretary's office.

This policy seems counterproductive and potentially endangering of public health both in this country and throughout the world. At a time when the world has been dealing with outbreaks of SARS and Avian influenza, why would there be an unprecedented drive for centralized command and control of interactions between American experts on disease and health care and their foreign colleagues? How can putting up more bureaucratic barriers to the free exchange of ideas and information be of service to the Nation?

Many groups and other Members of Congress wrote to Secretary Thompson asking that he rescind this policy, but he refused to change course. You have an opportunity to set a new tone for the Department. By this letter we ask you to rescind this bureaucratic and potentially dangerous policy.

We wonder what was driving this clamp down on international contacts between federal scientists and their counterparts in other multinational organizations? All we can assume is that there was some fear that a scientist might speak her or his own mind, based on their expert mastery of the facts related to a disease or policy options, as the underlying incentive. The memo that went out from the Secretary's office is replete with reminders that even in a consultative capacity, an employee must represent the policy positions of the Department and the U.S. government broadly. So, for example, a discussion about HIV/AIDS control policies would, one assumes, have to track closely to the Administration's stated belief that abstinence policies will solve all problems, despite the wide-ranging debate on what works in different cultural contexts to reduce the spread of this deadly disease.

At one point the memo reads: "The employee is ONLY to represent the positions of the Department and the U.S. Government. Such positions are not necessarily limited to an employee's respective agency or office, and an employee must take steps to ensure that he/she is knowledgeable about positions of other HHS agencies and any cleared, inter-agency U.S. Government positions on the subject matter."

One might surmise that an employee could get around this gag order by participating in a private capacity. That is not the case. If one wishes to participate in a personal capacity, one must file form HHS-520, "Request for Approval of Outside Activity" for prior approval, and approval "must be denied if the activity would create a conflict with the duties of the employee [one assumes among those duties would be adhering slavishly to official government positions on scientific health issues]." Further, "(if) the employee will be asked to give opinions or expert consultations concerning official HHS information, subjects, or programs, the activity is not appropriate as an outside activity. Additionally, if the supervisor determines that the subject matter of the consultation is too closely related to the employees current HHS work [presumably the area of a person's expertise for which one's advice is sought], the activity is not appropriate as an outside activity because of the recusal obligations that could arise.

By emphasizing the need to adhere to policy positions of the Administration, as opposed to say—the truth regarding a public health issue—this policy interferes with the ability of government scientists to engage in the free exchange of information with their colleagues. It is hard to understand how this policy strengthens either the position of the U.S. government or enhances our reputation in international health policy circles. In fact, the standard for expertise that is raised by this policy is broad knowledge of official Government positions rather than health science issues. It would seem that this policy, taken to its extreme, would lead to political representatives being better nominees for participating in international public health conferences rather than experts in real health issues.

In additional guidance provided to NIH employees after the initial memo from the Secretary's office, NIH employees were told that they must file Notification of Foreign Travel forms even when they are meeting with U.N. international organizations located in the United States. Visits to the World Bank, World Health Organization, and the United Nations Children's Fund, among others, would all require such notification even if it was merely a visit to offices in D.C. or to have lunch with an old friend who happened to work in these locations. As the language of the NIH memo makes clear, "NFT's are an important means by which the Office of the Secretary will receive information on staff participation at U.N. organization's meetings."

We respectfully request that these counterproductive policies be rescinded and that the Office of Global Health Affairs be removed from playing gatekeeper for participating in vetting experts for participation in consultations or conferences with multinational organizations.

We sincerely hope that you can eliminate this counterproductive and potentially disastrous policy promulgated by your predecessor. However, if you will not rescind this policy and return to the prior system of expert consultation and contacts, please provide the following information.

- A. The policy identifies Jori Frahler of OGHA as the point of contact for requests. Please provide the credentials of this individual, or any individual who subsequently took on this task or assists in its execution, to help us understand how this person is positioned to evaluate wide-ranging requests for health experts.
- B. The policy memo asks that all agencies and offices in receipt of this memorandum should designate a "focal point" in these agencies and offices to work with OGHA. Please provide a list of the relevant "focal points," contact information and credentials.
- C. Please identify any individuals in the Secretary's office who are charged with tracking implementation of this policy.
- D. Please provide a list of all requests to HHS for expert participation from bodies subject to this policy. Indicate the requesting organization, the date and topic of the event, the field of expertise requested, and the names of all participants approved by HHS for the event (if any), the curriculum vitae for these participants. If a person is listed for more than one event, providing just one copy of their C.V. will be responsive to this request.
- E. Please provide the working documentation from the Office of Global Health Affairs or at the "focal point" offices leading to the identification of appropriate experts for those instances where HHS or its offices and agencies choose to provide an expert.

- F. If there are instances where a request for an expert was refused, please explain why the Department believed participation in the event was not in the agency's nor the country's interest.
- G. If there are instances where a request was approved too late to allow an expert to actually participate in an international event, please explain what hindered approval of that participation.
- H. Please provide copies of all requests using HHS Form 520 for participation in international conferences or any other form of event and the disposition of those requests.
- I. Please identify what office and employees in the Office of the Secretary are responsible for receiving and/or reviewing NIH employees' NFTs. Please provide copies of all NFTs filed under the guidance in the NIH memorandum dated June 28, 2004 for visits to UN-related or other multinational agencies located in the United States.
- J. Please provide a list of all known instances where multinational organizations have failed to invite the appropriate U.S. expert to participate in a technical consultation, advisory groups, expert committee, workshop or other scientific meeting. Alternatively, provide a list of all instances where a U.S. expert behaved in a fashion inconsistent with their duties as an employee of the Department or its constituent units. Ostensibly these were the reasons for the policy being promulgated in the first place so such examples must exist.
- K. Provide at least one example of where the scientific and technical interests, not the policy preferences, of the Department and the U.S. Government differ from those of multilateral public health organizations.
- L. Finally, please provide us with original copies of the policy guidance issued on April 15, 2004 as well as copies of interpretations of how to implement this policy at NIH or the Centers for Disease Control.

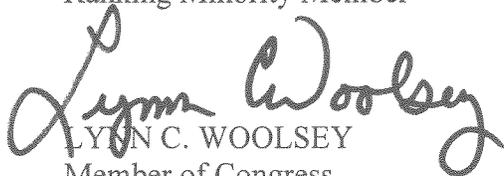
Again, our preference would be to simply see this policy rescinded as we believe it serves neither the interests of the public nor Federal scientists. If you believe the policy is in the public interest and wish to maintain it, we ask that you provide answers and documents in response to our questions by May 12, 2005.

If you have questions about this request or wish guidance on how to deliver information to us, please contact Dr. Dan Pearson of the Committee staff at (202) 225-4494.

Sincerely,



BART GORDON
Ranking Minority Member



LYNN C. WOOLSEY
Member of Congress



MARK UDALL
Member of Congress



MICHAEL M. HONDA
Member of Congress



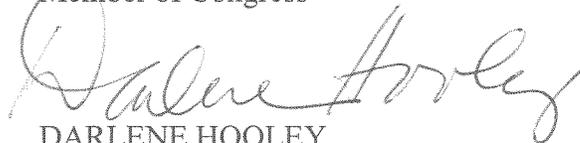
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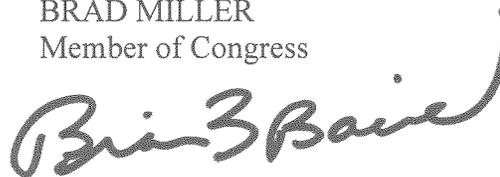
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