



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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MEMORANDUM

To: Vice Chair Eskovitz, Commissioners Casher, Wasserman, and Wynne

From: Lynda Cassady, Chief, Technical Assistance Division

Subject: Approval of Revision to FPPC Form 801
Payment to Agency Report

Approval of Campaign Instructions-Online Communications

Form 801 – Payment to Agency Report.

FPPC Form 801 was revised to address amendments to Commission regulation 18944 which expanded the type of payments – because they are conducted for agency business – that may be reported by the agency rather than on the official’s statement of economic interests (Form 700). In October, I posted the draft form for public comment and after incorporating many suggestions, posted an updated form in December.

The current form clearly notes that agencies are not required to use Form 801. It is an alternative reporting option in place of a payment being subject to disclosure by the benefitting official. For example, it includes payments for an official’s travel expenses that might otherwise be considered a gift or income to the benefitting employee.

I received one comment in December asking that the instructions use the term “safe harbor.” After discussions with Senior Counsel Bill Lenkeit, we believe that a notation of “safe harbor” would be confusing as the language is not used in the regulation and is subject to numerous interpretations.

I am pleased to note that CalPERS staff has offered to assist us in preparing an alternative format for the form, more similar to a spread sheet design, making it easier for some agencies to report the information.

Form 460/450 Campaign Reporting Instructions: Online Communications.

FPPC regulation 18421.5 requires a committee paying for certain online communications to provide a complete description of the payment. Campaign form instructions for both the Form 460 and Form 450 have been revised. To date I have received no comments.

I ask for a single vote to approve both revisions.

Instructions for Recipient Committee Campaign Statement – Short Form

CALIFORNIA
FORM **450**

Where to File:

In general, state committees file with Secretary of State and local committees file with the filing officer of the local jurisdiction.

State Committees:

State committees file this form with the Secretary of State. State committees include committees primarily formed to support or oppose candidates seeking a CalPERS or CalSTRS election.

Secretary of State

Political Reform Division
1500 11th Street, Room 495
Sacramento, CA 95814
Phone (916) 653-6224
Fax (916) 653-5045
www.sos.ca.gov

Additional Copies:

A copy of this form must also be filed with the relevant CalPERS or CalSTRS office if the committee is a primarily formed committee for a CalPERS or CalSTRS election.

Local Committees:

If a committee makes 70% or more of its contributions and independent expenditures on county candidates and measures and other county committees, file this form with the county elections official. An original and one paper copy is required. A local agency may also require electronic submissions.

If a committee makes 70% or more of its contributions and independent expenditures on city candidates and measures and other city committees, file this form with the city clerk. An original and one paper copy is required. A local agency may also require electronic submissions.

Fast Facts:

Paper Copies: All committees must file the original and one copy in paper format with the designated filing officer. Most state committees must also file an electronic version. Some local jurisdictions also require electronic submissions.

Electronic Filing: State committees must file electronic reports with the Secretary of State if the committee receives contributions or makes expenditures totaling \$25,000 or more.

General Purpose Committees: FPPC regulation 18227.5 sets out the procedures for determining whether a committee should file with the state, county or city elections office. In general, most committees file with the Secretary of State unless the committee is making more than 70% of its contributions and expenditures in connection with a city election or county election. The regulation sets out review time lines and exceptions. A committee can not knowingly file in an incorrect jurisdiction with the intention of avoiding the appropriate legal disclosure to the public. Committees that change jurisdictions file in both jurisdictions until the end of the calendar year.

LAFCO Proposals: Committees primarily formed to support or oppose a LAFCO proposal file this form with the county elections office in the county that the proposal may be voted upon. Once a proposal is listed on a ballot, a committee will file as a multi-county, county or city committee.

Statement of Organization: Committees must make certain that information on its Statement of Organization, Form 410, is current and correct. This form includes information such as a whether the committee is primarily formed or general purpose, its status as a state, county or city committee, a current list of principal officers as well as other important information about the committee's formation. Information listed on a Form 450 must be the same as that disclosed on the Form 410.

Online Communications: All committees must itemize payments made to a person to provide favorable or unfavorable content about a candidate or ballot measure on an internet site. For each payment of \$100 or more: mark the code "WEB" and report the amount of the payment, the payee, the name of the individual providing content and the website name or URL on which the communication is published in the first instance. FPPC Regulation 18421.5 sets out the requirements and reporting exceptions. For example, itemization is not required in instances that a blogger clearly posts that the message content was paid by the committee or for any payments for posting content on the committee's own website.

Instructions for Schedule E Payments Made

Report payments on Schedule E (other than loans).

For each payment of \$100 or more made during the period, report the name and street address, city, state, and zip code of the payee or creditor, and the amount paid during the period. Payments of less than \$100 during the period are reported as a lump sum on Line 2 of the Schedule E Summary. However, if two or more payments under \$100 were made for a single product or service and the total paid during the period was \$100 or more, itemize the total amount paid during the period.

Report payments made on accrued expenses. Also report the required information on Schedule F.

Code or Description of Payment:

If one of the codes listed on Schedule E fully describes the payment, enter the code. A full description of each code is provided on the back of the Schedule E-Continuation Sheet. If none of the codes fully explains the payment, leave the "Code" column blank and enter a brief description of the goods or services purchased in the "Description of Payment" column.

Credit Card Payments:

Disclose the name, address, and amount paid to the credit card company during the period. Also disclose the name, address, amount paid, and code or description of payment for each vendor paid \$100 or more. You may disclose the vendor payments on Schedule E or Schedule G.

Loans:

Report interest paid on loans received on Line 3 of

the Schedule E Summary (from Schedule B, Part 1, Column (e)).

Report payments made on loans received on Schedule B and loans made to others on Schedule H. Do not report on Schedule E.

Payments by Agents and Independent Contractors:

When an agent or independent contractor (e.g., campaign worker, advertising agency, campaign management firm) makes payments on your behalf ("subvendor payments"), disclose the name, address, amount paid, and code or description of payment for each vendor paid \$500 or more. Disclose payments to the agent or independent contractor on Schedule E. You may disclose the subvendor payments on Schedule E or Schedule G.

Online Communications

All committees must itemize payments made to a person to provide favorable or unfavorable content about a candidate or ballot measure on an internet site. For each payment of \$100 or more: mark the code "WEB" and report the amount of the payment, the payee, the name of the individual providing content and the website name or URL on which the communication is published in the first instance. FPPC Regulation 18421.5 sets out the requirements and reporting exceptions. For example, itemization is not required in instances that a blogger clearly posts that the message content was paid by the committee or for any payments for posting content on the committee's own website.

Savings Accounts/Certificates of Deposit/Money Market Accounts:

Do not report transfers of campaign funds into savings accounts, certificates of deposit, money market accounts, or the purchase of any other asset that can readily be converted to cash on Schedule E. Continue reporting these amounts as part of your cash on hand on the Summary Page.

Candidates:

- Candidates must briefly describe the political, legislative, or governmental purpose of an itemized expenditure for gifts, meals, and travel payments. FPPC Regulation 18421.7 sets out the requirements.
- Candidate controlled ballot measure committee funds may only be used to make payments related to a state or local measure or potential measure (including qualification activities) anticipated by the committee. See FPPC Regulation 18521.5.

Ballot Measure Committees

Payments connected to business entities. A ballot measure committee that makes a payment to any business entity that a candidate, a person controlling or working for the committee, or their spouse owns 50% of or works at, must report the individual's name, relationship to the committee, and their ownership interest or position with the business entity.

Instructions for Schedule E (Continued) Payments Made

Codes:

CMP: Campaign paraphernalia/misc. Lawn signs, buttons, bumper stickers, T-shirts, potholders, etc. Includes costs of election night event.

CNS: Campaign consultants. Fees and commissions paid to professional campaign management or consulting firms.

CTB: Contributions. Contributions made to other candidates and committees. Use "CTB" for direct monetary contributions. For nonmonetary (in-kind) contributions, use "CTB" and, if one of the other codes accurately describes the expenditure, you may enter that code also. Otherwise, describe the payment. Also provide the name of the candidate or committee that received the nonmonetary contribution in the "Description of Payment" column.*

CVC: Civic donations. Donations to civic, nonprofit or education organizations; payments for community events.

FIL: Candidate Filing/Ballot Fees. Payments to election officials for candidate filing fees and fees charged for publication of a ballot statement.

FND: Fundraising events. Expenditures associated with holding a fundraising event, including payments for event space to hotels or halls, payments for food and beverages to restaurants, caterers and other vendors, and payments for speakers, entertainment, and decorations. Includes costs of house parties. (Use "LIT" for costs of invitations, brochures, and solicitations associated with fundraising events.)

IND: Independent expenditures. Payments for communications that support/oppose other candidates or measures that are not made in consultation or coordination with the candidates or a ballot measure committee. Use "IND" and, if one of the other codes accurately describes

the independent expenditure, you may enter that code also. Otherwise, describe the payment. Also provide the name of the candidate or ballot measure supported or opposed by the expenditure.*

LEG: Legal Defense. Attorney or other fees paid for legal defense.

LIT: Campaign literature and mailings. Preparation, production, and distribution of campaign literature, direct mail pieces, fundraising solicitations, and door hangers. Includes costs of mailing lists, design/graphics, copy and layout, printing and photocopying. Includes payments to be on a slate mailer, and for absentee ballot mailers.

MBR: Member Communications. Payments for communications to members, employees, or shareholders of an organization, or their family members, for the purpose of supporting or opposing a candidate or ballot measure.

MTG: Meetings and appearances. Costs associated with meetings, press conferences, town halls, constituent meetings, etc.

OFC: Office expenses. Expenditures for office rent; utilities (including cellular phone service); purchase or rental of office equipment (computer, fax, photocopier, etc.) and furniture; office supplies, etc.

PET: Petition circulating. Includes payments for printing petitions and payments to signature gathering firms for ballot measure qualification drives.

PHO: Phone banks. Costs of phone banks.

POL: Polling and survey research. Costs of designing and conducting polls, reports on election trends, voter surveys, etc.

POS: Postage, delivery and messenger services. Includes U.S. Postal Service, Federal Express, United Parcel Service, and other delivery and courier services.

PRO: Professional services. Includes legal, accounting, and bookkeeping services.

PRT: Print space and production costs. Includes advertising space in newspapers, magazines and other publications, and billboard ads.

RAD: Radio airtime and production costs.

RFD: Returned contributions.

SAL: Campaign workers salaries. Includes state and federal payroll taxes.

TEL: Television or cable airtime and video production costs.

TRC: Candidate travel. Payments or reimbursements for travel, lodging, and meals of a candidate.

TRS: Staff/spouse travel. Payments or reimbursements for travel, lodging, and meals of a candidate's representative (staff), or member of the candidate's household.

TSF: Transfers. Only use this code to report the transfer of funds to another authorized committee of the same candidate or sponsoring organization. Report funds this committee gives to other committees on Schedule E, as contributions ("CTB") to those committees, not as transfers.

VOT: Voter registration costs.

WEB: Information technology costs. Includes payments for website design, email, Internet access, production of website and email advertising **and online communications.**

***Payments that are contributions or independent expenditures to support or oppose other candidates, measures, and committees must also be summarized on Schedule D.**

Payment to Agency Report

A Public Document

PAYMENT TO AGENCY REPORT

1. Agency Name		Date Stamp	California 801 Form For Official Use Only
Division, Department, or Region (if applicable)			
Street Address			
Area Code/Phone Number	Email	<input type="checkbox"/> Amendment (explain in comment section)	
Agency Contact (name and title)		Date of Original Filing: _____ (month, day, year)	

2. Donor Name and Address

Individual _____ Last Name First Name Other _____ Name

Address _____ City _____ State _____ Zip Code _____

If "Other" is marked, describe the entity's business activity (if business) or its nature and interests.

➔ If applicable, identify the name of each source and the amount(s) received by the donor for this payment:

_____ \$ _____ Name _____ \$ _____ Amount

3. Payment Information (Complete Sections 3.1 (a or b), 3.2, 3.3)

3.1 (a) Travel Payment

_____ Location of Travel _____ Dates (month, day, year) _____

_____ Rail Air Bus Auto Other _____
Transportation Provider Check Applicable Boxes Name of Lodging Facility

\$ _____ \$ _____ \$ _____ \$ _____ \$ _____
Lodging Expenses Meal Expenses Transportation Expenses Other Expenses Total Expenses

3.1 (b) Payment(s) not related to travel: _____ \$ _____
Dates (month, day, year) (Round to whole dollars)

3.2. Payment Description. Provide a specific description of the payment and its agency purpose and use.

3.3. Identify the officials who used the payment in Section 3.1 (See instructions)

_____ Last Name First Name Position/Title Department/Division

_____ Last Name First Name Position/Title Department/Division

4. Verification

I authorized the acceptance of the reported payment(s) as in compliance with FPPC regulations.

_____ Signature _____ Print Name _____ Title _____ (month, day, year)

Comment:
(Use this space or an attachment for any additional information)

Payment to Agency Report Instructions

A Public Document

California
Form **801**

This form is used to report certain payments received by state and local government agencies. It includes:

- a payment for an official's travel expenses for the purpose of facilitating the public's business in lieu of a payment using agency funds; and
- a payment that would otherwise be considered a gift or income to the benefiting official, but is instead accepted on behalf of the agency.

FPPC Regulations 18944 and 18950.1 provide a procedure that state and local agencies may use to disclose payments used for agency purposes and paid by a third party. The regulations' reporting procedures provide an alternative means to disclose a payment that may otherwise be considered income or a gift to a benefiting employee and subject to reporting on a Statement of Economic Interest, Form 700.

When and Where to File

An agency accepting a payment pursuant to Regulation 18944 and 18950.1, must complete Form 801 for each payment received, regardless of the amount. The form must be maintained as a public document. If payments aggregate \$2,500 or more in a calendar quarter, website posting is required.

Website Posting:

State Agencies

Within 30 days after the end of a calendar quarter if aggregated reported payments, for travel and non-travel purposes, total \$2,500 or more:

- the agency must post the reports (or a report summary) on the agency website; and
- forward the information to the FPPC which will also post the information.

Local Agencies

The website posting rules differ for travel and non-travel payments.

Travel

Within 30 days after the end of a calendar quarter if aggregated reported payments total \$2,500 or more:

- the agency must post the reports (or a report summary) on the agency website; and
- forward the information to the FPPC.

Payments Not Related to Travel

The agency's filing officer for Statement of Economic Interests, Form 700, must receive the report. Within 30 days after the end of a calendar quarter if aggregated reported payments total \$2,500 or more, the local agency must post the information on the local agency website. A report is not sent to the FPPC unless the agency does not have a website.

Postings must be displayed in a prominent manner and easily accessible. Reports may be posted earlier.

FPPC: Statements should be emailed to form801@fppc.ca.gov. Statements may also be mailed to 428 J Street, Suite 620, Sacramento, CA, 95814 or faxed to (916) 322-3711.

Part 1. Agency Identification

List the agency's name and address and the name of an agency contact. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

Part 2. Donor Information

Disclose the name and address of the donor. If the donor is not an individual, identify the business activity or nature and interests of the entity.

If the donor received funds from other sources that were used in connection with the payment, disclose the name and payment information for each source.

Part 3. Payment Information

Section 3.1.a. Itemize travel payments including departure and return dates. Complete all fields, use "n/a" appropriately. Total the expenses for items such as taxi rides, gratuities, and rental cars in the "other" field and describe in the comments section.

Section 3.1.b. Report agency payments that are not travel related.

Section 3.2. Description

All payments must include a specific description of the use of the payment and the intended purpose for agency business. For example, a travel payment may read: Travel to attend an EPA co-sponsored solar energy seminar in Washington D.C.

Section 3.3. Identify Officials

Travel Payments: The name of the position/title and department of each official who used the payment is required. List the official's name if he/she is an elected or appointed official. It is not required to list the names of other officials, rather insert "n/a." Do not leave blank.

Non-Travel Payments: The name, position/title and department of the agency official who used the payment must be identified. All officials' names are required.

Part 4. Verification

Verification of travel payments must be signed by an authorized agency official. Such individuals are those who have the authority to approve similar travel payments when made with agency funds.

Verification of non-travel payments must be signed by the agency head.