



## Lobbying: Other Payments to Influence Fact Sheet

### Reports by Lobbyist Employers and Persons Spending \$5,000 or More

#### Introduction

This Fact Sheet is for lobbyist employers and persons spending \$5,000 or more to influence legislative or administrative action.

#### A. Other Payments to Influence Reporting Requirements (Regulation 18616)

Lobbyist employers and persons spending \$5,000 or more to influence legislative or administrative action (“\$5,000 filers”) are required to provide more detailed disclosure of “other payments to influence legislative or administrative action” in their quarterly lobbying reports. “Other payments to influence” include payments for or in connection with:

- Support or assistance of lobbyists;
- Direct communication with a legislative, agency, or elected state official for the primary purpose of influencing legislative or administrative action;
- All other expenses that would not have been incurred but for the filer’s activities to influence or attempt to influence legislative or administrative action; and
- Soliciting or urging persons other than the filer or the filer’s employees to enter into direct communication with a legislative, agency, or elected state official for the primary purpose of influencing legislative or administrative action.

These reporting requirements require filers to:

- Provide more detailed disclosure for “other payments to influence” on their lobbying disclosure reports.
- Itemize “other payments to influence” on Form 640 as an attachment to the Lobbyist Employer Report (Form 635) or \$5,000 Filer Report (Form 645) required under Government Code Section 86116.
  - **State and local government agencies** must continue to itemize payments totaling \$250 or more made to a single payee, vendor, or person during the calendar quarter.
  - **All other lobbyist employers and \$5,000 filers** must itemize payments totaling \$2,500 or more made to a single payee, vendor, or person during the calendar quarter.

#### B. Who Must File

All lobbyist employers and \$5,000 filers currently file quarterly reports disclosing payments in the following categories: (1) payments to lobbying firms, (2) payments to lobbyists, (3) activity expenses, and (4) other payments to influence legislative or administrative action. (Section 86116.) The reporting requirements discussed in this fact sheet apply to lobbyist employers and \$5,000 filers that disclose payments under “other payments to influence legislative or administrative action.”

- **Lobbyist Employer:** A person, other than a lobbying firm, who employs a lobbyist or contracts with a lobbying firm for economic consideration for the purpose of influencing legislative or administrative action.
- **\$5,000 Filer:** A person who does not employ a lobbyist or contract with a lobbying firm but who makes payments to influence legislative or administrative action (including payments to a lobbying coalition) aggregating \$5,000 or more in a calendar quarter.



### C. Required Forms

Persons who qualify as lobbyist employers or \$5,000 filers must complete **Attachment Form 640** – Reporting of Other Payments to Influence Legislative or Administrative Action. ***This form must be filed as an attachment to Form 635 (lobbyist employers) or Form 645 (\$5,000 filers).***

### D. Reporting and Itemization

The filer must disclose the following on Attachment Form 640:

- The name and business address of the payee;
- The total payments made during the reporting period;
- The cumulative amount paid during the calendar year; and
- A payment code to describe the primary purpose of the payment.

### E. Use of Payment Codes

A filer must use a specified payment code [in brackets] to identify the **primary purpose** of the itemized payment of \$250 or more made by state and local government agencies, or payments of \$2,500 or more made by all other lobbyist employers and \$5,000 filers. The filer must use the code that best identifies the main activity or purpose for the expenditure. For instance, if a filer hires a consultant to conduct a grassroots campaign, do polling, or purchase advertising, the filer reports the payment code for the primary purpose of the expenditure (e.g., [P] for grassroots campaign, [R] for polling, or [A] for advertising, not the payment code for consultant).

#### Examples

- A **lobbyist employer** paid a firm \$100,000 to develop television, newspaper, and electronic commercials urging the public to contact their legislator to support a crime bill. A portion of that fee (\$10,000) was for consulting fees for public affairs strategy and advocacy. The total expenditure amount would be reported using the payment code [A] for an “advertising” expenditure as the primary purpose of the payment was for commercial spots.
- A **\$5,000 filer** paid a political consulting firm \$200,000 for polling and public opinion research regarding a minimum wage bill, with a small portion of the fee (\$20,000) for political advocacy and strategy. The filer would use the payment code [R] indicating the primary purpose of the expenditure was “research.”

The payment codes are categorized as follows:

- **Salary – [S]** Compensation of employees, other than lobbyists, who are engaged for 10% or more of their compensated time in one month in activities related to lobbying, such as engaging in direct communication with a legislative, agency, or elected state official, or providing analysis, research or support or assistance to a lobbyist and expenses of employees related to influencing legislative or administrative action;
- **Lobbyist Expenses – [E]** Expenses incurred by a lobbyist and paid directly by the filer, or expenses incurred by the filer for goods or services used by a lobbyist or used to support or assist a lobbyist in connection with their activities as a lobbyist;



- **Legislative-Related Services – [L]** Legislative-related services performed by a lobbying firm in the absence of express or implied authorization to engage in direct communication related to researching, monitoring, analyzing or drafting statutes, or recommending strategy, providing advice, or similar services concerning pending or proposed legislative or administrative action as required under Regulation 18614;
- **Consultants & Government Relations – [C]** Contracts for economic consideration with a business entity or individual, other than a lobbying firm or lobbyist, to provide governmental consulting, advocacy, or strategy;
- **Public Affairs – [P]** Coalition building, grassroots campaigns and public policy initiatives including news releases, media campaigns, social media messaging, publicity, literature and mailings, canvassing, and special events;
- **Advertising – [A]** Including billboards, print, radio, television, text, email and other electronic advertising;
- **Research – [R]** Including feasibility studies, analysis, polling, and public opinion research;
- **Lobbying Events – [V]** Including event planning, rentals, equipment, and transportation for members of organizations or the public to meet public officials, hold rallies or attend hearings to influence legislative or administrative action;
- **Other – [O]** For all other payments not covered by one of the above listed categories, including dues or similar payments made by state and local government agencies.

## F. Frequently Asked Questions

### 1. A lobbyist employer owns its office building. Does it have to report the amount of overhead expenses related to the operation of the building on the Form 640?

The filer should only report costs of business overhead related to lobbying activity. This amount is reported as a lump sum along with other overhead expenses related to lobbying activity such as office supplies, rent, and legislative subscription services on Line 1 of the Form 640. Regular business overhead not related to lobbying activities that would continue to be incurred in substantially similar amounts regardless of the filer's activities to influence legislative or administrative action is not required to be reported on the Form 640.

### 2. When employees work from a home office, must the business disclose the employee's personal residence on the Form 640 when reporting salary payments of 10% or more to the employee?

The employer may use its business address instead of the employee's home address.

### 3. A nonprofit membership organization that is a lobbyist employer engages in lobbying-related and non-lobbying activities at a meeting. For instance, it provides its members with an update of bills it is lobbying and its staff also directly asks its members to contact legislators or to give testimony. How is staff time related to the meeting reported for purposes of the Form 640?

If staff is involved in soliciting or urging persons other than the lobbyist employer's employees to enter into direct communication with a legislative, agency, or elected state official to influence legislative or administrative action, the employee's time at the meeting counts toward the 10% threshold for reporting employee compensation in a calendar month in connection with other payments to influence legislative or administrative action.



- 4. Is the 10% threshold for reporting employee compensation related to other payments to influence based on a salaried employee's required work hours or the salaried employee's actual hours worked? For example, if a salaried employee is required to work 175 hours in a calendar month, but the employee actually works 200 hours in one month, how is the 10% threshold determined?**

It is recommended that monthly-required work hours be used, rather than the actual hours worked.

- 5. Does an employee's travel time to and from an event where the employee engages in influencing legislative or administrative action count toward the 10% threshold for reporting the employee's salary related to other payments to influence?**

Travel time counts towards whether an employee spends 10% or more of their time in a calendar month influencing legislative or administrative action. For example, an employee is providing testimony at a Legislative hearing, and the employee must travel to Sacramento to present their testimony. The employee must count the time preparing for the hearing, time spent traveling to and from the event to deliver the testimony, time waiting to offer the testimony, and the time actually delivering the testimony.

- 6. Is the cumulative total required to include both itemized and non-itemized payments made to a vendor during a calendar year?**

The cumulative total is required to only include previously itemized amounts. For example, if a vendor is paid \$150 in Q3 (reported as part of the non-itemized lump sum), and \$3,000 in Q4, the report would show cumulative payments to the vendor of \$3,000 (only the itemized amount).

- 7. What code may a filer use for a payment if there are large expenditures to the same vendor for two purposes, for example, \$15,000 for advertising [A], and \$10,000 for lobbying events [V]**

You may use the code that reflects the primary purpose (largest portion) of the payment [A]:

- Q1 – [A] The Public Affairs People, \$25,000 (this quarter); \$25,000 (cumulative since 1/1)

Or you may use two separate codes to describe this payment:

- Q1 – [A] The Public Affairs People, \$15,000 (this quarter); \$25,000 (cumulative since 1/1)
- Q1 – [V] The Public Affairs People, \$10,000 (this quarter); \$25,000 (cumulative since 1/1)

*Note: this method of apportioning the payment cannot be used to avoid itemizing payments to a vendor once the \$2,500 reporting threshold per vendor is reached in the calendar quarter. (EX: \$2,500 to a vendor cannot be broken out into \$1,000 payment for events; and \$1,500 for advertising to avoid disclosure.)*

## G. Resources

- [FPPC Lobbying Disclosure Manual](#)
- [FPPC Lobbying Forms](#)
- [CA Secretary of State \(SOS\) Website](#)
- [SOS Campaign & Lobbying Webpage](#)