

CHAPTER 55. REPORTING

Sec.	
55.1.	Quarterly expense reports.
55.2.	Records maintenance, retention and availability.
55.3	Public inspection and copying.
55.4	Reliance on documents

Cross References

This section is cited in 51 Pa. Code § 61.5 (relating to confidentiality).

§ 55.1. Quarterly expense reports.

(a) A quarterly expense report is required to be filed as set forth in this section when the total lobbying expenses of a registered principal, registered lobbying firm or registered lobbyist lobbying on the principal's behalf, together, exceed \$2,500 in a quarterly reporting period. The threshold of \$2,500 includes any economic consideration paid by a principal to a lobbying firm or lobbyist for lobbying. Individuals exempt under section 13A06 of the act (relating to exemption from registration and reporting) need not register or report.

(b) For a quarterly reporting period in which the total lobbying expenses of a registered principal, registered lobbying firm or registered lobbyist lobbying on the principal's behalf, together, are \$2,500 or less, a statement to that effect shall be filed with the Department by checking the appropriate block on the quarterly expense report form.

(c) For purposes of determining whether the reporting threshold has been met, and for filing reports required under section 13A05 of the act (relating to reporting), section 13A05(b)(2.1) of the act permits filers to use any reasonable methods of estimation and allocation.

(d) The principal shall file a quarterly expense report or statement of failure to meet the reporting threshold on or before the 30th day after the quarterly reporting period ends.

(e) Under section 13A05(b)(6) of the act and as detailed in subsection (n), a lobbyist or lobbying firm required to be registered under the act shall file a separate quarterly expense report or a separate amended quarterly expense report if during the reporting period, the lobbyist or the lobbying firm engaged in lobbying which was not contained in any report filed by a principal represented by the lobbyist or lobbying firm. The deadline for filing a separate report shall be the 30th day after the due date of the principal's report. The following apply to filing a separate expense report by a lobbyist or a lobbying firm:

(1) If within 30 days of the due date, a principal amends its quarterly expense report in compliance with § 51.8(c) (related to amended filings), a lobbyist or lobbying firm need not file a separate quarterly expense report as to the principal's expenses.

- (2) The filing of a separate quarterly expense report by a lobbyist or lobbying firm does not relieve a principal of any reporting requirements.
- (f) Quarterly expense reports, statements of failure to meet the reporting threshold, separate quarterly expense reports by lobbyists or lobbying firms and amendments to these shall be filed on forms prescribed by the Department.
- (g) A quarterly expense report of a principal required to be registered under the act must include at least the following information:
- (1) The names and, when available, the registration numbers of all lobbyists or lobbying firms that are required to be registered, by whom the lobbying is conducted on behalf of the principal. If a lobbyist is a lobbying firm, association, corporation, partnership, business trust or business entity, its name and the names of the individuals who lobby on behalf of the principal shall be included. Individuals exempt under section 13A06 of the act need not be included.
 - (2) The general subject matter or issue being lobbied shall be indicated by checking the appropriate block on the form or completing the category designated "other." A principal, lobbying firm or lobbyist engaged in procurement may include this subject under the "other" category. Examples of items that need not be reported include:
 - (i) A listing indicating which lobbyists are lobbying on which matters.
 - (ii) The specific bill numbers for which the lobbying is being done.
 - (iii) The specific contents of any communications or the identity of those with whom the communications take place.
 - (3) The total costs of all lobbying for the period. The total must include all office expenses, personnel expenses, expenditures related to gifts, hospitality, transportation and lodging to State officials or employees, and any other lobbying costs.
 - (i) The total amount reported under this paragraph shall be allocated in its entirety among the following categories:
 - (A) The costs for gifts, hospitality, transportation and lodging given to or provided to State officials or employees or their immediate families.
 - (B) The costs for direct communication.
 - (C) The costs for indirect communication.
 - (ii) Registrants shall use a good faith effort to allocate expenses required to be reported under this subsection to one of the three categories listed herein. A given expense may not be included in more than one category. When allocating expenses:
 - (A) Gifts should not include expenses for the following:
 - (I) Direct communication or indirect communication.
 - (II) Personnel expenses and office expenses, as defined in the act and this section.

(III) Services to a constituent or other member of the public based upon a referral or recommendation by a legislator or other State official or employee made within the scope of his office or employment.

(IV) Information received by a legislator or other State official or employee within the scope of his office or employment, except to the extent that the medium in which the information was received has a fair market value itself.

(B) Hospitality should not include expenses for the following:

(I) Personnel expenses and office expenses, as defined in the act and this section.

(II) Direct communication or indirect communication.

(C) Direct communication should not include expenses for the following:

(I) Gifts or hospitality.

(II) Transportation or lodging.

(D) Indirect communication should not include expenses for the following:

(I) Gifts or hospitality.

(II) Transportation or lodging.

(iii) Lobbying costs include the amount of economic consideration paid by principals to lobbying firms or lobbyists for lobbying. Although a registrant is only required to report the amount of economic consideration that is attributable to lobbying in the Commonwealth, the entire amount shall be reported unless the principal, lobbying firm or lobbyist maintains records that establish the portion attributable to lobbying, as well as the portion attributable to nonlobbying services.

(iv) Monitoring of legislation, monitoring of legislative action or monitoring of administrative action is not lobbying. However, for an individual or entity which is not exempt, the costs of monitoring are subject to the reporting requirements of the act when the monitoring occurs in connection with activity that constitutes lobbying.

(4) The information required to be disclosed under section 13A05(b)(3) of the act, as detailed by paragraph (3)(i), and subsections (j) and (k).

(5) The name, permanent business address and daytime telephone number of any individual, association, corporation, partnership, business trust or other business entity which contributed more than 10% of the total resources for lobbying received by the principal during the reporting period. The term "total resources" includes all contributions to the principal during the reporting period. The term also includes dues and grants received by the principal.

(6) The total costs for gifts, hospitality, transportation and lodging, given to or provided to State officials or employees or their immediate families, except that any cost under this paragraph which is of a value not exceeding \$10 need not be reported under section 13A05(b)(3) of the act. If the same or simi-

lar gift, hospitality or transportation or lodging is provided to more than one State official or employee, the aggregate economic value of which is more than \$10, that value shall be included in the appropriate totals reported under section 13A05(b)(2) of the act.

(h) A registered principal that attempts or that retains a lobbying firm or lobbyist to attempt to influence an agency's preparing, awarding of a bid, entering into or approving a contract pursuant to 62 Pa.C.S. (relating to procurement) shall ensure that the related expenses are included in calculating the totals referenced by subsection (g)(3).

(1) There is no prohibition against lobbyists or vendors being paid fees for procurement lobbying contingent upon the successful outcome of their lobbying.

(2) With certain exceptions, provided in 31 U.S.C. § 1352 (relating to limitation on the use of appropriated funds to influence certain Federal contracting and financial transactions), Federal funds cannot be spent by any recipient of a Federally-funded contract to pay any person for lobbying a Federal agency, employee or member of Congress.

(i) Within the total costs of all lobbying for the period reported in subsection (g)(3), the amount spent for office and personnel expenses must include salaries and other forms of compensation, benefits, vehicle allowances, bonuses and reimbursable expenses for those involved in lobbying, and costs for offices, equipment and supplies utilized for lobbying.

(1) Any reasonable method may be used to determine how to allocate among direct and indirect communications.

(2) Because the definitions of "gift" and "hospitality" in section 13A03 of the act (relating to definitions) do not explicitly include personnel expenses and office expenses, if a principal sponsors an event for public officials and employees, the principal's expenses for mailing invitations, and the time its staff spends planning this event should be reported as direct or indirect communications.

(3) Reportable personnel costs include costs for expenditures for salaries or other forms of compensation, benefits, vehicle allowances, bonuses and reimbursable expenses paid to lobbyists, lobbying staff, research and monitoring staff, consultants, lawyers, publications and public relations staff and technical staff, as well as clerical and administrative support staff and individuals who engage in lobbying but who are exempt from reporting under section 13A06 of the act.

(4) Compensation, benefits and expenses of any nature shall be included if paid in furtherance of lobbying. These expenses include transportation, food and lodging paid for any individuals in furtherance of lobbying.

(5) If compensation is to be reported by or for an individual or entity whose lobbying is incidental to regular employment, it shall be sufficient to report a prorated estimate based on the value of the time devoted to lobbying.

(j) A quarterly expense report must also identify, by name, position and each occurrence, the State officials or employees, or both, who received from a principal, lobbying firm or lobbyist anything of value which must be included in the statement of financial interests under section 1105(b)(6) or (7) of the Ethics Act (relating to statement of financial interests) as implemented by section 1105(d) of the Ethics Act.

(1) For purposes of the act, the amount referred to in section 1105(b)(7) of the Ethics Act shall be considered an aggregate amount per calendar year.

(2) Each occurrence must include the date and the circumstances of the gift and the payment or reimbursement for transportation, lodging or hospitality.

(3) The reporting of the provision of gifts in the aggregate of \$250 or more per calendar year to a State official or employee must identify:

(i) The name and position of the State official or employee, including the governmental body of the State official or employee.

(ii) The name and address of the source of the gift.

(iii) The value of the gift.

(iv) The circumstances of the gift, including the nature of the gift.

(4) The reporting of the provision of transportation/lodging/hospitality in the aggregate exceeding \$650 per calendar year to a State official or employee in connection with public office or employment must identify the following:

(i) The name and position of the State official or employee, including the governmental body of the State official or employee.

(ii) The name and address of the source of the payment.

(iii) The value of the transportation, lodging or hospitality.

(5) For purposes of the act, the amount referred to in section 1105(b)(7) of the Ethics Act does not include the cost of a reception which the State official or employee attends in connection with public office or employment. However, a principal, lobbying firm or lobbyist shall maintain records for purposes of disclosing the total costs of a reception as hospitality expenses in quarterly expense reports, in compliance with section 13A05(b)(2)(i) of the act and subsection (g)(3)(i).

(6) For purposes of the act, there is no requirement under section 13A05 to disclose anything of value received from immediate family when the circumstances make it clear that motivation for the action was the personal or family relationship.

(k) For purposes of reporting the value of gifts or transportation, lodging or hospitality to be disclosed under section 13A05 of the act, the following apply:

(1) Any gift, transportation, lodging or hospitality item that is returned unused, declined or is fully reimbursed to the registrant within 30 days of the date of receipt need not be reported. For a gift, the date of receipt is the date the State official or employee first has possession or control of the gift. For purposes of calculating the 30 days for fully reimbursing an item of transpor-

tation, lodging or hospitality, the date of receipt is the date the State official or employee actually receives the benefit of the item.

(2) The valuation of a complimentary ticket to a fundraiser must be based upon the reasonable value of the gifts, hospitality, transportation or lodging received by the State official or employee. This provision does not apply to expenditures and other transactions subject to reporting under section 1626 of the Election Code (25 P. S. § 3246).

(3) The value of gifts, transportation, lodging or hospitality must equal the costs to the registrant if the items or services to be valued were in fact obtained by the registrant in marketplace transactions.

(4) When paragraph (3) is not applicable, the value of the gifts, transportation, lodging or hospitality must equal the fair market values as determined by the replacement costs, that is, the costs of purchasing the same or similar items or services in marketplace transactions.

(5) When paragraphs (3) and (4) are not applicable, the registrant may use any reasonable method to determine the value of gifts, transportation, lodging or hospitality.

(6) When more than one individual is benefited incident to an occasion or transaction, the registrant may calculate the value of the gifts, transportation, lodging or hospitality provided to a particular individual by one of the following:

(i) Calculating the actual benefit provided to that individual.

(ii) Dividing the totals of expenditures common to more than one beneficiary including that individual by the number of recipients, and adding the resulting figures (quotients) together with the value of all other gifts, transportation, lodging or hospitality provided to that individual.

(iii) Allocating a portion of the total expenditures common to more than one beneficiary to each individual based upon each individual's participation and adding that value to the value of all other gifts, transportation, lodging or hospitality provided to that individual.

(l) The filer of the quarterly expense report or amended quarterly expense report shall give written notice to each State official or employee of the State official's or employee's inclusion in the report at least 7 days prior to the submission of the report to the Department. The notice must include the information which will enable the public official or employee to comply with section 1105(b)(6) and (7) of the Ethics Act. The notice may not include the cost of a reception that the State official or employee attends in connection with State office or employment.

(m) A lobbying firm or lobbyist not associated with a lobbying firm, required to be registered under the act, shall sign the quarterly expense reports or amended quarterly expense reports submitted by the principals represented to attest to the validity and accuracy of the reports to the best of the lobbying firm's or lobbyist's knowledge. If the principal is unable to secure the signature of a lobbyist or

authorized representative of a lobbying firm, the principal shall attach a statement to the report, setting forth the attempts made and the reasons for the inability to obtain the signature. The statement must be on a form prescribed by the Department as required under § 51.7(a) (relating to forms, records and Department publications).

(1) A lobbying firm or lobbyist may attach a statement to the quarterly expense report or amended quarterly expense report of any principal, describing the limits of the lobbyist's or lobbying firm's knowledge concerning the expenditures contained in the report. Lobbying firms' or lobbyists' statements as to limitations of knowledge must be on a form prescribed by the Department as required under § 51.7(a), and describe the limitations and the reasons for the limitations with specificity.

(2) An individual in a lobbying firm, a lobbyist or any other individual may also sign the quarterly expense report of the principal on behalf of the principal, attesting to the accuracy of the report, with authorization by the principal on its registration statement. The registration statement will designate all individuals who may sign expense reports on behalf of the principal.

(i) If an individual or lobbyist signs a principal's quarterly expense report on the principal's behalf without authorization by the principal on its registration statement, the quarterly expense report will not be considered a valid filing by the principal.

(ii) A principal that authorizes an individual to sign the quarterly expense reports of the principal on behalf of the principal on its registration statement is still responsible for the accuracy and timely filing of the quarterly expense report.

(iii) When an individual signing the principal's quarterly expense report, attesting to the accuracy of the report, is an official or employee of the principal who also serves as one of the principal's registered lobbyists as indicated on the report, that signatory shall still be required to affirm the accuracy of the report as a lobbyist of the principal, as provided by section 13A05(b)(4) of the act.

(n) When a lobbying firm or lobbyist is required to file a separate report under subsection (e), the following apply:

(1) The deadline for filing any separate quarterly expense report or separate amended quarterly expense report shall be the 30th day after the due date of the principal's report.

(2) Separate quarterly expense reports and separate amended quarterly expense reports shall be filed on a form prescribed by the Department as required under § 51.7(a).

(3) A separate quarterly expense report or separate amended quarterly expense report must contain the identity of the principal for whom the lobbying was performed.

(4) A separate quarterly expense report must include the information required by section 13A05(b)(2), (3) and (7) of the act.

(5) A separate quarterly expense report or separate amended quarterly expense report may include a statement which specifies the limitations of the lobbying firm's or the lobbyist's knowledge and the reasons for the limitations.

(6) A lobbying firm or lobbyist filing a separate quarterly expense report or separate amended quarterly expense report shall provide it to the principal contemporaneously with filing it with the Department.

(7) A lobbying firm or lobbyist filing a separate quarterly expense report or separate amended quarterly expense report shall give written notice to each State official or employee of the State official's or employee's inclusion in the report at least 7 days prior to the submission of the report to the Department. The notice must include the information which will enable the State official or employee to comply with section 1105(b)(6) and (7) of the Ethics Act.

(8) An individual in a lobbying firm, a lobbyist or any other individual may also sign the quarterly expense report of the lobbying firm or lobbyist on behalf of the lobbying firm or lobbyist, attesting to the accuracy of the report, with authorization by the lobbying firm or lobbyist on the lobbying firm's or lobbyist's registration statement. The registration statement will designate all individuals who may sign expense reports on behalf of the lobbying firm or lobbyist.

(i) If an individual or lobbyist signs a lobbying firm's or lobbyist's quarterly expense report on the lobbying firm's or lobbyist's behalf without authorization by the lobbying firm or lobbyist on the lobbying firm's or lobbyist's registration statement, the quarterly expense report will not be considered a valid filing by the lobbying firm or lobbyist.

(ii) A lobbying firm or lobbyist that authorizes an individual to sign the quarterly expense report of the lobbying firm or lobbyist on the lobbying firm's or lobbyist's registration statement is still responsible for the accuracy and timely filing of the quarterly expense report.

(o) Whenever any person makes an expenditure for indirect communication under this section, for the purpose of disseminating or initiating a communication, such as a mailing, telephone bank, automated telephone calls, print or electronic media advertisement, billboard, publication or education campaign, the communication must clearly and conspicuously state the name of the person who made or financed the expenditure for the communication.

Cross References

This section cited in 51 Pa. Code § 63.2 (relating to commission proceedings regarding prohibited activities under section 13A07 of the act).

§ 55.2. Records maintenance, retention and availability.

(a) A registrant shall maintain records reasonably necessary to substantiate the filings of lobbying activity made under sections 13A04 and 13A05 of the act (relating to registration; and reporting).

(1) The Department will prescribe standardized forms for reports, which shall be used by all principals, lobbying firms and lobbyists required to be registered under the act.

(2) In maintaining records, registrants may use any reasonable methods of estimation and allocation.

(3) Records of lobbying activity may be kept under any reasonable accounting basis, which includes:

(i) *Cash basis.* Revenue and related assets are recognized when received and expenses are recognized when payment is disbursed. For example, payroll costs are reported when paid, not when the associated hours are worked.

(ii) *Accrual basis.* Income is recognized when earned and expenses when incurred. For example, payroll is recognized when the associated hours are worked regardless of when payment is made.

(iii) *Modified accrual basis.* Recognizes an economic transaction or event as revenues in the operating statement when the revenues are both measurable and available to liquidate liabilities of the current period. Available means collectible in the current period or soon enough thereafter to be used to pay liabilities of the current period. Similarly, expenditures are generally recognized when an event or transaction is expected to draw on current spendable resources.

(4) Records of lobbying activity shall be maintained in sufficient detail to enable the registrant to fully comply with the act and this part.

(5) The records must identify the general subject matter or issue being lobbied. The specific contents of a particular communication, or the identity of those with whom the communications take place, need not be recorded or maintained.

(6) A registrant should keep its records on the same accounting basis for the 2-year period covering its registration under the act. If a registrant changes its accounting basis, then it should make an internal record noting the date of the change and the reason for the change.

(b) A registrant may keep records of all lobbying activity separate from records of the registrant's nonlobbying activity. A registrant may keep records related to registering and reporting under the act separate from other records relating to lobbying.

(1) Records that integrate both lobbying and nonlobbying activities shall be retained and made available for inspection or audit under this section and Chapter 61 (relating to compliance audits).

- (2) An expenditure incurred partially in connection with lobbying may be prorated by any reasonable accounting method, but the method used shall be described in detail in the records maintained as to the expenditure.
- (3) A registrant may value time spent lobbying in using any of the following examples of viable options as long as the method selected is a reasonable method of estimation and allocation:
- (i) A registrant may employ a good faith estimate by using any reasonable method of estimation and allocation.
 - (ii) A registrant may keep a record of all of the time spent lobbying.
 - (iii) A registrant may use the entire fee expended for lobbying.
- (c) A registrant shall retain the documents used in recordkeeping reasonably necessary to substantiate the filings to be made under section 13A04 or 13A05 of the act for 4 years from the date of filing.
- (1) The documents to be used in recordkeeping include, but are not limited to: books, journals, ledgers, accounts, statements, invoices, bills, vouchers, receipts, charge slips, cancelled checks, payroll check stubs, time sheets, tax returns and related forms, contracts, subcontracts, business diaries and calendars and other related written or computerized records.
 - (2) Original source records received by the registrant shall be retained in their original form to the extent possible.
 - (3) Records prepared by the registrant under this section may be in written or computerized/electronic formats.
 - (4) Computerized/electronic records shall be maintained to enable the Department, the Commission, the Office of Attorney General or the Board to access in readable form all of the information reasonably necessary to substantiate the registration statements or reports.
 - (5) Affidavits may be used if actual records are lost, stolen or destroyed through no fault of the registrant, or are otherwise unavailable, and cannot be recreated from other sources. An affidavit must be as complete and detailed as is reasonably possible, and include the specific reasons for the unavailability of the actual records.
- (d) Reportable expenditures shall be supported by original source documents to the extent they are available. If an original source document is not available to support a reportable expenditure, the registrant shall upon payment of the expenditure promptly prepare a written voucher, journal entry or other written or electronic form of record to document the expenditure. The record must include a notation of the reason an original source document was not available.
- (e) The documents and records maintained and retained to substantiate expenditures must reflect for each reportable item, the following information:
- (1) The full names of the payor and payee.
 - (2) The date of the transaction.
 - (3) The dates and forms of payments.

(4) The full name and official position of each State official or employee who was a beneficiary, and the amount of the expenditure reasonably attributable to each of them.

(5) The number of immediate family members of a State official or employee, who were beneficiaries, and the amount of the expenditures reasonably attributable to them.

(6) A description of the goods or services or other consideration for which the expenditure was made or incurred.

(f) Contributions of resources which are reportable under section 13A05(b)(5) of the act shall upon receipt be promptly documented by the registered principal through the preparation of a written receipt, an entry in a journal maintained by the principal, or other written or electronic form of record.

(g) Documents and records maintained and retained to substantiate contributions of resources reportable under section 13A05(b)(5) of the act must reflect for each reportable item, the following information:

(1) The full names of the donor and donee.

(2) The amount or value and date of the contribution.

(3) In the case of a nonmonetary contribution, a description of the goods, services or other forms of resources provided.

(4) Instructions, directions, conditions, restrictions, limitations or controls provided or imposed by the donor as to the use or disposition of the contribution.

(h) Upon written request by the Office of Attorney General, the Department, the Commission or the Board, documents reasonably necessary to substantiate filings made under sections 13A04 and 13A05 of the act shall be made available for inspection and copying within 30 days.

(1) The Office of Attorney General, the Department, the Commission or the Board may extend this 30-day deadline in connection with its own requests, when circumstances compelling an extended deadline are established.

(2) Computerized/electronic records shall be provided in readable form.

§ 55.3. Public inspection and copying.

(a) The Department will make completed expense reports, which have been filed with the Department, available for public inspection and provide copies of these documents at a price not in excess of the actual cost of copying.

(b) The Department will make all reports available on a publicly accessible Internet web site. Documents maintained and reproducible in an electronic format shall be provided in that format upon request.

§ 55.4. Reliance on documents

(a) *Reliance on manual.* A registrant's establishment and maintenance of records, as well as the filing of quarterly expense reports based on those records, in accordance with any manual or interim guidelines adopted by the Committee

shall serve as evidence of the registrant's good faith effort to comply with the act during the time when the manual or guidelines are in effect.

(b) *Reliance on instructions for forms.* A registrant's completion of registration statements and quarterly expense reports in accordance with instructions published by the Department shall serve as evidence of the registrant's good faith effort to comply with the act during the time when the instructions are in effect.

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