



October 1, 2021

**VIA ELECTRONIC MAIL**

Chair Miadich and Commissioners Baker, Cardenas, Wilson, and Wood  
Fair Political Practices Commission  
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**RE: Comment on Amendments to Lobbyist Recordkeeping Regulations**

Dear Chair Miadich and Commissioners:

The Institute of Governmental Advocates (“IGA”) writes to offer comments on the draft amendments to Regulations 18610, 18612, and 18615 related to recordkeeping requirements for lobbyists, lobbying firms, and lobbyist employers, pre-noticed at the August Commission meeting. We appreciate your solicitation and consideration of our feedback. Our comments fall into four categories, each applicable to the amendments to all three Regulations.

I. Application of “Original Source Documents” in Regulation 18615

Proposed amended subdivision (c) of Regulation 18615 replaces the terms “canceled checks or other bank records” with “original source documents” in referencing what records of payments a lobbyist employer must keep. Proposed amended subdivision (d) specifically identifies the types of source documents that must be maintained by a lobbyist employer.

At the outset, the accompanying staff memo to the amendments states that proposed amended subdivision (d) specifically identifies the types of source documents that must be maintained by a lobbyist employer *in support of any activity expense*.

- Proposed amended subdivision (d) specifically identifies the types of source documents that must be maintained by a lobbyist employer **in support of any activity expense**, which include receipts, invoices, cancelled checks or legible images of cancelled checks, credit card statements and credit card receipts, contracts, agreements, correspondence and communications, journal or other records showing payments made or incurred, invitations to lobbyist sponsored events, and rosters of attendees.

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The other two regulations also only require this level of recordkeeping for activity expenses, specifically. However, as drafted in Regulation 18615, these type of source documents seem to be required for all payments made by a lobbyist employer. The first line of subdivision (d) reads: “(d) *Source documents required to be maintained under subdivision (c) include...*” and the proposed language of subdivision (c) reads: “(c) *Records of payments by the lobbyist employer shall be supported by original source documents, and shall include...*”

Therefore, as drafted, proposed subdivision (d) applies to records required for ALL payments made by a lobbyist employer, and not simply activity expenses – while the requirement is limited to activity expenses in the other two regulations, and is what the staff memo reflects as the regulation’s intent. We suggest updating subdivision (d) to clarify that the source documents are required to be maintained under subdivision (c)(3) (the subsection on activity expense recordkeeping), and not subdivision (c) as a whole.

## II. Requirement for “Correspondence and Communications”

All three Regulations now require maintaining “correspondence and communications” concerning an activity expense. However, correspondence and communications surrounding an activity expense are not relevant to what an audit will review. For example, email exchanges deciding what type of food will be served at an event are not relevant. Emails discussing who is invited to the event are also not relevant, or who may be invited to an event; an audit looks at only who actually comes to the event.

Therefore, we propose changes to the following subdivisions of the Regulations with this language (new language is underlined, and language to be removed is ~~stricken~~.)

18610(c)(3) Contracts and agreements ~~correspondence and communications~~ concerning the activity expense;

18612(d)(3) Contracts and agreements ~~correspondence and communications~~ concerning the activity expense;

18615(d)(3) Contracts and agreements ~~correspondence and communications~~ concerning the activity expense;

In addition, Regulation 18612 includes proposed amended subdivision (g), adding more requirements to what a lobbying firm must maintain when it subcontracts with another lobbying firm for lobbying services. We propose the following edits to this subdivision (new language is underlined, and language to be removed is ~~stricken~~).

(g) If the lobbying firm subcontracts with another lobbying firm for lobbying services, the payments to the subcontractor shall be supported by contracts, agreements,

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~~correspondence and communications~~, journal or other records showing payments made or incurred, cancelled checks or legible images of cancelled checks or other bank records.

Again, we do not feel “correspondence and communications” are relevant to a lobbying audit and what it would review in the context of subcontracted lobbying firms. Such correspondence could include negotiations about payment or lobbying strategy, which are both not under an auditor’s purview.

### III. Reference to “Lobbyist Sponsored Events”

All three Regulations now require maintaining “invitations to lobbyist sponsored events.” However, there is no such thing as a “lobbyist sponsored event;” instead, it is the lobbyist *employers* that typically sponsor the referenced events that are reportable activity expenses because, as you know, lobbyists are subject to a gift limit of \$10 per calendar month. Therefore, we propose changes to the following subdivisions of the Regulations with this language (new language is underlined, and language to be removed is ~~stricken~~.)

18610(c)(5) Invitations to lobbyist employer sponsored events, and rosters of attendees to such events.

18612(d)(5) Invitations to lobbyist employer sponsored events, and rosters of attendees to such events.

18615(d)(5) Invitations to lobbyist employer sponsored events, and rosters of attendees to such events.

### IV. Miscellaneous Language Updates

Finally, we suggest the following changes to the rest of the new language added to each Regulation (new language is underlined, and language to be removed is ~~stricken~~).

18610(c) Original source documents ~~required to be maintained~~ under subdivision (b) may include:

...

(4) Journals or other records showing payments made or incurred, to the extent they exist; and

18612(d) Original source documents ~~required to be maintained~~ under subdivision (c) may include:

...

(4) Journals or other records showing payments made or incurred, to the extent they exist; and

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18615(d) Original source documents ~~required to be maintained~~ under subdivision (c) may include:

...

(4) Journals or other records showing payments made or incurred, to the extent they exist; and

This aligns the verbiage with that of the preceding subdivisions in each Regulation referencing “original source documents.” In addition, it lowers the burden from materials “required to be maintained” to instead list examples and/or suggestions of what records to maintain. With regard to keeping a “journal,” we believe a lobbyist entity should not have to create such a record or be required to keep one if they do not keep one already.

We appreciate the Commission’s consideration of these proposed changes, and welcome further discussion with Commissioners and staff.

Sincerely,



Thomas W. Hiltachk  
General Counsel  
Institute of Governmental Advocates