**Supplemental Materials**

**for**

**Update on Lobbyist Reporting—**

**Guidance and Issues**

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**Reporting Guidance Provided in Final Advisory Opinions**

***FAO 97-04.*** This FAO provides that the amount paid by an employer lobbyist for the fringe benefits of an employee lobbyist is to be reported as compensation paid for lobbying unless the expenditure is for a form of compensation that has not yet vested.

***FAO 98-01.*** Under this FAO, an entity that receives at least $500 in compensation to lobby and that also pays others at least $500 to lobby is required to register as both a compensated lobbyist and as an employer lobbyist. To avoid double reporting, such an entity is not required to file an activity report as an employer lobbyist but is required to file a compensated lobbyist report with respect to each of its clients. (See page 41 of the Lobbyist Handbook.)

***FAO 98-02.*** This FAO states that an employer lobbyist should report that portion of an employee lobbyist’s compensation that is related to the amount of time that the employee spends lobbying.

***FAO 98-07.*** This FAO provides in part that “A lobbyist who registers as an employer and a compensated lobbyist should report entertainment expenses on the lobbyist’s compensated lobbyist report to the extent the lobbyists has been reimbursed by employer clients for the expenditure. The lobbyist may, if necessary, prorate the entertainment expenditure among the clients on whose behalf the entertainment expenditures were made.”

***FAO 98-09.***  Under this FAO, if a reportable legislative gift or purchase is made directly by a client, i.e. an employer lobbyist, then the client should report the transaction. If the gift or purchase is not made directly by the client, then the transaction should be reported by the compensated lobbyist solely and not by the client even if the compensated lobbyist is reimbursed by the client. With respect to activity reports, this FAO also includes directions for how to allocate such a transaction among more than one client. However, those directions need to be read in conjunction with IC 2-7-3-3.5, which was just added to the lobby laws in 2010.

**FAO 98-10.** This FAO contains guidance on how to allocate and report the costs of a function or activity to which all or less than all of the members of the General Assembly were invited. The guidance needs to be read in conjunction with the new definition of “legislative body” set forth in IC 2-7-1-7.5 and the reporting rules under IC 2-7-3-3.5 (c).

**FAO 99-02.** This FAO provides guidance on how to allocate and report compensation that a partnership pays to partners who lobby. The following is a restatement of the methodology that the ILRC has endorsed for reporting that type of compensation:

STEP ONE. Enter the total number of billable and non-billable hours worked by the partner during the reporting period.

STEP TWO. Enter the total number of hours that the partner recorded for lobbying during the reporting period.

STEP THREE. Divide the number entered under STEP TWO by the number entered under STEP ONE.

STEP FOUR. Enter the amount of compensation allocated to the partner during the reporting period, including the value of benefits other than overhead ascribed to the partner.

STEP FIVE. Multiply the amount entered under STEP FOUR by the quotient determined under STEP THREE.

With respect to the compensation paid to a partner, the FAO is silent on how the STEP FIVE product should be allocated if the partner lobbied on behalf of more than one client.

**FAO 2000-05.** This FAO dealswiththe reporting of pass through income paid by a Subchapter S corporation to an individual who is a compensated lobbyist for the corporation. Some of the more important findings set forth in the FAO are as follow:

(1) “Compensation,” as defined in IC 2-7-1-2, means anything of value given as payment for doing or refraining from doing any activity. Thus, the term “compensation” as used in IC 2-7 is not restricted to mean only salary or payment for services.

(2) While a contract to lobby is sufficient to trigger a duty to register as a lobbyist, the compensation paid under the contract is not reportable on a lobbyist’s activity report until it is actually paid.

(3) In determining whether an employee has received at least $500 to lobby, one must consider fringe benefits.

(4) There is precedent for treating dividends paid to S corporation shareholders as compensation for services if the shareholders do not otherwise receive reasonable compensation for services performed for the corporation.

(5) An S corporation that provides a non-paid corporate officer who lobbies with pass-through shareholder income should report a portion of the pass through income as a lobbying expense. The formula that should be applied is as follows: percentage of time spent lobbying ***x*** income imputed to the non-paid corporate officer.

**General Reporting Guidelines**

* An individual or entity registered as an employer lobbyist only should file a single employer lobbyist activity report.
* An individual or entity registered as both an employer lobbyist and a compensated lobbyist is to file a separate compensated lobbyist activity report with respect to each employer lobbyist from whom the individual or entity received compensation. In such a case, the individual or entity is not to file an activity report as an employer lobbyist.
* A compensated lobbyist who has reportable expenditures that are not attributable to a client is to report those expenditures on a separate “non-client” compensated lobbyist activity report.
* A lobbyist who completes a reportable transaction should report that transaction and should do so in a manner consistent with the reporting illustrations set forth at the end of this Appendix 4.
* Activity reports should be filed on a cash basis rather than an accrual basis of accounting. However, if lobbying expenses accrued during a reporting period are paid after the end of that period and after the lobbying relationship has been terminated, those expenses should be reported by amending the activity report for that reporting period.

**Certain Statutory Guidelines for Reporting**

**IC 2-7-3-3**
**Activity report contents; reporting thresholds; excluded items**

 Sec. 3. (a) The activity reports of each lobbyist shall include the following information:
        (1) A complete and current statement of the information required to be supplied under IC 2-7-2-3 and IC 2-7-2-4.
        (2) Total expenditures on lobbying (prorated, if necessary) broken down to include at least the following categories:
            (A) Compensation to others who perform lobbying services.
            (B) Reimbursement to others who perform lobbying services.
            (C) Receptions.
            (D) Entertainment, including meals.
            (E) Gifts made to a legislative person.
        (3) Subject to section 3.5 of this chapter, a statement of each:
            (A) expenditure for entertainment (including meals and drink); or

            (B) gift;
        that equals fifty dollars ($50) or more in one (1) day, or expenditures for entertainment (including meals and drink) or gifts that together total more than two hundred fifty dollars ($250) during the reporting year, if the expenditures and gifts are made by the lobbyist or the lobbyist's agent to benefit a specific legislative person.
        (4) A list of the general subject matter of each bill or resolution concerning which a lobbying effort was made within the registration period.
        (5) The name of each member of the general assembly from whom the lobbyist has received an affidavit required under IC 2-2.1-3-3.5.
    (b) In the second semiannual report, when total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire reporting year.
    (c) An amount reported under this section is not required to include the following:
        (1) Overhead costs.
        (2) Charges for any of the following:
            (A) Postage.
            (B) Express mail service.
            (C) Stationery.
            (D) Facsimile transmissions.
            (E) Telephone calls.
        (3) Expenditures for the personal services of clerical and other support staff persons who are not lobbyists.
        (4) Expenditures for leasing or renting an office.
        (5) Expenditures for lodging, meals, and other personal expenses of the lobbyist.
    (d) A report of an expenditure under subsection (a)(3) must state the following information:
        (1) The name of the lobbyist making the expenditure.
        (2) A description of the expenditure.
        (3) The amount of the expenditure.

**IC 2-7-3-3.5**
**Rules for reporting expenditures and gifts**

 Sec. 3.5. (a) If an expenditure for entertainment (including meals and drink) or a gift can clearly and reasonably be attributed to a particular legislative person, the expenditure must be reported with respect to that particular legislative person.
    (b) A report of an expenditure with respect to a particular legislative person:
        (1) must report actual amounts; and
        (2) may not allocate to the particular legislative person a prorated amount derived from an expense made with respect to several legislative persons;
to the extent practicable.
    (c) An activity report must report expenditures for a function or activity to which all the members of a legislative body are invited. Expenditures reported for a function or activity described in this subsection may not be allocated and reported with respect to a particular legislative person.
    (d) If two (2) or more lobbyists contribute to an expenditure, each lobbyist shall report the actual amount the lobbyist contributed to the expenditure. For purposes of reporting such an expenditure, the following apply:
        (1) For purposes of determining whether the expenditure is reportable, the total amount of the expenditure with respect to a particular legislative person must be determined and not the amount that each lobbyist contributed to that expenditure.
        (2) Each lobbyist shall report the actual amount the lobbyist contributed to the expenditure, even if that amount would not have been reportable under this section if only one (1) lobbyist made an expenditure of that amount.
    (e) The report of an expenditure with respect to a particular legislative person may not include any amount that the particular legislative person contributed to the expenditure.
    (f) An activity report may not report expenditures or gifts relating to property or services received by a legislative person if the legislative person paid for the property or services the amount that would be charged to any purchaser of the property or services in the ordinary course of business.
    (g) An activity report may not report expenditures or gifts made between close relatives unless the expenditure or gift is made in connection with a legislative action.
    (h) An activity report may not report expenditures or gifts relating to the performance of a legislative person's official duties, including the legislative person's service as a member of any of the following:
        (1) The legislative council.
        (2) The budget committee.
        (3) A standing or other committee established by the rules of the house of representatives or the senate.
        (4) A study committee established by statute or by the legislative council.
        (5) A statutory board or commission.
    (i) An activity report may not report a contribution (as defined in IC 3-5-2-15).

**Reporting Compensation Paid**

**[IC 2-7-3-3 (a)(2)(A), Section C, Line 1]**

 **Hypothetical Fact Situation.** Client (“C”) retains firm (“F”) to lobby for C during the 2012 legislative session. F assigns partner (“P”) and associate (“A”) to lobby for C. C is registered as an employer lobbyist, F is registered as both an employer lobbyist and a compensated lobbyist. P and A are both registered as compensated lobbyists. During the November 1, 2011 through April 30, 2012 reporting period, C pays a flat fee of $18,000 to F for lobbying at the rate of $3,000 per month. C does not reimburse F for lobbying related expenses. During the same reporting period, F pays P total compensation of $99,000, which includes $9,000 that F contributes to P’s vested 401-K plan, and F pays A total compensation of $67,000, which includes $7,000 that F pays for A’s fringe benefits. Based on records provided by P and A, it is determined that 3% of P’s total time was spent lobbying for C and that 5% of A’s total time was spent lobbying for C. Given this fact situation, how much should C report on Line 1 of Section C of its employer lobbyist activity report for the reporting period, and how much should F report on that same line of its compensated lobbyist activity report for services provided to C? How much, if any, should P and A report on that same line of their compensated lobbyist activity reports for services provided to F?

**Suggested Answers from Staff.**  Based on the definition of compensation set forth in IC 2-7-1-2, the Commission’s Final Advisory Opinions, and the Commission’s established practice as evidenced by the instructions in the Lobbyist Handbook, the amounts that should be reported by C, F, P, and A on Section C, Line 1 of the applicable activity reports are as follows:

* C should report the $18,000 in fees that it paid to F.
* F should report $6,320 on its compensated lobbyist activity report for services provided to C. The $6,320 equals 3% of P’s total compensation of $99,000 plus 5% of A’s total compensation of $67,000. To avoid double reporting, F should include the $6,320 in the lobbying expense reduction that it will enter on Section C, Line 11 of its compensated lobbyist activity report for services provided to C. F is not required to file an employer lobbyist activity report.
* P and A should each report $-0- because they did not pay anyone to lobby.

**Reporting Reimbursed Lobbying Expenses**

**[IC 2-7-3-3 (a)(2)(B), Section C, Line 2]**

 **Hypothetical Fact Situation.** Same fact situation as before, exceptC also agrees to reimburse F for lobbying related expenses that F incurs in lobbying for C. During the November 1, 2011 through April 30, 2012 reporting period, C pays F $2,134 to reimburse F for the following expenses: a $105 registration fee that F paid for C, $1,000 for C’s share of the costs of a function to which all members of the House Ways and Means Committee were invited, and $1,029 for C’s share of expenses incurred in entertaining individual legislators. With respect to the $1,000 for the House Ways and Means Committee, F paid for the function directly. With respect to the $1,029 in other entertainment expenses, P paid $829, A paid $200, and P and A were then reimbursed by F. Given this fact situation, how much should C report on Line 2 of Section C of its employer lobbyist activity report for the reporting period, and how much should F report on that same line of its compensated lobbyist activity report for services provided to C? How much, if any, should P and A report on that same line of their compensated lobbyist activity reports for services provided to F?

**Suggested Answers from Staff.**  Based on IC 2-7-3-3 (a)(2)(B) and the instructions in the Lobbyist Handbook, the amounts that should be reported by C, F, P, and A in Section C of the applicable activity reports are as follows:

* C should report the $2,134 in reimbursements that it paid to F on Section C, Line 2 of its employer lobbyist activity report.
* F should report the $1,029 in reimbursements that it paid to P and A on Section C, Line 2 of its compensated lobbyist activity report for services provided to C. With respect to that activity report, F also should report the $1,000 that it paid for the function to which all members of the House Ways and Means Committee were invited on Section C, Line 6, and F should report the $105 registration fee that it paid for C on Section C, Line 8. To avoid double reporting, F should include all of those amounts in the lobbying expense reduction that it will enter on Section C, Line 11. F is not required to file an employer lobbyist activity report.
* P and A should each report $-0- on Section C, Line 2 of their compensated lobbyist activity reports because they did not reimburse anyone. On P’s compensated lobbyist activity report for services provided to F, P will need to report the entertainment expenses of $829 on the appropriate lines and sections of that report, and A will need to do likewise for the $200 of entertainment expenses. To avoid double reporting, P and A should each include the amounts so reported in the lobbying expense reduction that each will enter on Section C, Line 11 of their compensated lobbyist activity reports.

**Reporting Reception Expenses**

**[IC 2-7-3-3 (a)(2)(C), Section C, Line 3]**

 **Hypothetical Fact Situation.** Same fact situation as before, exceptC decided to participate in a reception for members of the General Assembly who represent any portion of Utopia County. The total cost of the reception was $400, and C’s 1/5 share came to $80. Forty individuals attended the reception, 25 of whom were legislative persons. In the first scenario, C makes a direct payment for its share of the reception expenses. In the second scenario, F pays C’s share of the expenses, and C then reimburses F. The expenditure is not one that should be reported on Section C, Line 6 (all members function) or Section C, Line 7 (an expenditure that meets the threshold for reporting in Section E). Neither P nor A had anything to do with the expenditure. How should C, F, P, and A report this transaction?

**Suggested Answers from Staff.**  Based on IC 2-7-3-3 (a)(2)(C), applicable FAOs, and the instructions in the Lobbyist Handbook, the amounts that should be reported by C, F, P, and A in Section C of the applicable activity reports are as follows:

* **Reporting by C.** For the first scenario, C should report $50 of its total share of $80 as a lobbying expense on Section C, Line 3 [($80/40) x 25 = $50]. In the second scenario, C should include the $50 in the total reimbursements that it paid to F that C reports on Section C, Line 2.
* **Reporting by F.** For the first scenario, F has nothing to report. In the second scenario, F should include the $50 in the total amount that it reports on Section C, Line 3 of its compensated lobbyist activity report for services provided to C, and to avoid double reporting, F also should include the $50 in the lobbying expense reduction that it will enter on Section C, Line 11. F is not required to file an employer lobbyist activity report.
* P and A have nothing to report

**Reporting Entertainment Expenses**

**[IC 2-7-3-3 (a)(2)(D), Section C, Line 4]**

 **Hypothetical Fact Situation.** Same fact situation as before, exceptC decided to help host a luncheon for members of the General Assembly who helped author or sponsor legislation that C supports. The total cost of the luncheon was $260, and C’s 1/8 share came to $32.50. Thirteen (13) persons attended the luncheon, ten (10) of whom were legislative persons. In the first scenario, C makes a direct payment for its share of the reception expenses. In the second scenario, P pays C’s share of the expenses, F then reimburses P, and C then reimburses F. The expenditure is not one that should be reported on Section C, Line 6 (all members function) or Section C, Line 7 (an expenditure that meets one of the thresholds for reporting in Section E). A had nothing to do with the expenditure. How should C, F, P, and A report this transaction?

**Suggested Answers from Staff.**  Based on IC 2-7-3-3 (a)(2)(D) and the instructions in the Lobbyist Handbook, the amounts that should be reported by C, F, P, and A in Section C of the applicable activity reports are as follows:

* **Reporting by C.** For the first scenario, C should report $25.00 of its total share of $32.50 as a lobbying expense on Section C, Line 4 [($32.50/13) x 10 = $25.00]. In the second scenario, C should include the $25.00 in the total reimbursements paid to F that it reports on Section C, Line 2.
* **Reporting by F.** For the first scenario, F has nothing to report. In the second scenario, F should include the $25.00 in the total reimbursements that it reports on Section C, Line 2 of its compensated lobbyist activity report for services provided to C, and to avoid double reporting, F should include the $25.00 in the lobbying expense reduction that it will enter on Section C, Line 11. F is not required to file an employer lobbyist activity report.
* **Reporting by P.** For the first scenario, P has nothing to report. In the second scenario, P should include the $25.00 in the total entertainment expenses that P reports on Section C, Line 4 of P’s compensated lobbyist activity report for services provided to F, and to avoid double reporting, P also should include the $25.00 in the lobbying expense reduction that P enters on Section C, Line 11.
* A has nothing to report.

 **Reporting Expenses for Gifts**

**[IC 2-7-3-3 (a)(2)(E), Section C, Line 5]**

 **Hypothetical Fact Situation.** Same fact situation as before, exceptC decided to give a coffee mug with C’s logo to each member of the General Assembly who attended the reception described in the hypothetical fact situation for Section C, Line 3. A total of 25 legislative persons received a coffee mug at the reception. In the first scenario, C pays for the mugs directly. In the second scenario, F orders and pays for the mugs, and C then reimburses F for the costs of the mugs. The mugs were purchased in bulk at a discounted price of $5 per mug, which is the same price others would be required to pay to make such a bulk purchase. The expenditure is not one that should be reported on Section C, Line 6 (all members function) or Section C, Line 7 (an expenditure that meets one of the thresholds for reporting in Section E). Neither P nor A had anything to do with the expenditure. How should C, F, P, and A report this transaction?

**Suggested Answers from Staff.**  Based on IC 2-7-3-3 (a)(2)(E), FAO 98-05, and the instructions in the Lobbyist Handbook, the amounts that should be reported by C, F, P, and A in Section C of the applicable activity reports are as follows:

* **Reporting by C.** For the first scenario, C should report $125 (25 x $5) on Section C, Line 5. In the second scenario, C should include the $125 in the total reimbursements that it paid to F and that it reports on Section C, Line 2.
* **Reporting by F.** For the first scenario, F has nothing to report. In the second scenario, F should include $125 in the total amount that it reports on Section C, Line 5 of its compensated lobbyist activity report for services provided to C, and to avoid double reporting, F should include the $125 in the lobbying expense reduction that it will enter on Section C, Line 11. F is not required to file an employer lobbyist activity report.
* P and A have nothing to report

**Reporting Expenses for an All Members Function**

**[IC 2-7-3-3.5 (c), Section C, Line 6]**

 **Hypothetical Fact Situation.** Same fact situation as before, exceptC decided to host a dinner for all members of the House Education Committee. Arrangements were made to have selected menu items at a fixed cost of $60 per person, including food, beverage, tax, and tip for each person who attended the dinner. A total of 13 persons attended, 10 of whom were legislative persons. In the first scenario, C makes a direct payment to the restaurant for the total dinner expense of $780. In the second scenario, P pays for the dinner, F then reimburses P, and C then reimburses F. A had nothing to do with the expenditure. How should C, F, P, and A report this transaction?

**Suggested Answers from Staff.**  Based on IC 2-7-1-7.2, IC2-7-3-3.5 (c) and the instructions in the Lobbyist Handbook, the amounts that should be reported by C, F, P, and A in Section C of the applicable activity reports are as follows:

* **Reporting by C.** For the first scenario, C should report $600 ($60 x 10) on Section C, Line 6. In the second scenario, C should include the $600 in the total reimbursements paid to F that it reports on Section C, Line 2.
* **Reporting by F.** For the first scenario, F has nothing to report. In the second scenario, F should include the $600 in the total reimbursements that it reports on Section C, Line 2 of its compensated lobbyist activity report for services provided to C, and to avoid double reporting, F should include the $600 in the lobbying expense reduction that it will enter on Section C, Line 11. F is not required to file an employer lobbyist activity report.
* **Reporting by P.** For the first scenario, P has nothing to report. In the second scenario, P should include the $600 in the total expenses for “all member functions” that P reports on Section C, Line 6 of P’s compensated lobbyist activity report for services provided to F, and to avoid double reporting, P should include the $600 in the lobbying expense reduction that P enters on Section C, Line 11.
* A has nothing to report.

**Reporting Certain Entertainment & Gift Expenses > Thresholds**

**[IC 2-7-3-3 (a)(3), IC 2-7-3-3.5 (d), Section E and Section C, Line 7]**

 **Hypothetical Fact Situation.** Same fact situation as before, exceptC decided to help host a dinner for a member of the General Assembly, Myron Member, who was the primary author of legislation that C supported, and the member’s spouse, Mildred Member. The total cost of Myron’s dinner, including food, beverages, tax and tip, was $120, and the total cost of Mildred’s dinner was $110. C’s 1/3 share came to $40.00 for Myron and $36.67 for Mildred. In the first scenario, the cost of the dinners for both Myron and Mildred are charged to F’s account at the Utopia Club, and C and two other employer lobbyists each reimburse F for a 1/3 share of those expenditures. In the second scenario, A pays for the dinners using his credit card, F then reimburses A, and C and the other two employer lobbyists each reimburse F for a 1/3 share of those expenditures. P had nothing to do with the expenditures. How should C, F, P, and A report these transactions?

**Suggested Answers from Staff.**  Based on IC 2-7-3-3 (a)(3), IC 2-7-3-3.5 (d**)** and the instructions in the Lobbyist Handbook, the amounts that should be reported by C, F, P, and A in Sections E and C of the applicable activity reports are as follows:

* **Reporting by C.** For both the first and second scenarios, C should report its reimbursement to F in the total amount of $76.67 on Section C, Line 2.
* **Reporting by F.** For the first scenario, F should include in Section E of its compensated lobbyist activity report for services provided to C an entry of $40.00 for entertainment of Myron Member as a prorated share of a $120 expenditure, and F should include an entry of $36.67 for entertainment of Mildred Member as a prorated share of a $110 expenditure. In addition, F should include the sum of both prorated amounts, or $76.67, in the total amount it reports in Section C, Line 7. In the second scenario, F should report its reimbursement to A in the amount of $76.67 on Section C, Line 2 of its compensated lobbyist activity report for services provided to C. To avoid double reporting, F should include the amount it reports in Section C for either scenario in the lobbying expense reduction that it will enter on Section C, Line 11. F is not required to file an employer lobbyist activity report.
* **Reporting by A.** For the first scenario, A has nothing to report. In the second scenario, A should include in Section E of A’s compensated lobbyist activity report for services provided to F an entry of $40.00 for entertainment of Myron Member as a prorated share of a $120 expenditure, and A should include an entry of $36.67 for entertainment of Mildred Member as a prorated share of a $110 expenditure. In addition, A should include the sum of both prorated amounts, or $76.67, in the total amount A reports on Section C, Line 7, and to avoid double reporting, A should include the amount that A

reports on Section C, Line 7 in the lobbying expense reduction that A enters on Section C, Line 11.

* P has nothing to report.

**Reporting of Registration and Late Fees**

**[Section C, Line 8]**

 **Hypothetical Fact Situation.** In the first scenario, C makes a direct payment to the Commission for its 2012 registration fee of $100. In the second scenario, F pays for C’s registration fee, and C then reimburses F. P and A have nothing to do with the expenditure. How should C, F, P, and A report this transaction?

**Suggested Answers from Staff.**  Based on IC 2-7-3-3 and the instructions in the Lobbyist Handbook, the amounts that should be reported by C, F, P, and A in Section C of the applicable activity reports are as follows:

* **Reporting by C.** For the first scenario, C should report $100 on Section C, Line 8. In the second scenario, C should include the $100 in the total reimbursements paid to F that it reports on Section C, Line 2.
* **Reporting by F.** For the first scenario, F has nothing to report. In the second scenario, F should report the $100 on Section C, Line 8 of its compensated lobbyist activity report for services provided to C, and to avoid double reporting, F should include the $100 in the lobbying expense reduction that it will enter on Section C, Line 11 of that report. F is not required to file an employer lobbyist activity report.
* P and A have nothing to report.

**Reporting of Other Lobbying Expenses**

**[Section C, Line 9]**

 **Hypothetical Fact Situation.** In the first scenario, C makes a direct payment of $2,500 to the Indianapolis Star to run an ad encouraging members of the General Assembly to vote against a bill that C opposes. In the second scenario, F pays for the ad, and C then reimburses F. P and A have nothing to do with the expenditure. How should C, F, P, and A report this transaction?

**Suggested Answers from Staff.**  Based on IC 2-7-3-3 and the instructions in the Lobbyist Handbook, the amounts that should be reported by C, F, P, and A in Section C of the applicable activity reports are as follows:

* **Reporting by C.** For the first scenario, C should report $2,500 on Section C, Line 9. In the second scenario, C should include the $2,500 in the total reimbursements paid to F that it reports on Section C, Line 2.
* **Reporting by F.** For the first scenario, F has nothing to report. In the second scenario, F should report the $2,500 on Section C, Line 9 of its compensated lobbyist activity report for services provided to C, and to avoid double reporting, F should include the $2,500 in the lobbying expense reduction that it will enter on Section C, Line 11 of that report. F is not required to file an employer lobbyist activity report.
* P and A have nothing to report.

August 31, 2011

XXXXXXXXXXXX

XXXXXXXXXXXX

XXXXXXXXXXXX

 RE: Request for Guidance

Dear XXXXXXXXXX:

On February 15, 2010, you submitted a letter to my predecessor, Sarah L. Nagy, requesting guidance on whether the sale of a ticket by XXXXXXXXXX to a member of the Indiana General Assembly at the face value stated on the ticket is a transaction that must be reported under IC 2-7. Since being appointed as Executive Director and General Counsel of the Indiana Lobby Registration Commission, I have received numerous requests for guidance from registered lobbyist about how or whether to report the sale or gift of a ticket to a function or event to a legislative person, as defined in IC 2-7-1-8.

With respect to these issues, it is my belief that it is in everyone’s best interest to have guidance that is consistent and that is based on logical interpretations of the Indiana lobbyist statutes, IC 2-7. Thus, I have purposely elected to provide guidance that is broader than that requested by your letter and that also is relevant to questions that have been raised by other registered lobbyists with respect to transactions that involve a ticket or tickets to a function or event.

**General Guidance—Ticket to a Function or Event**

If a legislative person pays a registered lobbyist the same amount for a ticket to a function or event that would be charged to any other party to purchase the ticket in the ordinary course of business, the lobbyist is not to include the transaction on the lobbyist’s activity report.

If a registered lobbyist makes an outright gift of a ticket to a function or event to a legislative person, then the value of the gift to be reported by the lobbyist should be based on the amount that any other party would be required to pay to purchase the ticket in the ordinary course of business. However, if the ticket is for a charitable fund-raising function or event for which the charity has determined the portion of the ticket price that is a charitable donation and the portion that represents the value of the goods and services provided, then the value of the gift to be reported by the lobbyist should be based only on that portion of the ticket price that represents the value of those goods and services.

If a lobbyist sells a ticket to a function or event to a legislative person for a price that is less than the amount that any other party would be required to pay to purchase the ticket in the ordinary course of business, then the transaction should be treated as part purchase and part gift. The value of the gift element that should be reported by the lobbyist is the difference between the amount that any other party would be required to pay to purchase the ticket in the ordinary course of business and the amount actually paid by the legislative person. With respect to such a hybrid transaction, the lobbyist is not to report the amount that the legislative person paid for the ticket.

If there is a purchase price printed on the face of a ticket or a published purchase price for the ticket, there is a rebuttable presumption that the printed or published purchase price is the amount that a party would be required to pay to purchase the ticket in the ordinary course of business.

**Example A**

A registered lobbyists (“L”) charges a legislative person (“P”) the same amount for a ticket to a function or event that any other party would have been required to pay to purchase the same ticket in the ordinary course of business. L is not to include the transaction on L’s activity report for the applicable reporting period.

**Legal Rational for Example A.** IC 2-7-3-3.5 (f) provides that “An activity report **may not report** expenditures or gifts relating to property or services received by a legislative person if the legislative person paid for the property or services the amount that would be charged to any purchaser of the property or services in the ordinary course of business.” The manner in which the legislative person is afforded the opportunity to make such a purchase is not relevant. Thus, IC 2-7-3-3.5 (f) is applicable even if the legislative person is given a special opportunity to purchase a ticket.

**Example B**

A registered lobbyists (“L”) makes an outright gift to a legislative person (“P”) of a ticket to a function or event. Thus, P pays L nothing for the ticket. L is required to report the value of the gift on L’s activity report for the applicable reporting period based on the amount that any other party would be required to pay to purchase the ticket in the ordinary course of business. In addition, if the value of the gift is $50 or more, L must obtained P’s consent before making the gift, and L also is required to file a separate gift report within fifteen (15) business days after making the gift. With respect to a charitable fund-raising function or event, please see the special guidance provided in the last paragraph on page 1 of this letter.

**Legal Rational for Example B.**  IC 2-7-1-4 defines the term “Gift” to mean “the voluntary transfer of anything of value without consideration.” Under IC 2-7-3-3, a gift made by a lobbyist to a legislative person is to be reported in the lobbyist activity report for the applicable reporting period. In addition, if the value of the gift is $50 or more, then the lobbyist:

1. is required under IC 2-7-5-8 to obtained the legislative person’s consent before making the gift; and
2. the lobbyist also is required under IC 2-7-3-3.3 to file a separate gift report within fifteen (15) business days after making the gift.

**Example C**

If a registered lobbyists (“L”) sells a ticket to a function or event to a legislative person (“P”) for a price that is less than the amount that any other party would be required to pay to purchase the ticket in the ordinary course of business, then the transaction will be treated as part purchase and part gift. L is required to include as a gift on L’s activity report for the applicable reporting period the difference between the amount that any other party would be required to pay to purchase the ticket in the ordinary course of business and the amount actually paid by P. In addition, if the value of the gift is $50 or more, L must obtained P’s consent before making the gift, and L also is required to file a separate gift report within fifteen (15) business days after making the gift. L is not to report the amount that P paid for the ticket.

**Legal Rational for Example C.** With respect to the reportable gift element of the transaction, the legal rational is the same as that set forth for Exhibit B. With respect to the purchase element of the transaction, the following subsection of the lobby law, namely IC 2-7-3-3.5 (e), is pertinent:

“(e) The report of expenditure with respect to a particular legislative person may not include any amount that the particular legislative person contributed to the expenditure.”

If you have any questions concerning this guidance, please do not hesitate to call me at 232-9860.

Sincerely,

Charles W. Harris

Executive Director and General Counsel