

Recordkeeping and Reporting for 501(c)(3) Public Charities

FACTSHEET

Recordkeeping and reporting compliance is an important strategy for effective advocacy. [501\(c\)\(3\) public charities can lobby](#) and proper recordkeeping can help organizations meet their advocacy goals. Not only is tracking important to comply with IRS filing obligations, but it can also help organizations maximize their lobbying limits, obtain funding, inform strategic planning, and improve organizational management. This factsheet provides the basics on what to track and how to track it, but organizations should review [Keeping Track: A Guide to Recordkeeping for Advocacy Charities](#) for more details.

WHY RECORDKEEPING

Most public charities must file a Form 990 or 990-EZ with the IRS following the end of each fiscal year. Charities that lobby are required to file Schedule C as an attachment to the Form 990 or 990-EZ and must report their lobbying activities on Part II of that schedule. Small charities making less than \$50,000 annually are exempt from this obligation but should still keep records of their lobbying so as to not exceed their lobbying limits. Proper recordkeeping will help organizations comply with IRS filings and respond to any requests from the IRS for supporting documentation.

Recordkeeping also allows organizations to maximize their lobbying limits and avoid excess lobbying. The penalties for a public charity that exceeds its lobbying limits depend on whether the charity counts its lobbying under the [insubstantial part test](#) or has made the [501\(h\) election](#). Organizations that exceed their lobbying limits may be subject to an excise tax, and in extreme cases, risk losing their tax-exempt status. Maintaining proper records makes it easier for a charity to respond to frivolous attacks and allows for a quick response with minimal distraction to overall advocacy work.

Good recordkeeping is also a critical management tool. It can aid both the organization's board of directors in strategic planning and the organization's officers in day-to-day management of staff efforts and projects. Funders, particularly private foundations, are also more likely to give support to charities that accurately track lobbying and other activities.

WHAT TO TRACK

What activities and expenditures need to be tracked as lobbying depend on whether the organization has made the 501(h) election or measures its lobbying under the insubstantial part test. AFJ's guide [Being a Player](#) explains the choice between these two tests and provides detailed definitions for what activities qualify as lobbying under each test.

The 501(h) Expenditure Test

For charities that have made the 501(h) election, the law requires the charity to maintain records showing expenditures for [grassroots and direct lobbying](#) (including expenditures for preparation for such lobbying). The expenses that must be tracked include staff salaries and benefits; direct costs of lobbying communications (e.g., printing and postage); a portion of overhead expenses attributable to lobbying; and grants, payments, or reimbursements made to others for lobbying.

To determine how much direct and grassroots lobbying your organization can do if it makes the 501(h) election, you can use our [Lobbying Limit Calculator](#).

The Insubstantial Part Test

The lobbying limit under this test is based on activities, including unpaid [lobbying activities](#) like volunteer efforts. There is less guidance about what records must be kept under this test. However, Schedule C requires the charity report whether they used volunteers, paid staff, advertisements, published statements, or other means to lobby. They must report all expenditures for these activities in addition to providing a “detailed description” of their lobbying activities.

What Counts as Preparation?

Under the 501(h) election, you must begin measuring your lobbying when the primary purpose of your preparation or research is to engage in lobbying activity. For example, take an organization that researches and writes a safety code for electrical wiring professionals. On occasion, the organization lobbies legislators to adopt the code. If the primary purpose of developing the code was to improve public safety, this activity would not count as lobbying. Conversely, if the organization’s primary purpose in developing the code was to have it codified, the preparation costs, transportation costs, and other expenses incurred in lobbying legislators would be reportable as direct lobbying.

If your organization has not made the 501(h) election, all of the facts and circumstances are considered when determining when preparation and research is considered in support of lobbying communications. Time spent discussing public issues, formulating and agreeing upon positions, and studying them in preparation of adopting a position all count as lobbying.

You can read more in our guide [When Does Your Activity Become Lobbying](#).

HOW TO TRACK

The law does not mandate any particular recordkeeping system. The IRS just requires that an organization use a reasonable method for tracking their lobbying. Organizations should select a method that works best for their activities, resources, and reporting requirements.

In general, organizations need to track three basic types of expenditures to comply with IRS recordkeeping and reporting requirements:

- **Staff time** (time spent lobbying and preparing for lobbying);
- **Direct costs** (other than staff time) (for example, a receipt for train fare to the state capital or a bill for printing a grassroots lobbying advertisement in the newspaper); and
- **Overhead expenses** (office rent, utilities, professional fees for accounting services—any cost that is not a “direct cost” or “staff time”).

Staff Time

The centerpiece of any recordkeeping system for lobbying is the system for tracking staff time spent on lobbying. The goal in tracking staff time is to calculate the percentage of time each employee spends lobbying. The recordkeeper will also need to determine the portion of staff salary and benefits that count as lobbying expenditures.

Here are three potential options for tracking staff time, which an organization can select based on their unique needs:

1. Timesheets

Timesheets require individual employees to keep written records of how much time they spend on particular projects. For IRS purposes, all that matters is the total amount of time an employee spent on direct and grassroots lobbying (or, for charities that have not made the 501(h) election, just lobbying). See these [Example Timesheets](#) for possible options.

2. Lobbying Report Form or “Incident Report”

An [Incident Report](#) is a form staff members fill out every time they lobby. At a minimum, there should be a place to enter the amount of time the staff person spent on lobbying and the type of lobbying they engaged in (direct or grassroots) if the organization has made the 501(h) election. Depending on the preferences and needs of the organization, an incident report can be designed to provide either simple or detailed information about the contacts or the nature of the activity.

3. Questionnaire

Organizations can also track lobbying using a questionnaire that employees complete every time they engage in an activity that constitutes (or may constitute) lobbying and that the recordkeeper can use to determine whether to report the activity as lobbying. The questionnaire requires much more in-depth information than an incident report. Although more time-intensive, the key advantage of this system is that it does not require all staff to understand the definitions of lobbying. However, staff tasked with reporting lobbying to the IRS must still understand the rules to ensure compliance.

Tips for Tracking

- For 501(h) charities that conduct mixed lobbying and non-lobbying activities, count the activity in proportion to the amount of time spent on lobbying. If the primary purpose of the activity is lobbying, it may be easier to track the entire activity as lobbying provided the organization is within its lobbying limits.
- If an organization is unsure if an activity counts as lobbying, it usually is safer to treat the activity as lobbying for IRS purposes, provided the organization does not risk exceeding its lobbying limits in doing so.
- Once your organization chooses a system, be consistent and do not change the system unless there is a good reason to do so.

Direct Costs

Direct costs are goods or services purchased by an organization for lobbying. Examples of direct costs include money spent on direct lobbying flyers, the cost of transportation to a legislator's office for a lobbying meeting, and lobbying consultant fees.

Overhead Expenses

Overhead costs are general operating expenses that cannot easily be separated into lobbying and non-lobbying portions. These include rent, utilities, and anything else that is an expenditure by the organization that is not captured elsewhere as lobbying. One straightforward method of measuring overhead costs is to apply the percentage of the organization's aggregate staff time spent on lobbying activity against the overhead cost calculations. If your organization has administrative staff, it may be easier to track their time as a portion of overhead costs rather than sorting it into lobbying and non-lobbying.

ADDITIONAL RESOURCES

For more information on recordkeeping, see our detailed guide [Keeping Track](#). You can also contact AFJ's free Technical Assistance Hotline by [clicking here](#) or emailing advocacy@afj.org.

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