



# ETHICS COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

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**Date:** May 23, 2019

**To:** Members of the Ethics Commission

**From:** Pat Ford, Senior Policy Analyst

**Re:** **AGENDA ITEM 5 – Discussion and Possible Action on Proposed Amendments to Regulations Related to Article I (Chapter I) and Article III (Chapters III and VI) of the Campaign and Governmental Conduct Code**

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**Summary:** This memo presents a proposed set of amendments to the regulations supporting the Campaign and Governmental Conduct Code (Attachment 1).

**Action Requested:** That the Commission discuss and approve the proposed amendments.

Attached to this memorandum as Attachment 1 is a set of proposed amendments to the regulations supporting three chapters of the Campaign and Governmental Conduct Code. Section I provides background on the regulation amendments. Section II contains charts summarizing the amendments. Section III notes public comments received by Staff that are not reflected in the proposed amendments.

### I. Background

At its April 18, 2018 Special Meeting, the Commission approved the Anti-Corruption and Accountability Ordinance (ACAO), a comprehensive ethics ordinance developed in partnership with community stakeholders and members of the Board of Supervisors. The Board and Mayor subsequently approved the ACAO on May 22<sup>nd</sup> and May 30<sup>th</sup>, respectively. Certain of the ordinance's provisions became operative in June 2018 and the remainder became operative on January 1, 2019.

In implementing the provisions of the ACAO, Staff has encountered several areas in which the development of regulations would improve the provisions' clarity and help the regulated community better understand and comply with the new laws. Over the past year since the ACAO was approved, Staff has catalogued the provisions that it believes most warrant accompanying regulations.

Simultaneously, Staff has also identified areas of the Campaign Finance Reform Ordinance (CFRO) not affected by the ACAO that nonetheless could benefit from regulatory clarification, such as codifying informal advice for improved transparency about the interpretation of the law. Those proposed amended regulations are included in this set of amendments.

Staff also catalogued other ways to update and correct CFRO regulations that no longer match the Code. In some cases, the regulations still reflect old provisions of CFRO that have changed.

In other cases, the underlying code section was removed from the Code entirely. Additionally, the amendments would update the regulations to reflect the current names of forms, as those change periodically as they are converted to electronic filing forms. These amendments are non-substantive and merely bring the regulations into line with the Code and current filing practices.

To implement the ACAO, clarify existing provisions of CFRO, and bring the regulations into alignment with CFRO, Staff developed the set of regulation amendments attached here as Attachment 1. After presenting the proposed amendments at the Commission’s April 12<sup>th</sup> meeting for discussion purposes, Staff has subsequently received public comment on the amendments and has made several revisions. Public notice announcing the potential regulation amendments was published on May 16<sup>th</sup>. This satisfies the ten-day notice requirement for proposed regulations contained in Charter section 4.104. The Commission is therefore able to approve the amendments at the present meeting.

Attachment 1 orders the changes by regulation number, which mirrors the number of the Code section to which each regulation is tied. Most of the regulation amendments would affect the CFRO regulations. Some of the amendments pertain to conflict-of-interest regulations to clarify the provisions of the ACAO that affected Article III of the Code.

## II. Summary of Regulation Amendments

Section II of this memorandum summarizes the amendments by topic: (A) ACAO implementing regulations; (B) general clarifying and interpreting regulations; and (C) non-substantive updates to regulations. Amendments that have been added or revised in response to public comment since the April meeting are indicated with an asterisk.

### A. ACAO Implementing Regulations

Table II.A below lists regulations that would be created or amended by Attachment 1 to clarify provisions of the Code that were created or amended by the ACAO.

**Table II.A – ACAO Implementing Regulations**

Number	Type	Purpose
1.114.5-1	New	Clarify the filing requirements of section 1.114.5(b), which requires additional disclosures for payments to certain political committees made at the behest of City officers
1.114.5-2*	New	Set deadline for filing the Form SFEC-1.114.5b at fourteen days following receipt of contribution.  *The revision responds to public comment that the proposed deadline, at the time of the payment, would not allow committees to notify contributors of the 1.114.5(b) filing requirement via the major donor notice. A fourteen-day deadline would allow for this.
1.114.5-3*	New	Establish Form SFEC-1.114.5b and clarify meaning of “campaign statement.”

		<p>*One revision would no longer make the form due upon subsequent contributions (i.e. it would only be filed once). This responds to public comment that subsequent filings would not yield enough information to justify the burden on filers. Another revision would create a safe harbor for committees who undertake reasonable efforts to discover whether a contribution was made at the behest of a City elective officer but nonetheless do not receive notice of that fact.</p>
1.124*	New	<p>Clarify the filing requirements of section 1.124, which requires additional disclosures for contributions made to political committees by business entities</p> <p>*One revision improves the language defining “election cycle.” This responds to public comment that the definition was confusing. Another revision clarifies the form does not need to be filed if the business entity makes additional contributions. This responds to public comment that subsequent filings would not yield enough information to justify the burden on filers.</p>
1.125*	New	<p>Clarify the filing requirements of section 1.125, which requires disclosure of bundling of campaign contributions.</p> <p>*The revision clarifies that paid fundraisers are not bundlers for purposes of this disclosure requirement. This responds to public comment that the language was not clear as to paid fundraisers.</p>
1.126-1– 1.126-5	Update	To match section 1.126 as amended by the ACAO (section 1.126 prohibits contributions from City contractors and their affiliates to certain City officers and candidates)
1.126-8	New	Clarify the notice requirement of section 1.126(f)(2), which requires departments to notify the Commission upon the receipt of certain contract proposals
1.135-2	New	Clarify the required contents of the new third prelection statement and the subsequent semi-annual statement
3.209-1	New	Clarify the new recusal notification requirement contained in section 3.209
3.610-1 3.620-1 3.630-1	New	Clarify the behested payment disclosures required under sections 3.600 <i>et seq.</i>

**B. General Clarifying and Interpreting Regulations**

Table II.B lists regulations that would be created or amended by Attachment 1 to generally clarify and interpret various provisions of the Code.

**Table II.B – Miscellaneous/General Clarifying & Interpreting Regulations**

Number	Type	Purpose
1.104-1 1.104-2	Update	Clarify the effect of committee redesignation on qualification for public financing
1.112-3; 3.201-1	Update	Clarify that the Commission can require that any form required to be filed with the Commission be filed in an electronic format
1.114-2	Update	Clarify that the contribution limit applies both before and after the election
1.142-5	Update	Clarify that the nomination deadline, with which the deadline for filing the Statement of Participation is aligned, can be delayed pursuant to state law
3.216-1*	New	Clarify that the Gifts of Travel Notification must be filed in electronic format.  *The revision clarifies that payments by a candidate committee do not trigger reporting. This responds to public comment that the law is unclear on this point.

**C. Non-Substantive Updates**

Table II.C lists regulations that would be amended or deleted by Attachment 1 to align the regulations with CFRO.

**Table II.C – CFRO Alignment Regulations**

Number	Type	Purpose
1.104-4; 1.104-5; 1.162	Update	Remove all references to the no longer used “Third Party Spending Form”
1.104-6; 1.140-2; 1.143-1; 1.143-2	Update	Update all references to initial Individual Expenditure Ceiling, or “IEC” levels, which were changed by ordinance in 2012

1.113-1; 1.113-5	Update	Delete references to provisions of state law that were repealed in 2015 <sup>1</sup> and replace with current filing obligations
1.114-2	Delete	Delete regulation 1.114-2 because the underlying Code section was removed from the Code in 2015 <sup>2</sup>
1.118-1	Update	Delete reference to 2007 election
1.142-6	Update	Update regulation references and remove non-filing notice
1.152-1; 1.152-2	Update	Update all reference to Forms SFEC 152(a)-1, SFEC-152(a)-2, SFEC-152(b)-1, or SFEC-152(b)-2, which were consolidated in to a single form. Conform threshold report requirement to correct dollar trigger.
1.152(a)-2; 1.152(b)-2	Delete	Delete regulations 1.152(a)-2 and 1.152(b)-2 because the underlying Code sections were removed from the Code in 2015 <sup>3</sup>
1.161-1	Update	Align code section references with proper sections.
1.161(b)-1	Delete	Delete regulation 1.161(b)(1) because the underlying Code section was removed from the Code in 2015 <sup>4</sup>
1.161.5-1	Update	Change the number of regulation 1.161.5-1 to 1.162 because the section number of the underlying Code section was changed in 2015 <sup>5</sup>

### III. Public Comment

Following the April meeting, Staff received public comment about the proposed regulation amendments. Staff incorporated many of these comments in the current version of the amendments, as noted in Section II above. Staff declined to incorporate other proposals, as described below.

- Retained “sponsored or controlled committees” as part of the definition of *affiliate* in Regulation 1.126-1
  - Regulation 1.126-1(e) states that affiliates of a City contractor include the contractor’s sponsored or controlled committees. This is not a new feature of the regulation. Staff received public comment requesting that sponsored or controlled committees be removed from the definition of *affiliate*. The basis for the comment was that sponsored or controlled committees were included in Code section 1.126’s definition of *person who contracts with* (a defined term that existed prior to the enactment of the Anti-

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<sup>1</sup> Assemb. B. 594, 2015 Cal. Assemb., Reg. Sess. (Cal. 2015).

<sup>2</sup> San Francisco, Cal., Ordinance 102-15 (Jul. 25, 2015), *available at* <https://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances15/o0102-15.pdf>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

Corruption and Accountability Ordinance, or ACAO) but is not included in the definition of *affiliate* that was created by the ACAO and replaced *person who contracts with*.

- Staff finds that considering sponsored or controlled committees to be affiliates of a City contractor is necessary to carry out the purpose of section 1.126. Additionally, the ACAO's change in defined terms does not indicate a legislative intent to exempt sponsored or controlled committees from section 1.126.
  - If sponsored or controlled committees are not considered to be affiliates of a City contractor, then a City contractor that is prohibited from making a contribution could always make a contribution through its sponsored PAC, as long as a different person or set of people within the company controlled the PAC.<sup>6</sup> Organizations' PACs are often controlled by a subcommittee within the organization that includes people other than the organization's directors and officers. This means that, under general aggregation principles, the PAC's contributions would not be aggregated with the parent organization and could be used to circumvent section 1.126.
  - The ACAO changed the defined terms in section 1.126, but Staff does not find that the legislative intent of these changes was to exempt sponsored or controlled committees. That topic was not discussed in the Commission's agenda materials. Although the term *sponsored or controlled committee* does not appear in section 1.126, the Commission may retain it in regulation 1.126-1.
- Declined to create safe harbor provisions for sections 1.124 and 1.125.
  - Section 1.124 requires committees receiving certain contributions from business entities to disclose an officer of the entity and contracts or grants the entity has with the City. Section 1.125 requires candidate committees to disclose when they receive contributions through a bundler. Staff received public comment requesting that safe harbor provisions be created for these disclosure requirements such that committees that fail to make the disclosures would be shielded from liability if they reasonably tried to comply with the requirements.
  - Staff declined to include such safe harbor provisions because doing so would fundamentally undermine these disclosure requirements. Code sections 1.124 and 1.125 place the disclosure requirements solely on the committees receiving the contributions. Unlike section 1.114.5, which also requires the person making the contribution to notify the committee as to whether disclosure is required, sections 1.124 and 1.125 do not require the person making the contribution to provide any kind

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<sup>6</sup> Under general aggregation principles, contributions of two entities are aggregated if they are directed and controlled by a majority of the same persons. Campaign & Gov. Conduct Code § 1.114(e)(2). However, if different people direct and control the two entities, even if one of the entities is sponsored by the other, then there is no aggregation under section 1.114(e)(2).

of information to the committee. Staff created a safe harbor provision for section 1.114.5 because the contributor is legally required to provide the information needed for the disclosure to the committee. This allows for the creation of a safe harbor because, if the committee tries to obtain the requisite information from the contributor but cannot, then the contributor will have committed a violation; there is thus no policy harm associated with relieving the committee from liability in such case. But in the cases of sections 1.124 and 1.125, the statute places the disclosure burden solely on the recipient committee, making a safe harbor provision based on the uncooperativeness of the contributor inappropriate.

- Retained the regulations requiring the use of new forms.
  - The ACAO created new disclosure requirements in sections 1.114.5(b), 1.124, and 1.125. The proposed regulations specify that to comply with these requirements, filers must use the forms SFEC-114.5b, SFEC-124, and SFEC-125, respectively. Staff is in the process of creating these new forms to enable filers to make the new disclosures. Staff received public comment requesting that the new forms not be created and that the new disclosures instead be incorporated into the NetFile electronic filing system without the creation of new forms.
  - Staff declined to remove the new forms from the regulations and plans to continue with the development of the new forms. It is not technologically feasible to implement the new disclosure requirements through NetFile in a way that does not involve the creation of new forms. Some public comment suggested that the “public note” feature of the Form 460 could be used to satisfy the disclosure requirements. The public note is a blank box that appears on the Form 460 that filers use to include notations about their filings. It is not an appropriate place to disclose the information required by sections 1.114.5(b), 1.124, and 1.125. For one, the public note is a single, empty space, meaning that and text inserted is a single, unstructured entry. This would make it impossible for the Commission’s electronic disclosure system to identify whether the text pertained to section 1.114.5(b), 1.124, or 1.125. It would thus make it impossible for the public to search the disclosures made pursuant to those code sections unless they manually reviewed each separate Form 460 filed with the Commission. This would frustrate the purpose of these disclosure requirements, which are intended to provide the public with greater information about the sources of committees’ contributions.

Staff invites any questions or comments regarding the attached proposed regulation amendments. If the Commission approves the regulations, the regulations will be transmitted to the Board of Supervisors, where they will remain on hold for sixty days to give members of the Board the opportunity to request a hearing.

# ATTACHMENT 1



**Regulations to Campaign Finance Reform Ordinance San Francisco Campaign and Governmental Conduct Code Section 1.100 et seq**

**Regulation 1.104-1: Definition of Matching Contribution; Documents Sufficient to Establish Contributor's Residency.**

(a) "Matching contribution" shall not include a contribution made to a candidate to support the candidate's election to a different office, or to support the candidate's election to the same office in a different election year, where the contribution was unexpended and carried forward as a contribution to a new campaign. If a candidate redesignates the candidate's controlled committee to run for the same office in a different election that is earlier in time than the election for the which the committee was previously designated, a contribution received by the committee prior to the redesignation may be a matching contribution if it was received no more than eighteen months before the election for which the committee was redesignated.

(b) "Matching contribution" shall not include a contribution made by a business entity. For the purposes of this regulation, "business entity" includes sole proprietorships.

(c) Refer to Regulation 1.142-3(b) for a list of the documents sufficient to establish a contributor's residency in San Francisco.

**Regulation 1.104-2: Definition of Qualifying Contribution; Documents Sufficient to Establish Contributor's Residency; Adjustment of Maximum Qualifying Contribution.**

(a) "Qualifying contribution" shall not mean a contribution made to a candidate to support the candidate's election to a different office, or to support the candidate's election to the same office in a different election year, where the contribution was unexpended and carried forward as a contribution to a new campaign. If a candidate redesignates the candidate's controlled committee to run for the same office in a different election that is earlier in time than the election for the which the committee was previously designated, a contribution received by the committee prior to the redesignation may be a qualifying contribution if it was received between eighteen months and seventy days before the election for which the committee was redesignated.

(b) "Qualifying contribution" shall not include a contribution made by a business entity. For the purposes of this regulation, "business entity" includes sole proprietorships.

(c) Refer to Regulation 1.142-3(b) for a list of the documents sufficient to establish a contributor's residency in San Francisco.

(d) When the Ethics Commission adjusts the maximum amount of a contribution that constitutes a qualifying contribution for candidates under section 1.104 to reflect changes in the California Consumer Price Index ("CPI"), such adjustments shall be rounded off to the nearest \$10. The adjustments shall be made using the following formula: the maximum qualifying contribution amount in effect on January 1, 2007, multiplied by the current CPI, divided by the base CPI from 2006, rounded to the nearest ten dollars (\$10). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar year immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the maximum qualifying contribution amount in effect for all applicable elections held until the Commission next adjusts the amount.

#### **Regulation 1.104-4: Determination of Total Opposition Spending.**

(a) To determine the total opposition spending against a candidate who has been certified eligible to receive public funding, the Executive Director shall add any amounts reported on ~~Third Party Spending Form~~ filed forms 496, SFEC-162, and SFEC-163s that the Executive Director and/or Ethics Commission has determined, pursuant to section 1.143, are intended to oppose the candidate. The Executive Director may also consider, in his or her discretion, any other relevant information available to the Ethics Commission that reflect additional, unreported third-party spending.

(b) Total opposition spending does not include spending by a candidate to support himself or herself or to oppose his or her opponents in the same election.

#### **Regulation 1.104-5: Determination of Total Supportive Funds.**

(a) To determine the total supportive funds of a candidate for the Board of Supervisors or Mayor, the Executive Director shall use the aggregate amount of contributions that the candidate reports on Forms SFEC-152(a)-1 and SFEC-152(a)-2. The Executive Director shall then add to this any amounts that reported on ~~filed forms 496, SFEC-162, and SFEC-163~~ Third Party Spending Forms that the Executive Director and/or the Ethics Commission has determined, under section 1.143, are intended to support the candidate. The Executive Director may also consider, in his or her discretion, any other relevant information available to the Ethics Commission that reflect additional, unreported third-party spending.

(b) Spending intended to oppose one candidate does not constitute supportive spending for the candidate's opponents

#### **~~Regulation 1.104-6: Trust Account Limit.~~**

~~Unless the Ethics Commission has increased his or her individual expenditure ceiling, the trust account limit of any candidate who is certified as eligible to receive public funds may not exceed \$143,000 for a candidate for the Board of Supervisors or \$1,475,000 for a candidate for Mayor.~~

~~Example: Joan, a candidate for the Board of Supervisors, has been certified as eligible to receive public funds from the Election Campaign Fund. Joan's individual expenditure ceiling begins at \$143,000. Joan spends \$30,000. Joan's trust account limit is now \$113,000.~~

~~Example: Joan's individual expenditure ceiling has been raised to \$153,000. Joan has spent a total of \$45,000. Joan's trust account limit is now \$108,000.~~

~~Example: John, a candidate for Mayor, has been certified eligible to receive public funds from the Election Campaign Fund. John's individual expenditure ceiling begins at \$1,475,000. John spends \$30,000. His trust account limit is now \$1,445,000.~~

~~Example: John's individual expenditure ceiling has been raised to \$1,575,000. John has spent an additional \$170,000, for a total of \$200,000. His trust account limit is now \$1,375,000.~~

#### **~~Regulation 1.108-2: Campaign Contingency Accounts for Candidates.~~**

~~(a) The campaign contingency account must be established at the same bank as the candidate's campaign contribution trust account and may be an interest bearing savings account. The candidate~~

must file Form SFEC 108 with the Ethics Commission to provide the account number within 10 days of establishing the campaign contingency account.

(b) Within 10 days after the date of the election, each candidate must turn over all funds in his or her campaign contingency account to the Election Campaign Fund so that the balance in the candidate's campaign contingency account is zero. To turn funds over to the Election Campaign Fund, each candidate must submit a money order, cashier's check, or similar written instrument drafted by a financial institution for the amount of funds in the campaign contingency account, made payable to the City and County of San Francisco, and deliver the money order or cashier's check to the Ethics Commission no later than the 10th day after the date of the election. Any fee paid to generate the money order or cashier's check may be subtracted from the amount being turned over. Each candidate must also file a Form SFEC 108 with the Ethics Commission to state that the amount being turned over is accurate.

**~~Regulation 1.108-3: Immediate Transfer of Funds to Campaign Contingency Account.~~**

~~Any contributions that would otherwise cause the amount of funds in a candidate's campaign contribution trust account to exceed the trust account limit do not result in a violation of section 1.108 if the candidate's committee immediately transfers excess contributions to the candidate's campaign contingency account within two business days of depositing those contributions.~~

**Regulation 1.112-3: Electronic Filing**

The Ethics Commission may require that any filing required to be made by a committee with the Ethics Commission under Article I, Chapter 1 of the Campaign and Governmental Conduct Code be filed with the Ethics Commission in an electronic format in a form to be prescribed by the Ethics Commission.

**Regulation 1.113-1: Disclosure Requirements During Signature Gathering Periods – Definition of Committee.**

For the purposes of filing disclosure reports under section 1.113, a "committee" is

- (a) a committee primarily formed pursuant to California Government Code section 82047.5 to support or oppose the qualification of a measure to be voted on in a City and County of San Francisco election; or
- (b) a recipient committee that is a proponent of an initiative petition, a recall petition or a referendum petition in the City and County of San Francisco; or
- (c) a committee that makes independent expenditures totaling \$1,000 or more in a calendar year, ~~or an amount specified in California Government Code section 84203.5,~~ to support or oppose the qualification of a measure to be voted on in a City and County of San Francisco election and that is either a general purpose recipient committee pursuant to subsection (a) of California Government Code section 82013 or an independent expenditure committee pursuant to subsection (b) of California Government Code section ~~82103~~82013.

**Regulation 1.113-5: Disclosure Requirements During Signature Gathering Periods—Forms Required to be Filed.**

(a) To comply with the filing requirements of section 1.113, a committee primarily formed to support or oppose the qualification of a measure on the ballot or a recipient committee that is the proponent of such a measure ~~must~~ shall use the FPPC Fair Political Practices Commission (“FPPC”) Form 460. Any general purpose recipient or independent expenditure committee that meets the requirements of California Government Code section 84203.5 must use FPPC Form 465.

(b) To comply with the filing requirements of section 1.113, a general purpose committee that also qualifies as a recipient committee shall use the FPPC Form 460.

(c) To comply with the filing requirements of section 1.113, an independent expenditure committee that does not qualify as a recipient committee shall use the FPPC Form 461.

**~~Regulation 1.114-2: Limits on Contributions to Committees.~~**

~~[Note: On September 20, 2007, the U.S. District Court for the Northern District of California issued a preliminary injunction ordering the City not to enforce CFRO section 1.114(c)(1)-(2) and Regulation 1.114-2. At this time, the Ethics Commission is not enforcing this regulation.]~~

~~(a) Limits on Contributions to Committees.~~

~~(1) Contribution Limits. Committees that make expenditures to support or oppose candidates for City elective office are subject to the contribution limits established by section 1.114(c) of the San Francisco Campaign and Governmental Conduct Code.~~

~~(2) Exception. A committee may solicit and accept contributions in excess of the limits established by section 1.114(c) if the committee makes expenditures for any lawful purpose other than supporting or opposing candidates for City elective office, provided that funds received from contributions in excess of the limits set forth in section 1.114(c) are used only for lawful purposes other than supporting or opposing candidates for City elective office.~~

~~(b) Compliance Methods.~~

~~Demonstration of compliance with the contribution limits established by section 1.114(c) may be accomplished using any of the methods described below.~~

~~(1) Establish a separate committee. A separate committee may be established for the purpose of raising funds to make expenditures to support or oppose candidates for City elective office. Such a committee may not solicit or accept contributions in excess of the limits established by section 1.114(c).~~

~~(2) Use of a separate bank account. A committee may segregate funds used for expenditures to support or oppose candidates for City elective office into a separate bank account. All expenditures to support or oppose candidates for City elective office must be made with funds from this account. A committee may not deposit into this account any contributions that were solicited or accepted in excess of the limitations established by section 1.114(c).~~

~~(3) Use of “first in, first out” accounting method. A committee may demonstrate, using a first in, first out accounting method, that it has received an amount of contributions at or below the limits established by section 1.114(c) equal to the amount of expenditures to support or oppose candidates for City elective office. Such committees may attribute only the first \$500 of a contribution received in excess of the~~

limits established by section 1.114(c), and may not attribute funds from a contributor who has already reached his or her cumulative limit set forth in section 1.114(c). In accordance with subsection (a)(2) of this regulation, a committee may not pay for an expense, bill or debt incurred to support or oppose candidates for City elective office with funds received in excess of the limits, and then attribute subsequently raised contributions of \$500 or less to such expenses, bills or debts incurred.

(4) Use of any other method. A committee may demonstrate compliance with the contribution limits set forth in section 1.114(c) by using a method that is not described above. A committee shall bear the burden of proof that any such method demonstrates compliance with the contribution limits set forth in section 1.114(c).

At the time that the committee files a Form 465 to report expenditures to support or oppose candidates for City elective office, it must file Form SFEC 114 to identify the method that it will use to show compliance with section 1.114(c). Once filed, the Form SFEC 114 need not be filed again.

(c) Safe Harbors.

(1) Committees. A committee that solicits or accepts a contribution which, when aggregated with contributions the same contributor has given to other committees that support or oppose candidates for City elective office, would otherwise constitute a violation of section 1.114(c), shall not be in violation of that section, provided that:

(A) the committee did not know or have reason to know at the time the contribution was solicited or accepted that the contribution was in excess of the limits set forth in section 1.114(c);

(B) the committee provided, within two weeks of the later of either receiving the contribution or attributing the contribution to an expenditure to support or oppose a candidate for City elective office, notice to the contributor of the amount of his or her contribution that was used to support or oppose a candidate for City elective office; and

(C) the committee either returns or reattributes the contribution within 72 hours of receiving notification from the contributor that the contributor has already reached his or her cumulative limit set forth in section 1.114(c).

The notice described in this subsection shall contain the following or substantially similar language:

"San Francisco law prohibits contributors from giving a cumulative amount of more than \$3,000 in a calendar year to committees that support or oppose candidates for City elective office in San Francisco. We have used [or will use] [amount of contribution attributed] of your contribution to [name of committee] to support [or oppose] a candidate for City elective office in San Francisco. Please apply this amount towards your \$3,000 cumulative limit for the [year in which the contribution was received, e.g., 2002] calendar year. In order to avoid any possible liability, please notify us within two weeks of receipt of this letter if you have already reached your \$3,000 cumulative limit for the [year in which the contribution was received, e.g., 2002] calendar year."

Treasurers shall maintain a record of all notices sent pursuant to this section, containing the date of each notice and the name and address of the person to whom each notice is sent.

(2) Contributors. A contributor who makes a contribution which, when aggregated with other contributions the same contributor has donated to committees that make expenditures to support or oppose candidates for City elective office, would otherwise be in violation of section 1.114(c), shall not be in violation of that section, provided that: (A) the contributor did not know or have reason to know at the time the contribution was made that the contribution was in excess of the contribution limits set

forth in section 1.114(c); and (B) the contributor informs a committee that the contributor has already reached his or her cumulative limit within two weeks of receiving a notification from the committee that his or her contribution will be or was used for an expenditure to support or oppose a candidate for City elective office.

(d) Campaign funds held in the bank account of a committee prior to January 1, 2001.

(1) Funds that were held in the bank account of a committee prior to January 1, 2001 are not subject to the contribution limitations established by section 1.114(c) of the San Francisco Campaign and Governmental Conduct Code.

(2) To determine whether a committee has funds that were held in its bank account prior to January 1, 2001, the committee shall subtract from the amount of funds it held in its bank account on December 31, 2000, the amount of the committee's accrued expenses that existed on December 31, 2000 and the amount of money it has spent since January 1, 2001 on expenditures. Expenditures to pay for accrued expenses that existed on December 31, 2000 shall not be included in the amount of money spent since January 1, 2001. Any funds remaining may be used for expenditures to support or oppose candidates for City elective office.

(e) Definitions.

(1) For the purposes of section 1.114(c) and this regulation, the term "expenditure" has the same meaning as in California Government Code section 82025. This includes but is not limited to: a direct monetary contribution or loan made to a candidate for City elective office; a payment made to a vendor for goods or services for a candidate for City elective office (a nonmonetary contribution); a donation to a candidate for City elective office of goods on hand, or the payment of salary or expenses for a campaign employee who spends 10 percent or more of his or her compensated time in any one month working for a candidate for City elective office; or a payment made for a communication (e.g., a mailing, billboard, or radio advertisement) that expressly advocates the election or defeat of a clearly identified candidate for City elective office, but the payment is not made to, in coordination or cooperation with, or at the behest of, the candidate or his or her agent (an independent expenditure).

(2) For the purposes of this regulation, the phrase "first in, first out" means that campaign funds being used by a committee for expenditures to support or oppose a candidate for City elective office are attributed to contributors in chronological order beginning with the earliest of the committee's contributors on or after January 1, 2001 or, if there has been a prior expenditure to support or oppose a candidate for City elective office, beginning with the earliest contributor for which unattributed contributions remain.

#### **Regulation 1.114-2: Limits on Contributions to Candidates**

The contribution limit established by section 1.114(a) applies both before and after the election, including during such time that the candidate may use the committee for officeholder expenses. The contribution limit established by section 1.114(a) applies to a candidate committee unless and until the committee is redesignated on the committee's Statement of Organization to support the candidate in a different election.

**Regulation 1.114.5-1: Payments to Ballot Measure Committees and Independent Expenditure Committees Made at the Behest of a City Elective Officer – Ballot Measure Committees and Committees Making Independent Expenditures**

For purposes of section 1.114.5(b), a “ballot measure committee” is a committee primarily formed to support or oppose one or more measures. For purposes of section 1.114.5(b), a “committee making independent expenditures” is a committee that, within the twelve month period preceding the date of the contribution, spent \$1,000 or more on independent expenditures in support of or opposition to any candidate or measure.

**Regulation 1.114.5-2: Payments to Ballot Measure Committees and Independent Expenditure Committees Made at the Behest of a City Elective Officer – Disclosure by Contributor**

The disclosure required by section 1.114.5(b)(1) must be made by the contributor no later than fourteen days following the date the contribution was made or the end of the semiannual or preelection reporting period during which the contribution was made, whichever is earlier.

**Regulation 1.114.5-3: Payments to Ballot Measure Committees and Independent Expenditure Committees Made at the Behest of a City Elective Officer – Disclosure by Committee**

(a) The disclosure required by section 1.114.5(b)(2) shall be made by filing the Form SFEC-1114.5b with the Ethics Commission.

(b) For purposes of section 1.114.5(b)(2), “campaign statements” shall mean semiannual and preelection statements as required under California Government Code section 84200 *et seq.* or Campaign and Governmental Conduct Code section 1.135.

(c) If a committee receives a contribution subject to disclosure under Section 1.114.5(b)(2) but does not receive the notice from the contributor required under Section 1.114.5(b)(1) despite the committee’s reasonable efforts to obtain it, the Executive Director shall not make a finding of probable cause against the committee for a violation of 1.114.5(b)(2).

**Regulation 1.118-1: Payment of Accrued Expenses.**

~~(a)~~ A candidate committee has not violated section 1.118 for any calendar day on which an accrued expense remains partially or wholly unpaid if (1) the committee has been terminated pursuant to 2 C.C.R. section 18404 on or before that calendar day, or (2) the creditor has forgiven the debt as permitted by law on or before that calendar day. Notwithstanding the foregoing, any amount in excess of \$500 that remains unpaid at the time of termination or that has been forgiven by the creditor as permitted by law shall constitute a violation of section 1.114(a). Such an expense shall not be deemed a violation of section 1.114(a) by the creditor unless it is otherwise deemed a contribution under law.

~~(b) Section 1.118 applies to expenses that were accrued by a candidate committee on or after January 1, 2007.~~

**Regulation 1.124-1: Additional Disclosure Requirements for Contributions Made by Business Entities – Election Cycle**

(a) For purposes of section 1.124, “election cycle” shall mean:

(1) if the committee receiving the contribution(s) is a primarily formed committee, the period of time during which the committee is designated on its statement of organization to support or oppose a candidate or measure; or

(2) if the committee receiving the contribution or contributions is a general purpose committee, the period of time beginning January 1<sup>st</sup> of the year immediately following one election and ending on December 31<sup>st</sup> of the year during which the next election occurs.

(b) The disclosure required by section 1.124 shall be made by filing the Form SFEC-124 with the Ethics Commission.

(c) If a committee has filed a Form SFEC-124 after receiving \$10,000 or more in contributions from a business entity during a single election cycle and, during the same election cycle, receives an additional contribution from the same business entity, the committee is not required to file an additional Form SFEC-124 for any additional contribution(s).

**Regulation 1.125-1: Additional Disclosure Requirements for Bundled Contributions**

(a) The disclosure required by section 1.125(b) shall be made by filing the Form SFEC-125 with the Ethics Commission.

(b) To fulfill the disclosure requirement contained in section 1.125(b), a committee must disclose all contributions that were bundled by a single individual that, in the aggregate, total \$5,000 or more. This includes any bundled contributions received after a committee has already reported contributions bundled by the same individual on the Form SFEC-1.125.

(c) For purposes of section 1.125, “campaign consultant” shall have the meaning set forth in section 1.505, except that the term shall include any individual who receives or is promised economic consideration equaling \$1,000 or more in a calendar year by a candidate committee for fundraising services.

**Regulation 1.126-1: Contribution ~~Prohibition~~ Limits – Contractors Doing Business with the City: Definitions.**

(a) Board on which an individual sits.

“Board on which an individual sits” means the board to which the officer was elected and any other board on which the elected officer serves.

(b) ~~Commencement of Negotiations~~ Proposal.

“Proposal” means a response to a request for proposals issued by the City, a response to a request for qualifications issued by the City, or a bid, quotation, or other offer submitted in response to an



advertisement or solicitation for bids issued by the City.

~~Negotiations commence when a prospective contractor first communicates about the possibility of obtaining a specific contract with an officer or employee of the City, the San Francisco Unified School District, the San Francisco Community College District, or a state agency on whose board an appointee of a City elective officer sits. Either the prospective contractor or the officer or employee may initiate the communication, and this initial communication may occur in person, by telephone, or in writing.~~

~~Examples of communications between prospective contractors and officers and employees that commence negotiations include, but are not limited to, the following: a prospective contractor contacts an officer or employee to promote himself or herself for a specific contract; an officer or employee contacts a prospective contractor to propose that the contractor apply for a specific contract; a prospective contractor submits a bid, proposal or response to a Request for Proposals or Request for Qualifications to compete or be eligible for a specific contract.~~

~~Examples of communications between prospective contractors and officers and employees that do not commence negotiations include, but are not limited to, the following: inquiries regarding a particular contract, and requests for information or documents relating to a Request for Proposal or Request for Qualifications, provided that the inquiry or request does not involve promotion of the prospective contractor's interest in a specific contract; distribution or receipt of Requests for Proposals or of Requests for Qualifications; attendance at an interested persons meeting or a hearing that is open to the public where the prospective contractor does not promote himself or herself for a specific contract; and requests to be placed on a mailing list regarding contracting opportunities.~~

(c) Contract.

For the purposes of section 1.126, a contract does not include the following:

- (1) a work order or purchase order submitted under an existing contract; or
- (2) a modification of an existing contract where the majority of the terms of the contract remain in full force and effect and the total amount of the modification does not exceed \$5100,000 in a fiscal year.

(d) Date the Contract Is Approved.

A contract is approved when it is finalized and signed by the City, a state agency on whose board an appointee of a City elective officer sits, the San Francisco Unified School District or the San Francisco Community College District and the contractor.

(e) ~~Person who Contracts With~~Affiliate.

- (1) ~~For the purposes of section 1.126, an "person who contracts with affiliate" includes any named party or prospective named party to a contract, as well as any member of that named party or prospective named party's~~any member of the board of directors of a named party or prospective named party to a contract, any principal officer of a named party or prospective named party to a contract~~its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than 120 percent in a~~ the named party or prospective named party to a contract~~named or prospective named party, any subcontractor listed in a bid or contract, and any committee as defined in Chapter 1 of the Campaign and Governmental Conduct Code that is sponsored or controlled by the named party or prospective named party. Principal officers include, but are limited too, an entity's chairperson, chief executive officer, chief financial officer, chief operating officer and similar positions.~~
- (2) ~~If a named party or prospective named party does not have a board of directors or chairperson of the board of directors, a "person who contracts with" including~~ any person who directs or participates in

directing the affairs and activities of the named party or prospective named party-

~~(3) If a named party or prospective named party does not have a chief executive officer, chief financial officer, or chief operating officer, a “person who contracts with” includes any president of the named party or prospective named party or and any person who directs the overall activities, financial activities, or operations of the named party or prospective named party.~~

(f) Personal services.

For the purposes of section 1.126(a)(2)(A), personal services means services that are provided by a person or an entity. Such services include but are not limited to tasks such as consulting, architecture, engineering, design, legal services, finance, accounting, janitorial services, medical treatment, transportation, underwriting, insurance, and security.

(g) State Agency on whose Board an Appointee of a City Elective Officer Serves.

For the purposes of section 1.126, a state agency on whose board a City elective officer or an appointee of a City elective officer serves is limited to the following: Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Relocation Appeals Board, and Local Workforce Investment Board. The City elective officers who appoint members of these boards for the purposes of section 1.126 are:

(1) Health Authority: Board of Supervisors and Mayor

(2) Housing Authority Commission: Mayor

(3) Industrial Development Authority Board: Mayor and Board of Supervisors

~~(4) Parking Authority: Mayor and Board of Supervisors~~

~~(45) Relocation Appeals Board: Mayor and Board of Supervisors~~

~~(56) Local Workforce Investment Board: Mayor~~

~~(h) Submission of a Contract to an Individual Holding City Elective Office.~~

~~(1) A contract is submitted to each member of the Board of Supervisors when a resolution to approve the contract is introduced at the Board of Supervisors.~~

~~(2) A contract approved by the Board of Supervisors is submitted to the Mayor upon adoption of a resolution approving the contract by the Board of Supervisors.~~

~~(3) A contract is submitted to any other individual holding City elective office when the individual is informed that negotiations for the contract have commenced or the individual's office receives a copy of the contract for the individual's review or approval.~~

~~(hi) Termination of Negotiations.~~

Negotiations terminate when an officer or employee of the City, the San Francisco Unified School District, the San Francisco Community College District, or a state agency on whose board an appointee of a City elective officer sits ends the negotiation process before a final decision is made to award a contract. Negotiations may also terminate when the prospective contractor ends the negotiation process with such officers or employees.

Examples of actions that terminate negotiations include, but are not limited to, the following: A prospective contractor formally withdraws or is disqualified from consideration for a specific contract.

(i) For purposes of section 1.126, a prospective party to a contract is an individual or entity that is named in a proposal for a contract.

### **Regulation 1.126-2: Party that is Subject to the Prohibition.**

(a) The prohibition set forth in section 1.126(b) applies to the named party or prospective named party who contracts with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the San Francisco Community College District. This includes:-

- (1) any named party or prospective named party to the contract;
- (2) any member of that named party's board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer;
- (3) any person with an ownership interest of more than 20 percent in the named party;
- (4) any subcontractor listed in a bid or contract; and
- (5) any committee as defined in the California Government Code (commencing at section 81000) that is sponsored or controlled by the named party or prospective named party.

(ab) The prohibition set forth in section 1.126(b) does not apply to any person solely because that person is a member of the board of directors, chairperson, chief executive officer, chief financial officer or chief operating officer or principal officer of any person entity with an ownership interest of more than 120 percent in the named party or prospective named party to a contract, or of any subcontractor listed in a bid or contract.

(be) For the purposes of section 1.126(b)(1)(A), an "individual holding City elective office" includes any committee controlled by that individual formed to support that individual's candidacy to a local or state elective office.

(cd) For the purposes of section 1.126(b)(31)(C), "a committee controlled by such individual or candidate" includes any committee controlled by such individual or candidate formed either to support or oppose a candidate for local or state elective office or to support or oppose a local or state ballot measure.

### **Regulation 1.126-3: Notification of Affiliates.**

Any ~~prospective party to a~~ person who is seeking to contract with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the Community College District must inform each ~~person described in section 1.126(a)(1) of the person's affiliates~~ person described in section 1.126(a)(1) of the person's affiliates of the prohibition in section 1.126(b) by the ~~commencement of negotiations~~ submission of a proposal for such contract. The notice is sufficient if it:

- (a) is provided in written form,
- (b) is sent by U.S. mail, email, facsimile transmission, or personal delivery; and
- (c) contains language similar to the following [please fill in information in brackets]:

Notice:

I [name of party] am seeking to enter into a contract with [name of agency, board or commission] that will have a value of \$1050,000 or more in a fiscal year. Under section 1.126 of the San Francisco

Campaign and Governmental Conduct Code, I am required to advise you that because you [check appropriate box]

~~I~~Serve as a director on the board of directors of my company;

~~I~~Serve as ~~the chairperson, chief executive officer, chief financial officer, chief operating officer, or other person who directs the activities of a~~ principal officer of my company;

~~I~~Have an ownership interest of more than 120 percent in my company;

~~I~~Are listed as a subcontractor on my bid or contract;

~~I~~Are a committee that I sponsor or control,

you are prohibited from making a contribution to the following City elective officers or candidates for such City elective office: [fill in name of each City elective officer ~~or candidate for~~ and the title of each City elective office].

This prohibition will last from [date of ~~commencement of negotiations~~ submission of a proposal] until the termination of negotiations or ~~twelvesix~~ months have elapsed from the date the contract is approved. I will advise you of the date that negotiations terminate or twelvesix months after the contract is approved. In the meantime, if you have questions, please contact me at [contact information].

#### **Regulation 1.126-4: City Elective Officers Filing Reports with the Ethics Commission.**

(a) Under section 1.126(f)(4), eEvery individual who holds a City elective office shall notify the Ethics Commission, within five business days of the approval of a contract by the officer, or by the board on which the officer sits, or by the board of a state agency on which an appointee of the officer sits, of each contract so approved by filing Form SFEC-126 with the Ethics Commission.

(b) An individual who holds City elective office need not file Form SFEC-126 with the Ethics Commission if the clerk or secretary of the board on which the individual serves or the board of a state agency on which an appointee of the officer serves has filed a Form SFEC-126 on behalf of the board. ~~The filer may attach a copy of the minutes that record the approval of a contract to the Form SFEC-126, so long as the minutes reflect the information required by the Form SFEC-126 and the filer signs the Form SFEC-126.~~ If the board passes a resolution directing its clerk or secretary to file Form SFEC-126 and the clerk or secretary fails to do so, the City elective officer is not deemed to have violated section 1.126(c) unless the City elective officer has reason to know that Form SFEC-126 had not been filed. If the City elective officer is notified by the Ethics Commission that a Form SFEC-126 has not been filed, the City elective officer must file the form within 5 working days of such notice.

(c) An individual who holds City elective office may authorize a member of the individual's staff to file the Form SFEC-126 on behalf of the individual.

~~(d)~~ The Commission will post information regarding such contracts on its website.

#### **Regulation 1.126-5: Affiliated Entities.**

Whenever a named party or prospective named party to a contract is prohibited from making a contribution under section 1.126, any affiliated entity (as defined in section 1.114(~~de~~)) of that named party or prospective name party is also prohibited from making a contribution under section 1.126.

#### **Regulation 1.126-6: Approval as to Form.**

A contract that “must be approved” by an individual does not include a contract that must be approved only as to form. If a contract must be approved as to form by the City Attorney’s Office but is not otherwise required to be approved by the City Attorney, the contract does not trigger section 1.126.

**Regulation 1.126-7: Contributor Information.**

A candidate will meet the due diligence requirements of the contribution ban in section 1.126 if the contributor to the candidate certifies that the following is true:

I am not a City contractor, or a director, officer, 10% shareholder, or subcontractor of a City contractor, whose contract required the approval of the [list any City elective office the candidate currently holds, the City elective office the candidate is currently seeking, and any state agency on whose board an appointee of the candidate serves] within the last twelve months or whose current bid or proposal will require such approval. I am not an owner, director, officer, or named sub-contractor of any entity that is currently negotiating a contract with [select appropriate: City and County of San Francisco, name of a City department, or the San Francisco Unified School District, the San Francisco Community College District, or board of a state agency that has a member who is appointed by a City elective officer], or of any entity that received such a contract within the last six months.

**Regulation 1.126-8: Notification by City Departments**

(a) Under section 1.126(f)(2), a City department must notify the Ethics Commission any time it receives a proposal for a contract that has a total anticipated value of \$100,000 or more and will require approval by a City elective officer and is therefore subject to section 1.126(b). To satisfy this requirement, the department must file the Form SFEC-126(f)(2) with the Commission. This notification must be filed within thirty days of the submission of the proposal.

(b) For purposes of section 1.126, “agency seeking to enter into a contract” means the City department that has purchasing authority for the contract or agreement.

(c) Proposals that are deemed nonresponsive and are therefore disqualified from consideration by the City do not trigger the notification requirement in section 1.126(f)(2).

**~~Regulation 1.134-2: Reports by Committees or Persons who Make Independent Expenditures, Electioneering Communications and Member Communications.~~**

~~(a) This regulation applies only to persons who make independent expenditures, electioneering communications or member communications that clearly identify a candidate for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District.~~

~~(b) Any person who makes expenditures or payments or incurs expenses for the purpose of making independent expenditures, electioneering communications or member communications that clearly identify a candidate listed in subsection (a) must file the Third Party Spending Form with the Ethics Commission within 24 hours of making expenditures or payments or incurring expenses for the purposes of making independent expenditures, electioneering communications or member communications that,~~

~~in the aggregate, equal or exceed \$5,000 per candidate. A person need not file this form if the Ethics Commission has already lifted the applicable voluntary expenditure ceiling. Thereafter, until such time as the applicable expenditure ceiling is lifted, the person shall file the Third Party Spending Form within 24 hours of every time such person makes expenditures or payments, or incurs expenses for the purpose of making independent expenditures, electioneering communications or member communications in support of or in opposition to any candidate for City elective office in the same race that in the aggregate equals or exceeds \$5,000 per candidate. For the purposes of section 1.134 and this regulation, the phrase “in support of or in opposition to” includes any communication that refers to a clearly identified candidate for City elective office or a City elective officer who is the subject of a recall election.~~

**Regulation 1.134-23: Lifting Voluntary Expenditure Ceilings.**

An eligible candidate who has accepted a voluntary expenditure ceiling will no longer be bound by the voluntary expenditure ceiling if any of the following occurs:

- (1) a competing candidate seeking election to the same office, who has not accepted a voluntary expenditure ceiling, receives contributions or makes qualified campaign expenditures that total more than applicable voluntary expenditure ceiling;
- (2) any competing candidate seeking election to the same office, or a candidate who accepted the voluntary expenditure ceiling, is clearly identified in campaign materials paid for by third parties, and the amount spent on those campaign materials total more than the applicable voluntary expenditure ceiling; or
- (3) a competing candidate seeking election to the same office, who has accepted the voluntary expenditure ceiling, makes expenditures that total more than the applicable voluntary expenditure ceiling.

Example: Annisha, Bing, and Carlos are running to become Assessor. Annisha and Bing accept the applicable voluntary expenditure ceiling of \$243,000. Carlos does not accept the voluntary expenditure ceiling and spends \$250,000 in support of his campaign. Since Carlos’s campaign has spent more than \$243,000, Annisha and Bing are no longer bound by the voluntary expenditure ceiling.

Example: Danielle and Eumi are running to become Sheriff. Danielle and Eumi both accept the applicable voluntary expenditure ceiling of \$243,000. Several third parties have made expenditures, both in support and opposition, that identify Danielle and comment on his candidacy – eventually these expenditures total \$260,000. Since the amount of third-party spending concerning a candidate for Sheriff has exceeded \$243,000, neither Danielle nor Eumi is bound by the voluntary expenditure ceiling.

Example: Farbod and Gregorio are running to become members of the San Francisco School Board. Farbod and Gregorio both accept the applicable voluntary expenditure ceiling of \$104,000. Despite accepting the voluntary expenditure ceiling, Gregorio spends more than \$104,000 on his campaign. Farbod is no longer bound by the \$104,000 voluntary expenditure ceiling.

**Regulation 1.135-1: Electronic Filing of Supplemental Reporting ~~Reporting~~ Preelection Statements.**

Committees that are required by section 1.112 to file electronically must also electronically file any report required by Section 1.135, provided that the Commission has prescribed the format for such report at least 60 days before the report is due.

**Regulation 1.135-2: Reporting Periods and Supplemental Preelection Statements.**

If a committee files a supplemental preelection statement pursuant to section 1.135, any activity required to be reported on such preelection statement shall not be reported on the committee's next required semiannual statement.

**Regulation 1.140-2: Eligibility to Receive Public Financing – Expenditure Ceiling.**

A candidate who submits an application for public financing under section 1.142 but who is not yet certified as eligible to receive public financing is bound by the individual expenditure ceiling of ~~\$250,143~~,000 for candidates for the Board of Supervisors or \$1,475,000 for candidates for Mayor until the earlier of the following occurs:

- (a) The Executive Director certifies the candidate as eligible to receive public funds and adjusts the individual expenditure ceiling of the candidate pursuant to section 1.143; or
- (b) The Executive Director declines to certify the candidate as eligible to receive public funds and the candidate no longer wishes to participate in the public financing program; or
- (c) The candidate withdraws and does not refile his or her application for public funds.

**Regulation 1.142-1: Statement of Participation or Non-Participation.**

Each candidate for the Board of Supervisors or Mayor must file with the Ethics Commission Form SFEC-142(a) – Statement of Participation or Non-Participation in the Public Financing Program – no later than the third day following the deadline for filing nomination papers. The Statement shall be signed and verified by the candidate under penalty of perjury.

**Regulation 1.142-2: Process for Establishing Eligibility; Filing Requirements.**

**(a) Filing Requirement.**

Every candidate for the Board of Supervisors who wishes to become eligible to receive public financing must file Form SFEC-142(b)-1 ~~(Declaration for Public Funds)~~, Form SFEC-142(c)-1 ~~(Qualifying Contributions List)~~ and supporting material with the Ethics Commission no earlier than nine (9) months before but no later than the 70th day before the date of the election.

Every candidate for Mayor who wishes to become eligible to receive public financing must file Form SFEC-142(b)-2 ~~(Declaration for Public Funds)~~, Form SFEC-142(c)-2 ~~(Qualifying Contributions List)~~, and supporting material with the Ethics Commission no earlier than nine (9) months before and no later than the 70th day before the date of the election.

**(b) Declaration by Candidate: Contents of Qualifying Request.**

~~Forms SFEC-142(b)-1 and SFEC-142(b)-2.~~

The information disclosed on Forms SFEC-142(b)-1 and SFEC-142(b)-2 ~~(Declaration by Candidate)~~ shall include but is not limited to the following: the names, mailing and email addresses, and telephone and facsimile numbers for the candidate and treasurer; a list of authorized persons to receive payments

from the Election Campaign Fund; and a declaration under penalty of perjury by the candidate that he or she understands the requirements for participation in the public financing program.

(c) ~~Qualifying and Matching Contributions Lists and Supporting Documentation.~~ The information disclosed on Forms SFEC-142(c)-1 and SFEC-142(c)-2 ~~(Qualifying Contributions List) and Forms SFEC-144(a)-2 and 144(b)-2 (Matching Contributions List)~~ supporting documentation provided with the Form SFEC-142(b) shall include but is not limited to: each contributor's full name, the address of each contributor's primary residence, the total amount contributed by each contributor, the amount of each contributor's qualifying contribution, the date on which the candidate received each contributor's qualifying contribution, and the deposit batch number for each qualifying contribution. When the cumulative amount of contributions from any contributor equals or exceeds \$100, the information for any qualifying contribution from such contributor must also include the contributor's occupation, the contributor's employer or, if the contributor is self-employed, the name of the contributor's business. Candidates must file this information electronically in a manner to be designated by the Commission.

**Regulation 1.142-5: Process For Establishing Eligibility; Irrevocability of Decision to Participate or Not Participate; Withdrawal Of Declaration.**

(a) When a candidate submits Form SFEC-142(a), the statement of participation or non-participation, the candidate agrees or declines to participate in the public financing program. The candidate may not withdraw or amend his or her statement after the deadline for filing nomination papers. Under state law, a candidate must file his or her nomination papers no later than the 88th days prior to the election, unless the deadline to file nomination papers is extended pursuant to .-See Cal-ifornia Elections- Code § 10220 et seq.

(b) When a candidate submits the Forms SFEC-142(b)-1, SFEC-142(b)-2, SFEC-142(c)-1, SFEC-142(c)-2 and supporting material to establish eligibility to qualify for public financing, the candidate may withdraw and refile the forms up until the 70th day before the election. After the 70th day before the election has passed, candidates are no longer permitted to withdraw and refile their forms. Although certified candidates are not obligated to accept public funds, such candidates must comply fully with the requirements imposed by Section 1.140 regardless of whether they accept public funds. Similarly, certified candidates may not relieve themselves of their obligations under Section 1.140 by returning public funds to the Election Campaign Fund.

**Regulation 1.142-6: Certification.**

(a) Executive Director's Determination.

(1) The Executive Director shall determine whether to certify a candidate no later than 30 days after the candidate submits the documents required under sections 1.142(a) and 1.142(b).

(2) Any candidate who files Form SFEC-142(a) indicating an intent to participate in the public financing program but who fails to file Form SFEC-142(b)-1 or SFEC-142(b)-2 by the 70th day before the election is ineligible to participate in the public financing program and the Executive Director shall notify the candidate that he or she is ineligible.

(3) The Executive Director may take whatever steps he or she deems necessary to determine whether to certify a candidate including, but not limited to, reviewing the materials submitted by a candidate,



auditing a candidate's records, and interviewing a candidate's contributors. In addition, the Executive Director may require any candidate to file Form SFEC-152(a) 1 or SFEC-152(b) 1 in order to determine whether a candidate who seeks public financing is opposed by another candidate pursuant to section 1.140(b)(3) or 1.140(c)(3).

(4) The Executive Director may not review a Form SFEC-142(b) filed by a candidate unless and until the candidate has filed a Form SFEC-142(a) indicating an intent to participate in the public financing program.

(5) The Executive Director may not review a Form SFEC-142(b) filed by a candidate if the candidate has failed to file the Form SFEC 142(b) by the deadline established by Section 1.142(b) or, for resubmissions, the deadline established by Section 1.142(f).

(b) Conditional Certification.

(1) The Executive Director may conditionally certify a candidate for the Board of Supervisors in order to comply with the 30-day requirement set forth in subsection (a) of this regulation and subsection (c) of section 1.142. The Executive Director may issue a conditional certification if a candidate for the Board of Supervisors has satisfied every requirement for certification except the requirement that the candidate be opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$5,000. A candidate who has received a conditional certification shall be eligible to begin to receive public financing at any time after the Executive Director determines that the candidate is opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$5,000. A conditional certification, by itself, does not establish that a candidate is eligible to receive public funds.

(2) The Executive Director may conditionally certify a candidate for the Mayor in order to comply with the 30-day requirement set forth in subsection (a) of this regulation and subsection (c) of section 1.142. The Executive Director may issue a conditional certification if a candidate for Mayor has satisfied every requirement for certification except the requirement that the candidate be opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$50,000. A candidate who has received a conditional certification shall be eligible to begin to receive public financing at any time after the Executive Director determines that the candidate is opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$50,000. A conditional certification, by itself, does not establish that a candidate is eligible to receive public funds.

(c) Refiling.

Any candidate who has filed a Form SFEC-142(b) may, at any time on or before the 70<sup>th</sup> day before the election in which the candidate will appear on the ballot, withdraw and refile a Form SFEC-142(b) and supporting documentation. To withdraw a Form SFEC-142(b), a candidate must state in a writing sent to the Commission, via email, U.S. mail, or personal delivery, that the candidate is withdrawing the previously filed Form SFEC-142(b). When refiling, a candidate may include qualifying contributions and supporting documentation that were not included in the Form SFEC-142(b) that was withdrawn. As set forth in Section 1.142(e), the Executive Director must determine whether to certify a candidate no later than 30 days after a candidate refiles a Form SFEC-142(b), provided that the Executive Director shall make his or her determination no later than the 55th day before the election.

(d) Resubmission.

Any candidate who is notified by the Executive Director that the candidate's Form SFEC-142(b) and supporting documentation do not establish the candidate's eligibility to receive public funding may, within five business days of the date of notification, resubmit his or her Form SFEC-142(b) and supporting documentation. When resubmitting a Form SFEC-142(b), the candidate may not include additional qualifying contributions but may include additional supporting documentation. If the candidate does not timely resubmit, the Executive Director's determination is final. If, after reviewing resubmitted materials, the Executive Director does not certify the candidate's eligibility, the Executive Director shall notify the candidate of his or her final determination. Additional resubmissions may be permitted in the Executive Director's discretion, provided that no resubmissions for certification may be made later than the 60th day before the election. If the candidate fails to resubmit in the time specified by the Executive Director, or if no further resubmissions are permitted, the Executive Director's determination is final.

(e) Appeals to Commission.

(1) A candidate may appeal to the Ethics Commission the Executive Director's final determination not to certify or conditionally certify the candidate. Either the Ethics Commission or a member of the Commission designated by the Commission may consider and decide such appeals. The candidate must deliver the written appeal to the Ethics Commission within five calendar days of the Executive Director's final determination.

(2) A final determination is a finding by the Executive Director, made following a review pursuant to Section 1.142(c) or 1.142(f), that a Form SFEC-142(b) and supporting documentation timely filed by a candidate pursuant to Section 1.142(b) does or does not establish the candidate's eligibility for public funding. A candidate who has failed to timely file a Form SFEC-142(a) or Form SFEC-142(b) may not appeal his or her failure to meet a deadline established by CFRO or these regulations to the Commission.

(3) The Commission may vacate the Executive Director's final determination that a candidate's Form SFEC-142(e) and supporting documentation fail to establish the candidate's eligibility for public funding. In reviewing Staff's interpretations of law, the Commission shall apply a "de novo" standard of review. Under this standard, the Commission may independently consider the legal question and is not required to defer to Staff's interpretation. In reviewing Staff's factual determinations, the Commission shall apply a "clearly erroneous" standard of review. Under this standard, the Commission must defer to Staff's determination on questions of fact unless the Commission has a definite and firm conviction that the Staff's determination is erroneous.

**Regulation 1.143-1: Individual Expenditure Ceilings for Candidates.**

A candidate for the Board of Supervisors or Mayor who has been certified as eligible for public funding may have his or her individual expenditure ceiling raised in accordance with section 1.143. Any such candidate for the Board of Supervisors whose individual expenditure ceiling has been raised may make or incur total qualified campaign expenditures that exceed \$250,433,000 and any such candidate for Mayor whose individual expenditure ceiling has been raised may make or incur total qualified campaign expenditures that exceed \$1,475,000, provided that such expenditures may not exceed the candidate's individual expenditure ceiling.

### **Regulation 1.143-2: Lifting of Individual Expenditure Ceiling.**

(a) The Executive Director will raise the individual expenditure ceiling of a candidate for the Board of Supervisors who has been certified as eligible to receive public funding when the sum of the highest total supportive funds of any other candidate and the total opposition spending against the candidate exceeds \$250,143,000 by any amount. The Executive Director may only raise an individual expenditure ceiling in increments of \$10,000 to \$50,000. The Executive Director will review information provided on Forms SFEC-152(a)-1, SFEC-152(a)-2 and SFEC-152(a)-3, and, in his or her discretion, any other relevant information to determine whether it is appropriate to raise an individual expenditure ceiling.

(b) The Executive Director will raise the individual expenditure ceiling of a candidate for Mayor who has been certified eligible to receive public funding when the sum of the highest total supportive funds of any other candidate and the total opposition spending against the candidate exceeds \$1,475,000 by any amount. The Executive Director may only raise an individual expenditure ceiling in increments of \$100,000 to \$250,000. The Executive Director will review information provided on Forms SFEC-152(b)-1, SFEC-152(b)-2 and SFEC-152(b)-3, and, in his or her discretion, any other relevant information to determine whether it is appropriate to raise an individual expenditure ceiling.

Example 1: The Ethics Commission has certified ~~two~~four candidates running to represent District 1 on the Board of Supervisors as eligible to receive public funding. Reports filed at the Ethics Commission indicate that Candidate Alvin's supportive funds total \$215,500,000 and Candidate Beatrice's supportive funds total \$163,050,000,000, which are higher than the total supportive funds of either Candidate ~~Charlie or Candidate Desmond~~. The Executive Director will raise the individual expenditure ceilings ~~for~~for Alvin, ~~Charlie and Desmond by~~ by \$100,000 to \$153,000 to \$350,000. The Executive Director will raise the individual expenditure ceilings for Beatrice by \$50,000 to \$300,000. ~~Because Alvin's supportive funds do not exceed Beatrice's individual expenditure ceiling by at least \$10,000, the Executive Director will not raise the \$143,000 individual expenditure ceiling of Beatrice.~~

Example 2: ~~Under the same facts as Example 1, assume~~ total opposition spending against Beatrice reaches \$10,000 to \$48,000. To determine Beatrice's individual expenditure ceiling, the Executive Director first considers the highest level of supportive funding received by a competing candidate. Here, Alvin has the highest level of supportive funding received by a competing candidate – \$215,505,000. The Executive Director then adds the total opposition spending against Beatrice, or \$10,000 to \$48,000, to obtain a sum of \$216,000. Based on these amounts the Executive Director will raise Beatrice's individual expenditure ceiling to \$153,000 to \$303,000. The Executive Director ~~cannot~~will now raise Beatrice's individual expenditure ceiling to \$160,000 to \$350,000 ~~because the ceiling may only be raised in \$10,000 increments.~~

Example 3: The Ethics Commission has certified ~~four~~two candidates running for Mayor as eligible to receive public funding. Reports filed at the Ethics Commission indicate that Candidate Ava's supportive funds total \$1,575,000 and Candidate Barry's supportive funds total \$1,800,000 to \$1,700,000, which are higher than the total supportive funds of either Candidate ~~Clare or Candidate Dave~~. The Executive Director will raise the individual expenditure ceilings of Ava, ~~Clare and Dave by~~ \$500,000 to \$1,675,000 to \$1,975,000; the Executive Director will raise the individual expenditure ceiling of Barry by \$250,000 to \$1,575,000 to \$1,725,000.

Example 4: The individual expenditure ceiling of James, a candidate to represent District 2 on the Board of Supervisors who has been certified as eligible to receive public funding, is \$143,250,000. Adam, James's only opponent, reports total contributions of \$50,000; several committees also report spending a total of \$40,000 to support Adam. The Executive Director may not raise the individual expenditure ceiling of James based solely upon Adam's total supportive funds because his total supportive funds, \$90,000, do not exceed James's individual expenditure ceiling.

Example 5: Under the same facts as Example 4, assume Adam has now raised an additional \$236,500 in contributions, making his total candidate supportive funds equal \$285,000. When the \$40,000 of third party spending is added, that makes Adam's total supportive funds equal \$325,000. The Executive Director will now raise James's individual expenditure ceiling to \$350,000 because Adam's total supportive funds exceeds James's individual expenditure ceiling by at least \$10,000 and the Executive Director raises individual expenditures ceilings in increments of \$50,000. The Executive Director cannot raise James's individual expenditure ceiling to \$155,000 because the ceiling may only be raised in \$10,000 increments.

Example 6: Under the same facts as Examples 4 and 5, assume several committees make independent expenditures to oppose James; by September 2010, their reported expenditures total \$20,000. To determine James's individual expenditure ceiling, the Executive Director adds Adam's total supportive funding, \$325,000, to the total opposition spending against James, \$20,000, to obtain a sum of \$175,000. The Executive Director will raise James's individual expenditure ceiling to \$173,000. The Executive Director cannot raise James's individual expenditure ceiling to \$175,000 because the ceiling may only be raised in \$10,000 increments.

Example 7: The individual expenditure ceiling of Jane, a candidate for Mayor who has been certified as eligible to receive public funding, is \$1,475,000. Ann, an opponent of Jane, reports total contributions of \$1,000,000; several committees also report spending a total of \$500,000 to support Ann, making Ann's total supportive funds \$1,500,000. The Executive Director may not raise Jane's individual expenditure ceiling because Ann's total supportive funds, \$1,500,000, do not exceed Jane's individual expenditure ceiling by at least \$100,000. The Executive Director will raise Jane's individual expenditure ceiling by \$250,000 to \$1,725,000.

Example 8: Ann has raised an additional \$100,000 in contributions, making her total supportive funds \$1,600,000. The Executive Director will now raise Jane's individual expenditure ceiling to \$1,575,000 because Ann's total supportive funds exceeds Jane's individual expenditure ceiling by at least \$100,000. The Executive Director cannot increase Jane's individual expenditure ceiling to \$1,600,000 because the ceiling may only be raised in \$100,000 increments.

Example: Under the same facts as Example 7, assume several committees make independent expenditures to oppose Jane; by September 2011, their reported expenditures total \$300,000. To determine Jane's individual expenditure ceiling, the Executive Director adds Ann's total supportive funding, \$1,500,000, to the total opposition spending against Jane, \$300,000, to obtain a sum of \$1,800,000. The Executive Director will raise Jane's individual expending ceiling by \$250,000 to \$1,875,000. The Executive Director cannot raise Jane's individual expenditure ceiling to \$1,900,000 because the ceiling may only be raised in \$100,000 increments.

**Regulation 1.144(c)-1: Disbursement of Public Funds for Mayoral Candidates; Claims Submitted Before Executive Director Determines Per Candidate Available Disbursement Limit.**

For claims submitted before the 59th day prior to the election, i.e., the date on which the Executive Director determines the per candidate available disbursement limit, publicly financed mayoral candidates shall have access to funds from the Election Campaign Fund on a first-come, first-served basis. The Ethics Commission will determine which claims are “first” for these purposes based upon the time that it receives claims, along with all of the required documentation.

**Regulation 1.144(c)-2: Disbursement of Public Funds; Public Funds Available to Mayoral Candidates After Executive Director Determines Per Candidate Available Disbursement Limit.**

(a) If the Executive Director determines that the per candidate available disbursement limit in a mayoral election year is less than or equal to \$900,000, each publicly financed mayoral candidate shall have access to funds from the Election Campaign Fund on a first-come, first-served basis up to a maximum per candidate of \$900,000. The Ethics Commission will determine which claims are “first” for these purposes based upon the time that it receives claims, along with all of the required documentation.

(b) If the Executive Director determines that the per candidate available disbursement limit is greater than \$900,000, each publicly financed mayoral candidate shall have access to the amount of the per candidate disbursement limit up to the candidate’s trust account limit. A candidate who has already received at least \$900,000 may continue to receive public funds at the rate of one dollar for each dollar of a matching contribution raised up to the per candidate available disbursement limit, provided that no funds will be disbursed if the disbursement of funds will result in the candidate exceeding his or her trust account limit.

**Regulation 1.144-2(c)-3: Submission of Claims for Public Funds Based on Matching Contributions – Candidates for Mayor.**

After the initial payment made pursuant to section 1.144(c)(1) or 1.144(d)(1)(3)(A), the amount of additional public funds received by an eligible candidate depends on the amount of matching contributions raised by the candidate and documented in a timely filed matching request with supporting documentation claim submitted by the candidate to the Executive Director on Forms SFEC-144(c)-1 and SFEC-144(c)-2.

**Regulation 1.144(d)-1: Disbursement of Public Funds for Supervisorial Candidates; Claims Submitted Before Executive Director Determines Per Candidate Available Disbursement Limit.**

For claims submitted before the 59th day prior to the election, i.e., the date on which the Executive Director determines the per candidate available disbursement limit, publicly financed supervisorial candidates shall have access to funds from the Election Campaign Fund on a first-come, first-served basis. The Ethics Commission will determine which claims are “first” for these purposes based upon the time that it receives claims, along with all of the required documentation.

**Regulation 1.144(d)-2: Disbursement of Public Funds; Public Funds Available to Supervisorial Candidates After Executive Director Determines Per Candidate Available Disbursement Limit.**

(a) If the Executive Director determines that the per candidate available disbursement limit in a supervisorial election year is less than or equal to \$89,000, each publicly financed supervisorial

~~candidate shall have access to funds from the Election Campaign Fund on a first come, first served basis up to a maximum per candidate of \$89,000. The Ethics Commission will determine which claims are "first" for these purposes based upon the time that it receives claims, along with all of the required documentation.~~

~~(b) If the Executive Director determines that the per candidate available disbursement limit in a supervisorial election year is e greater than \$89,000, each publicly financed candidate shall have access to the amount of the per candidate disbursement limit up to the candidate's trust account limit. A candidate who has already received at least \$89,000 may continue to receive public funds at the rate of one dollar for each dollar of a matching contribution raised up to the per candidate available disbursement limit, provided that no funds will be disbursed if the disbursement of funds will result in the candidate exceeding his or her trust account limit.~~

**~~Regulation 1.144(d) 3: Submission of Claims for Public Funds Based on Matching Contributions—Candidates for the Board of Supervisors.~~**

~~After the initial payment made pursuant to section 1.144(d)(3)(A), the amount of additional public funds received by an eligible candidate depends on the amount of matching contributions raised by the candidate and documented in a timely claim submitted by the candidate to the Executive Director on Forms SFEC-144(d)-1 and SFEC-144(d)-2.~~

**~~Regulation 1.144-(f)-31: Schedule for Submission of Claims from Election Campaign Fund.~~**

(a) Monetary Thresholds for Submission of Claims.

(1) Following certification, any submission of a claim for public funds by a candidate for the Board of Supervisors may be made on a rolling basis and must include a minimum of \$1,000 in matching contributions, except that in the last 14 calendar days preceding an election, a claim must include a minimum of \$200 in matching contributions. No candidate may submit a claim for public funds if the candidate has any such claim pending at the Ethics Commission.

(2) Following certification, any submission of a claim for public funds by a candidate for Mayor may be made on a rolling basis and must include a minimum of \$5,000 in matching contributions, except that in the last 14 calendar days preceding an election, a claim must include a minimum of \$1,000 in matching contributions. No candidate may submit a claim for public funds if the candidate has any such claim pending at the Ethics Commission.

(b) Process for Review of Claims

~~(1) Facial Review; Determination of Claims.~~

The Executive Director shall facially review each claim to determine whether the eligible candidate is entitled to payment of public funds. For purposes of this Regulation, "facial review" means review of the claim and supporting documentation submitted by the candidate. At the Executive Director's discretion, the Executive Director may conduct a further investigation into the accuracy and veracity of the candidate's claim and supporting documentation, including, but not limited to, interviews with contributors and review of additional supporting documentation.

The Executive Director shall not approve payment of public funds if he or she determines that the candidate's claim or supporting material is incomplete or otherwise inadequate. The Executive Director may, however, approve payment for less than the full amount claimed by the candidate if the candidate's claim and supporting documentation for a portion of the claim is complete and adequate.

The Executive Director's determination based upon facial review of a claim for public funds does not preclude the Ethics Commission from auditing the claimant, or demanding repayment of funds, pursuant to Section 1.150.

~~(2) Resubmission; Final Determination by the Executive Director.~~

~~If the Executive Director rejects a claim for public funds in whole or in part, the Executive Director shall notify the candidate and state the reasons for the rejection. The candidate may, within 24 hours of the date of notification, resubmit the rejected claim and supporting documentation. If the candidate does not timely resubmit, the Executive Director's determination is final. If, after viewing resubmitted material, the Executive Director rejects a claim for public funds, the Executive Director shall notify the candidate of this fact. Additional resubmissions may be permitted in the Executive Director's discretion. If the candidate fails to resubmit in the time specified by the Executive Director, or if no further resubmissions are permitted, the Executive Director's determination is final.~~

~~(3) Appeal to the Ethics Commission.~~

~~If the Executive Director rejects a claim for public funds in whole or in part, the candidate may appeal the Executive Director's final determination to the Ethics Commission, or a member of the Commission designated by the Commission to consider and decide such appeals. The candidate must deliver the written appeal to the Ethics Commission within three days of the date of the Executive Director's final determination.~~

(c) Payment by Controller; Payment Checks Available at Ethics Commission Office.

Following a final determination, by either the Executive Director or the Ethics Commission, to approve a payment of public funds, the Executive Director shall immediately certify this fact to the Controller. Within two business days of notification from the Ethics Commission, the Controller shall issue checks for the approved payments and deliver the checks to the Ethics Commission, except that within the last 15 calendar days preceding the election, the Controller shall issue checks for the approved payments and deliver the checks to the Ethics Commission within one business day of notification. Eligible candidates, or their officially authorized designees, may pick up payment checks at the Ethics Commission office during regular business hours.

(d) Post-Election; General Rule.

Following the election, and continuing through 5:00 PM on the 30th day following the date of the election, eligible candidates may continue to submit ~~claims for public funds~~ Form SFEC-144(c). Eligible candidates may submit these post-election claims on a rolling basis.

**Regulation 1.152(a)-1: Supplemental Reporting in Elections for the Board of Supervisors. —Candidates.**

(a) Each candidate for the Board of Supervisors must file Form SFEC-152(a)-1 to indicate when the candidate has received contributions, made expenditures or has funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$105,000 within 24 hours of reaching or exceeding that limit.

(b) Thereafter, each candidate for the Board of Supervisors must file a Form SFEC-152(a)-2 to indicate when the candidate has received contributions, made expenditures or has funds in his or her Campaign

Contribution Trust Account that in the aggregate equal or exceed \$100,000, within 24 hours of reaching or exceeding the threshold.

(c) Thereafter, each candidate for Board of Supervisors must file Form SFEC-152(a)-2 to indicate every time that the candidate has received additional contributions, has made additional expenditures or has additional funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$10,000, within 24 hours of reaching or exceeding that threshold.

**~~Regulation 1.152(a)-2: Supplemental Reporting for Elections for the Board of Supervisors – Persons Other than Candidates.~~**

~~(a) Any person who makes independent expenditures, electioneering communications or member communications that clearly identify a candidate for the Board of Supervisors and that in the aggregate equal or exceed \$5,000 per candidate, must, within 24 hours of reaching or exceeding the threshold, file a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video and the Third Party Spending Form with the Ethics Commission.~~

~~(b) Thereafter, any time that the person makes or incurs expenses of \$5,000 or more per candidate for the purpose of making independent expenditures, electioneering communications or member communications that clearly identify a candidate for the Board of Supervisors, the person must file the Third Party Spending Form and a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video with the Ethics Commission within 24 hours of reaching or exceeding the threshold.~~

~~(c) On the Third Party Spending Form, the person must state the costs of the communication, list the candidate or candidates for the Board of Supervisors who are identified in the communication, and indicate whether the communication is intended to support or oppose the candidate or candidates, or whether the communication is intended to be neutral. No independent expenditure may be deemed neutral.~~

**~~Regulation 1.152(b)-12: Supplemental Reporting in Elections for Mayor – Candidates.~~**

(a) Each candidate for Mayor must file Form SFEC-152(b)-1 to indicate when the candidate has received contributions, made expenditures or has funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$50,000 within 24 hours of reaching or exceeding that limit.

(b) Thereafter, each candidate for Mayor must file Form SFEC-152(b)-2 to indicate when the candidate has received contributions, made expenditures or has funds in his or her Campaign Contribution Trust Account that in the aggregate equal or exceed \$1,000,000, within 24 hours of reaching or exceeding the threshold.

(c) Thereafter, each candidate for Mayor must file Form SFEC-152(b)-2 to indicate every time that the candidate has received additional contributions, has made additional expenditures or has additional funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$50,000, within 24 hours of reaching or exceeding that threshold.



**~~Regulation 1.152(b) 2: Supplemental Reporting for Elections for Mayor—Persons Other than Candidates.~~**

~~(a) Any person who makes independent expenditures, electioneering communications or member communications that clearly identify a candidate for Mayor and that in the aggregate equal or exceed \$5,000 per candidate, must, within 24 hours of reaching or exceeding the threshold, file a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video and the Third Party Spending Form with the Ethics Commission.~~

~~(b) Thereafter, any time that the person makes or incurs expenses of \$5,000 or more per candidate for the purpose of making independent expenditures, electioneering communications or member communications that clearly identify a candidate for Mayor, the person must file the Third Party Spending Form and a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video with the Ethics Commission within 24 hours of reaching or exceeding the threshold.~~

~~(c) On the Third Party Spending Form, the person must state the costs of the communication, list the candidate or candidates for Mayor who are identified in the communication, and indicate whether the communication is intended to support or oppose the candidate or candidates, or whether the communication is intended to be neutral. No independent expenditure may be deemed neutral.~~

**Regulation 1.161(a)-1: Filing Requirements for Mass Mailings by Candidates.**

(a) To comply with the filing requirements set forth in section 1.161(b)(2), candidates must use Form SFEC-161(a).

(b) For the purposes of section 1.161(b)(2), “working day” shall mean “business day.”

(c) Estimated Costs of Mass Mailings. Candidates who do not know actual costs associated with a mass mailing when they file Form SFEC-161(a) may provide a good faith estimate, provided that they amend the statement within 48 hours of receiving more information about the actual costs of the mass mailing.

(d) Date of the Mailing. For the purposes of Section 1.161(ba)(2), the phrase, “date of the mailing” shall mean the date on which the candidate or the candidate’s agent delivers the mass mailing to the United States Postal Service for delivery.

**~~Regulation 1.161(b) 1: Filing Requirements for Mass Mailings by Persons Other than Candidates.~~**

~~(a) To comply with the filing requirements set forth in section 1.161(b), non-candidates must use the Third Party Spending Form SFEC-161.~~

~~(b) Estimated Costs of Mass Mailings. Persons who do not know the actual costs associated with a mass mailing when they file the Third Party Spending Form SFEC 161 Form may provide a good faith estimate, provided that they amend the statement within 48 hours of receiving more accurate information about the actual costs of the mass mailing.~~

~~(c) Date of the Mailing. For the purposes of Section 1.161(b), the phrase, “date of the mailing” shall mean the date on which the person or person’s agent delivers one or more pieces of the mass mailing to the United States Postal Service.~~

**Regulation 1.1621-5-1. Electioneering Communications.**

(a) To comply with the filing requirements set forth in section 1.1621-5, persons must use the ~~Third Party Spending Form~~ Form SFEC-162.

(b) Persons who do not know the actual costs of an electioneering communication when they file the ~~Form SFEC-162 Third Party Spending Form~~ may provide a good faith estimates of the amount of any such payments, provided that they amend the statement within 48 hours of receiving more accurate information about the costs of the electioneering communication.

(c) Every person who files the ~~Form SFEC-162 Third Party Spending Form~~ with the Ethics Commission must submit at the time of the filing a legible copy of the electioneering communication if in printed form, a full transcript of the electioneering communication if in spoken form, and a legible paper or electronic photograph of the electioneering communication if in billboard form.

(d) Definitions. For the purposes of Section 1.1621-5, the following terms and phrases shall mean:

(1) "Candidate debate or forum" shall mean an event at which a candidate for City elective office makes a speech or participates in a panel discussion.

(2) "Communications to all members, employees and shareholders of an organization" shall include communications such as newsletters, letters, fliers, e-mails or similar material distributed to all members, employees or shareholders of an organization, but shall not include communications that constitute general public advertising such as broadcast, cable, satellite or radio communications, billboards, signs, or newspaper and magazine and Internet advertisements.

(A) An "organization," other than a political party, means a sole proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, limited liability partnership, association, labor union and any other organization or group of persons acting in concert, including a committee as defined by California Government Code section 82013, but excluding a candidate or individual.

(B) "Member" means any person who, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote directly or indirectly for the election of a director or directors or an officer or officers, on a disposition of all or substantially all of the assets of the organization, or on a merger or on a dissolution. "Member" also means any person who is designated in the articles or bylaws as a member and, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote on changes to the articles or bylaws, or pays or has paid membership dues in an amount predetermined by the organization so long as the organization is tax exempt under 26 U.S.C. 501, subdivision (c). Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated.

(C) A person is not a "member" of an organization if the person is only on a mailing, contact, or e-mail distribution list of the organization without meeting the definition provided in subdivision (2)(B) of this regulation.

(D) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(3) "Internet Communication" shall include communications made via the internet, such as internet advertisements, websites, or e-mail messages, provided that an "internet communication" shall not

include communications designed, posted, or sent without compensation. Internet communications shall not include any communications made in a web blog, e-mail messages sent to persons who have voluntarily provided their e-mail addresses to the sender, a discussion forum, or a general posting on a web page.

(4) "Sharing or exercising direction and control" shall mean the officers, directors, executive directors or their equivalent, partners, and, in the case of unincorporated organizations, owners of the entity or individuals making or authorizing the disbursement for the electioneering communication.

### **Regulations to Campaign Finance Reform Ordinance San Francisco Campaign and Governmental Conduct Code Section 3.200 et seq**

#### **Regulation 3.209-1: Recusal Notification**

Any member of a City board or commission who is required by section 3.209(b) to file a recusal notification form must do so by filing Form SFEC-3.209. The Commission may require that this form be filed in electronic format.

#### **Regulation 3.216-1: Gifts of Travel Notification**

Any City Elective Officer who is required by section 3.216(d) to report a gift of travel must do so by filing Form SFEC-3.216. The Commission may require that this form be filed in electronic format.

### **Regulations to Campaign Finance Reform Ordinance San Francisco Campaign and Governmental Conduct Code Section 3.600 et seq**

#### **Regulation 3.610-1: Filing of Behested Payment Reports**

Any officer who is required to file a behested payment report pursuant to section 3.610 must shall do so by filing Form SFEC-3.610b with the Ethics Commission. The Commission may require that this form be filed in electronic format.

#### **Regulation 3.620-1: Filing by Donors**

(a) Any interested party who is required to file a report pursuant to section 3.620 must do so by filing Form SFEC-3.620a with the Ethics Commission. The Commission may require that this form be filed in electronic format.

(b) If an interested party has previously filed a Form SFEC-3.620a and, during the same calendar year, subsequently makes an additional behested payment at the behest of the same officer, the interested party must file an additional Form SFEC-3.620a only if the interested party has become involved in additional proceedings or made additional contacts that were not disclosed pursuant to section 3.620(a)(1)–(3) on the initial Form SFEC-3.620a.

(c) Only behested payments subject to disclosure under section 3.610 may trigger the potential reporting required under section 3.620.

(d) An interested party mustshall file the disclosure required under section 3.620 only if the interested party has made behested payments totaling \$10,000 in a calendar year at the behest of a single officer or agents of that officer.

#### **Regulation 3.620-2: Notice by Donors to Recipients**

(a) When a person making a behested payment notifies the recipient of the payment that the payment is a behested payment, as required by section 3.620(b), the person must notify the recipient of the name and title of the official at whose behest the payment is made.

#### **Regulation 3.630-1: Filing by Recipients of Major Behested Payments**

(a) Any person who is required under section 3.630(a)(1) or 3.630(a)(2) to disclose information about behested payments received mustshall do so by filing Form SFEC-3.630 with the Ethics Commission. The Commission may require that this form be filed in electronic format.

(b) When disclosing on the Form SFEC-3.630 how the funds received through behested payments were spent, a filer must:

(1) if the behested payment(s) were not earmarked by the recipient for a particular purpose, disclose an amount of spending by the recipient equal to the amount of behested payment(s)s received using last-in-first-out accounting from the time that the recipient received the behested payment(s); or

(2) if the behested payment(s) were earmarked by the recipient for a particular purpose, disclose how the funds received through the behested payment(s) were spent.