

**Proposed Amendments to Regulations Supporting Campaign and Governmental Conduct Code
Section 1.100 et seq**

Regulation 1.114-1: Limits on Contributions from Corporations, Limited Liability Companies, and Limited Liability Partnerships.

(a) A corporation, limited liability company, or limited liability partnership that is prohibited by section 1.114(b) from making a contribution to a candidate committee may establish, administer and solicit contributions to a separate segregated fund (“SSF”) to be utilized by the ~~corporation~~ business entity for making contributions to candidates for City elective office, provided that the SSF is (i) a federal committee, or (ii) a committee that complies with the reporting requirements of state and local law and this section.

(b) References to Federal Law. All references to federal statutes and regulations in section 1.114(b) include any existing or subsequent amendments, modifications, and formal judicial or federal administrative interpretation of those statutes and regulations.

(c) Definitions.

(1) Connected Organization. For the purpose of this regulation, “connected organization” shall have the meaning set forth in 2 U.S.C. § 431(7).

(2) Corporation. For the purpose of section 1.114, “corporation” shall mean any corporation organized pursuant to the laws of the state of California, the United States, or any other state, territory, or foreign country, whether for profit or not, except as set forth in subsection (c)(2)(A) ~~through~~ (DB).

~~(A) Limited Liability Companies. A limited liability company (LLC) that elects to be treated as a partnership under the Internal Revenue Code is not a “corporation” for the purposes of section 1.114(b). A limited liability company that elects to be treated as a corporation under the Internal Revenue Code is a “corporation” for the purposes of section 1.114(b).~~

~~(B) Partnerships with corporate members. A partnership whose only members are corporations is a “corporation” for the purposes of section 1.114(b). A partnership or an LLC with one or more members that are corporations and one or more members that are not corporations may contribute to a candidate for City elective officer under section 1.114(b) if the contributions are attributable exclusively to sources that are not corporations.~~

~~(AC)~~ Professional corporations. A professional corporation is a “corporation” for the purposes of section 1.114(b).

~~(BD)~~ Nonprofit corporations. A nonprofit corporation is a “corporation” for the purposes of section 1.114(b), provided, however, that a nonprofit corporation may make a contribution to a candidate for City elective office without violating the prohibitions set forth in section 1.114(b) if (1) it is a “qualifying nonprofit corporation” as defined in 11 C.F.R. section 114.10(c), and (2) it complies with 11 C.F.R. section 114.10(f).

(3) Limited Liability Company. For the purpose of section 1.114, “limited liability company” shall mean any limited liability company organized pursuant to the laws of the state of California, the United States, or any other state, territory, or foreign country, whether for profit or not.

(4) Limited Liability Partnership. For the purpose of section 1.114, “limited liability partnership” shall mean any limited liability partnership organized pursuant to the laws of the state of California, the United States, or any other state, territory, or foreign country, whether for profit or not.

(d) SSF Name. Every SSF must adopt a name in compliance with 2 U.S.C. section 432(e)(5) and 11 C.F.R. section 102.14(c).

(e) Treasurer. Each SSF must have a treasurer pursuant to California Government Code section 84100 and the CFRO. No contribution or expenditure shall be accepted or made by or on behalf of an SSF during any period in which the office of treasurer is vacant. No expenditure shall be made for or on behalf of an SSF without the authorization of the treasurer or his or her designated agent. The treasurer shall be responsible for compliance with applicable provisions in the Political Reform Act and this Chapter.

(f) Administration of SSF.

(1) Funds paid by a connected organization for purposes described in 11 C.F.R. section 114.1(a)(2)(i)-(iii) shall not be contributions subject to the limits set forth in section 1.114(b).

(2) Commingling Funds. Each SSF and connected organization must comply with 2 U.S.C. section 432(b)(3) and 11 C.F.R. section 102.15.

(3) Soliciting and Accepting Contributions. When soliciting or accepting contributions, the SSF must comply with 11 C.F.R. section 114.5(a)-(c), (g)(1), (h)-(k); 11 C.F.R. section 114.6(a), (c)-(e); and 11 C.F.R. section 114.7.

(4) An SSF may act as a conduit for an earmarked donation from a person to a candidate, subject to the provisions of 11 C.F.R. section 110.6(a), (b) and (d).

(5) If an SSF receives a contribution that appears to be prohibited under this Chapter, the SSF shall comply with 11 C.F.R. section 103.3(b), the Political Reform Act, and the CFRO.

(g) Affiliation. If two or more SSFs are "affiliated" under 11 C.F.R. section 110.3(a) or the CFRO, those SSFs shall be treated as a single affiliated committee for the purposes of section 1.114(b).

(h) Termination. An SSF may terminate when:

(1) it no longer intends to receive contributions or make expenditures;

(2) neither the committee seeking to terminate nor any affiliated committee has any outstanding debts or obligations; and

(3) the committee is not involved in any enforcement action, audit or litigation with the Ethics Commission.

(i) Each SSF shall comply with all applicable campaign registration and reporting requirements in the Political Reform Act, the Campaign and Governmental Conduct Code and these regulations.

(j) Partnerships with business entity members. A partnership whose only members are corporations, limited liability companies, or limited liability partnerships is prohibited under section 1.114(b) from making a contribution to a candidate committee. A partnership with one or more members that are corporations, limited liability companies, or limited liability partnerships and one or more members that are not corporations, limited liability companies, or limited liability partnerships may make a contribution to a candidate for City elective office under section 1.114(b) if the contributions are attributable exclusively to sources that are not corporations, limited liability companies, or limited liability partnerships.

Regulation 1.127-1: Contributions by Persons with a Financial Interest in a Land Use Matter – Definitions.

(a) Developer. "Developer" means a person or entity that owns, or is contractually entitled to obtain ownership of, real property and seeks to carry out a construction project on such property for the purpose of selling or leasing the property to another party or retaining such property for use by the developer.

(b) Discretionary Review. “Discretionary Review” means the process by which the Planning Commission conducts a public hearing for an application for an entitlement that would not otherwise require a hearing in order to determine whether the entitlement warrants modification or disapproval.

(c) Entitlement. “Entitlement” means the authorization, when required, for a construction project on a parcel of real property given through the Planning Commission, Historic Preservation Commission, Port Commission, Treasure Island Development Authority Board of Directors, or Commission on Community Investment and Infrastructure. A building permit does not constitute an entitlement.

Regulation 1.127-2: Contributions by Persons with a Financial Interest in a Land Use Matter - Party that is Subject to the Prohibition.

(a) For the purposes of section 1.127, a “prohibited contribution” includes a contribution to any committee controlled by a member of the Board of Supervisors, the Mayor, or the City Attorney formed to support that individual’s candidacy to a local or state elective office.

(b) For the purposes of section 1.127, a “prohibited contribution” includes a contribution to any committee controlled by a member of the Board of Supervisors, the Mayor, or the City Attorney 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.

(c) For purposes of section 1.127, an “affiliated entity” includes any business entity that is directed and controlled by a person who has a financial interest in a land use matter.

Regulation 1.127-3: Contributions by Persons with a Financial Interest in a Land Use Matter - Contributor Attestation.

A candidate will meet the due diligence requirements of section 1.127(c) if the contributor certifies in writing to the candidate at the time the contribution is made that the following is true:

I do not have a financial interest in a land use matter that is currently pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or Treasure Island Development Authority Board of Directors, nor have I had a financial interest in any such land use matter for which any of these boards or commissions has rendered a final decision or ruling within the last twelve months.

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 ~~\$250,000~~350,000 for candidates for the Board of Supervisors or ~~\$1,475,000~~1,700,000 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 1.143-1: 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 ~~\$250,000~~350,000 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~~1,700,000, 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 ~~\$250,000~~350,000 by any amount. The Executive Director may only raise an individual expenditure ceiling in increments of \$50,000. The Executive Director will review information provided on Forms SFEC-152 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~~1,700,000 by any amount. The Executive Director may only raise an individual expenditure ceiling in increments of \$250,000. The Executive Director will review information provided on Forms SFEC-152 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 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 ~~\$255,000~~355,000 and Candidate Beatrice's supportive funds total ~~\$305,000~~405,000. The Executive Director will raise the individual expenditure ceilings for Alvin by \$100,000 to ~~\$350,000~~450,000. The Executive Director will raise the individual expenditure ceilings for Beatrice by \$50,000 to ~~\$300,000~~400,000.

Example 2: Under the same facts as Example 1, assume total opposition spending against Beatrice reaches \$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 – ~~\$255,000~~355,000. The Executive Director then adds the total opposition spending against Beatrice, or \$48,000, to obtain a sum of ~~\$260,000~~403,000. ~~Based on these amounts the Executive Director will raise Beatrice's individual expenditure ceiling to \$303,000.~~ The Executive Director will now raise Beatrice's individual expenditure ceiling to ~~\$303,000~~\$350,000.

Example 3: The Ethics Commission has certified 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~~1,800,000 and Candidate Barry's supportive funds total ~~\$1,800,000~~2,100,000. The Executive Director will raise the individual expenditure ceilings of Ava by \$500,000 to ~~\$1,975,000~~2,200,000; the Executive Director will raise the individual expenditure ceiling of Barry by \$250,000 to ~~\$1,725,000~~1,950,000.

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 ~~\$250,000~~350,000. Adam, James's only opponent, reports total contributions of ~~\$50,000~~150,000; 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~~190,000, do not exceed James's individual expenditure ceiling.

Example 5: Under the same facts as Example 4, assume Adam has now raised an additional \$235,000 in contributions, making his candidate supportive funds equal ~~\$285,000~~385,000. When the \$40,000 of third party spending is added, that makes Adam's total supportive funds equal ~~\$325,000~~425,000. The Executive Director will now raise James's individual expenditure ceiling to ~~\$350,000~~450,000 because Adam's total supportive funds exceeds James's individual expenditure ceiling and the Executive Director raises individual expenditures ceilings in increments of \$50,000.

Example 6: Under the same facts as Examples 4 and 5, assume several committees make independent expenditures to oppose James; by September ~~2018~~2020, their reported expenditures total \$35,000. To determine James's individual expenditure ceiling, the Executive Director adds Adam's total supportive funding, ~~\$325,000~~425,000, to the total opposition spending against James, \$35,000, to obtain a sum of ~~\$360,000~~460,000. The Executive Director will raise James's individual expenditure ceiling to ~~\$400,000~~500,000.

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~~1,700,000. Ann, an opponent of Jane, reports total contributions of ~~\$1,000,000~~1,300,000; several committees also report spending a total of \$500,000 to support Ann, making Ann's total supportive funds ~~\$1,500,000~~1,800,000. The Executive Director will raise Jane's individual expenditure ceiling by \$250,000 to ~~\$1,725,000~~1,950,000.

Example 8: Under the same facts as Example 7, assume several committees make independent expenditures to oppose Jane; by September 2018, their reported expenditures total \$300,000. To determine Jane's individual expenditure ceiling, the Executive Director adds Ann's total supportive funds, ~~\$1,500,000~~1,800,000, to the total opposition spending against Jane, \$300,000, to obtain a sum of ~~\$1,800,000~~2,100,000. The Executive Director will raise Jane's individual expenditure ~~ceiling~~ by \$250,000 to ~~\$1,975,000~~2,200,000.

Regulation 1.161-1: Filing Requirements for Mass Mailings ~~by Candidates.~~

(a) To comply with the filing requirements set forth in sections 1.161(b)(2) and (3), ~~candidates~~ filers must use Form SFEC-161.

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

(c) Estimated Costs of Mass Mailings. ~~Candidates~~ Filers who do not know actual costs associated with a mass mailing when they file Form SFEC-161 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(b)(2), the phrase, “date of the mailing” shall mean the date on which the candidate-filer or the candidate-filer’s agent delivers the mass mailing to the United States Postal Service for delivery.

Regulation 1.161-2: Filing Requirements for Independent Expenditure Advertisements

To comply with the filing requirements set forth in section 1.161(b)(1), a filer must use the Form 496 to disclose the separate costs associated with the advertisement, including but not limited to photography, design, production, printing, distribution, and postage.

Regulation 1.161-3: Disclaimers – Top Three Contributors

(a) To comply with the requirements of section 1.161(a)(1), a committee must adhere to the following disclaimer formatting requirements, in addition to any and all formatting requirements imposed by the Political Reform Act or Campaign and Governmental Conduct Code:

(1) Each of the committee’s top three major contributors must be numbered by placing the numerals 1, 2, and 3, respectively, before each major contributor’s name. Each numeral must appear in the same font and size as the names of the major contributors and each numeral must be separated from the corresponding name of the major contributor by one period and one space.

(2) For any major contributor that is a recipient committee, the names of the top two major contributors of \$5,000 or more to that committee (“secondary major contributors”) must be included immediately following the name of the relevant major contributor. The names of secondary major contributors must appear in the same font and size as the names of the major contributors and must be separated from the name of and dollar amount contributed by the corresponding major contributor by one space, followed by one em dash, followed by one space, followed by the words “contributors include,” followed by one space.

(3) If two secondary major contributors must be included for a single major contributor, the secondary major contributor who has contributed more to the major contributor shall be listed before the other secondary major contributor; the name of and dollar amount contributed by the first secondary major contributor must be separated from the name of and dollar amount contributed by the second secondary major contributor by a single comma followed by a single space.

(4) Whenever a major contributor or secondary major contributor is included in a disclaimer, the amount of relevant contributions made by that major contributor or secondary major contributor must appear in the same font and size as the names of the major contributors. This dollar amount must immediately follow the name of the corresponding major contributor or secondary major contributor, must be placed inside parentheses, and must include the dollar symbol immediately before the numerals indicating the amount. Each set of three numerals in the dollar amount must be separated by a comma.

(b) If a major contributor included in a disclaimer is a recipient committee and secondary major contributors must therefore be included in the disclaimer, the committee paying for the advertisement shall seek in writing the names of and dollar amounts contributed by the secondary major contributors to that major contributor at the time of the major contributor’s last contribution to the committee

paying for the advertisement. If the committee paying for the advertisement requests such information from the major contributor in writing but does not receive such information as of the time the advertisement is printed or otherwise produced, the committee may rely on public disclosures filed by the major contributor to discern the names of and dollar amounts contributed by the major contributor's secondary major contributors.