

# Campaign Finance Regulations (San Francisco Campaign and Governmental Conduct Code Section 1.100 et seq)

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## **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 1.104-3: Definition of Immediate Family.**

“Immediate family” means the spouse or registered domestic partner and dependent children of the candidate.

### **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 filed forms 496, SFEC-162, and SFEC-163 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 Form SFEC-152. The Executive Director shall then add to this any amounts that reported on filed forms 496, SFEC-162, and SFEC-163 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 1.107-1: Training Requirements for Candidates and Candidate Treasurers.**

Each candidate for City elective office and the candidate committee's treasurer must attend a training program on the Campaign Finance Reform Ordinance conducted or sponsored by the Ethics Commission no earlier than 12 months and no later than 30 days prior to the election at which the candidate's name will appear on the ballot. Treasurers for all non-candidate committees must attend the next training program conducted or sponsored by the Ethics Commission after the date the committee files either its original statement of organization or an amendment to a statement of organization designating a new treasurer. An assistant treasurer who signs campaign disclosure reports is considered a treasurer for purposes of section 1.107.

## **Regulation 1.107-2: Training Opportunities.**

The Ethics Commission shall provide a training workshop on the Campaign Finance Reform Ordinance at least once within 30 days of the last day to file nomination papers. A candidate or treasurer who is unable to attend a workshop training as required by section 1.107 may contact Ethics Commission staff to schedule one-on-one training, and staff will make all reasonable efforts to provide such training. Such a person may also receive training from the Ethics Commission website, provided that the Commission has posted such a training presentation on its website along with a statement that expressly states that watching the presentation meets the requirement of section 1.107. The online training presentation may be in the form of a video, slideshow, or any other medium that effectively conveys substantially the same information provided in the workshop. At the Commission's discretion, the Commission may permit the online presentation to satisfy the training requirement of section 1.107 only for candidates and treasurers who have attended a live training during the prior year during which there have been no substantive amendments to the Campaign Finance Reform Ordinance.

## **Regulation 1.107-3: Certificate of Training.**

Each candidate or treasurer who receives training must complete and submit a certification of training (Form SFEC-107) at such training. Each candidate or treasurer who receives training from the Ethics Commission website must file the same certificate indicating that he or she has completed the online training course. The certificate of training (Form SFEC-107) will be available at the training session(s) or on the Ethics Commission's website.

## **Regulation 1.108-1: Inaugural Expenses.**

(a) A candidate may, but is not required to, use funds in his or her campaign contribution trust account for inaugural expenses. All funds in the campaign contribution trust account are subject to the applicable contribution limit set forth in section 1.114. Funds expended from the

campaign contribution trust account for inaugural expenses are not subject to the applicable expenditure ceiling in either section 1.130 or 1.140.

(b) An inaugural committee, such as a nonprofit public benefit corporation, that is not created by or under the control of an elected officeholder, is not subject to the CFRO.

## **Regulation 1.108-2: Bank Account Location.**

For the purposes of Section 1.108, “an office of a bank located in the City and County of San Francisco” includes the office of any bank that is authorized to do business in the City and County of San Francisco. Accounts may be established online, over the telephone, or at a physical office located outside of the City and County of San Francisco, as long as the bank is authorized to do business in the City and County of San Francisco.

## **Regulation 1.112-1: Electronic Campaign Disclosure – Date of Expenditures.**

(a) For the purposes of disclosure under section 1.112, the “date” that any expenditure required to be reported is “incurred” is the date that the payment is made or the date that consideration, if any, is performed or received, whichever is earlier.

(b) For the purposes of disclosure under section 1.112, the “date” that an accrued expense is “incurred” is the date that the debt or obligation is contracted.

(c) For the purposes of disclosure under section 1.112, an expenditure that qualifies as a monetary or nonmonetary contribution to a candidate or committee is “incurred” by a contributor on the earlier of the following dates: (A) the date that funds are expended by the contributor for goods or services; or (B) the date that the contributor mails or delivers the funds.

## **Regulation 1.112-2: Electronic Campaign Disclosure - Signature Verification.**

### **(a) Electronic Signatures**

Documents bearing an electronic signature will be treated the same as signed paper documents for the purposes of applicable State and local law. Electronic documents are signed under penalty of perjury under the laws of the State of California. The candidate, treasurer, or other identified signatory is responsible for signing their documents electronically and assumes any liability that results from delegating their electronic signature to another person.

### **(b) Requirements for Electronic Filing**

#### **(1) Required Electronic Filing**



Any committee required to file electronic statements under Section 1.112(b) must first file Form SFEC-112b with the Ethics Commission. The Form SFEC-112b may be used to identify those with the authority to sign electronically on behalf of another person.

## **(2) Voluntary Electronic Filing**

Any person or committee who voluntarily opts to file electronic statements under Section 1.112(c) must first file Form SFEC-112b with the Ethics Commission. Thereafter, the person shall be subject to all requirements set forth in Section 1.112 and the regulations thereunder. The Form SFEC-112b may be used to identify those with the authority to sign electronically on behalf of another person.

(c) Any campaign finance disclosure statement that must be filed electronically and that lacks all electronic signatures of the required signers is not deemed filed and may subject the responsible parties to late filing fees, in addition to any other penalty under the Code.

## **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 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 82013.

## **Regulation 1.113-2: Disclosure Requirements During Signature Gathering Periods – Definition of Proponent.**

For the purposes of these regulations, the term "proponent" shall mean

- (a) for an initiative petition, the person or persons who submit a draft of a petition proposing the measure to the Department of Elections with a request that the City Attorney draft a title and summary of the chief purpose and points of the proposed measure;
- (b) for a referendum petition, the person or persons who file the petition with the Clerk of the Board of Supervisors; or
- (c) for a recall petition, the person or persons who have authority over or control of the circulation of, or obtaining signatures for, the petition.

## **Regulation 1.113-3: Disclosure Requirements During Signature Gathering Periods – Start and End Dates of Signature Gathering Period.**

- (a) For the purposes of filing disclosure reports under section 1.113, the signature gathering or circulation period starts on the date that the proponent begins to circulate a signature petition to qualify the measure for the ballot.
- (b) For purposes of filing disclosure reports under section 1.113, the signature gathering period ends as follows:
  - (1) For initiative petitions, on the earlier of: the date that the proponent submits the signature petitions to the Department of Elections, or 180 days from the day that the proponent receives title and summary pursuant to California Elections Code section 9208;
  - (2) For recall petitions, on the earlier of: the date that the proponent submits the signature petitions to the Department of Elections, or by the submission date set forth in California Elections Code section 11220;
  - (3) For referendum petitions, on the earlier of: the date that the proponent submits the signature petitions to the Department of Elections, or the submission date under state law.

## **Regulation 1.113-4: Duties of Signature Gatherer.**

Within one business day of the first date that a petition is circulated to qualify a measure for the ballot, the proponent of the petition must notify the Ethics Commission by email or facsimile to inform the Commission that the proponent has begun to circulate the petition.

## **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 shall use the FPPC Form 460.

(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 1.114-1: 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 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) and (B).

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

(B) 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, unless the contribution is made by the partnership's SSF pursuant to subsection (a) of this regulation. 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 1.114-2: Limits on Contributions to Committees.**

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 spent \$1,000 or more in a calendar year on independent expenditures in support of or opposition to a single 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 Section 1.114.5(b)(2).

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

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.

## **Regulation 1.122-1: Surplus Funds Held by a Committee Other Than a Candidate's Committee.**

(a) Surplus Funds Held by a Committee Primarily Formed to Support or Oppose a Measure. Funds remaining in the campaign account of a committee primarily formed to support or oppose a measure at the end of the post-election reporting period following the election at

which the measure appeared on the ballot are surplus funds and must be returned, donated, or used as prescribed in section 1.122(b)(3).

(b) Funds Held by Any Other Committee. Funds held by a committee other than a candidate committee or a committee primarily formed to support or oppose a measure are not subject to section 1.122.

## **Regulation 1.122-2 Transfer of Funds in a Candidate's Campaign Account.**

(a) The use and transfer of funds held in a candidate's campaign account during an election, after the candidate's withdrawal or when such funds become surplus, are regulated by both state and local law. Candidates and treasurers must comply with both state and local law in the handling of such funds. Under some circumstances such as when funds become surplus, state law prohibits the transfer of funds.

(b) A candidate who transfers funds from one candidate campaign account to another must file Form SFEC-122 to disclose whether "last in, first out" or "first in, first out" was used and information regarding the contributions that were transferred.

## **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 1st of the year immediately following one election and ending on December 31st 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.

## **Regulation 1.126-1: Contribution Prohibition – 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) 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.

(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 \$100,000 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) Affiliate. For the purposes of section 1.126, an “affiliate” includes 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, any person with an ownership interest of more than 10 percent in a named party or prospective named party to a contract, 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, including any person who directs or participates in directing the affairs and activities of the named party or prospective named party 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), 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) Relocation Appeals Board: Mayor and Board of Supervisors (5) Local Workforce Investment Board: Mayor

(h) 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) does not apply to a person solely because that person is a member of the board of directors or principal officer of an entity with an ownership interest of more than 10 percent in the named party or prospective named party to a contract, or of any subcontractor listed in a bid or contract.

(b) For the purposes of section 1.126(b)(1), 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.

(c) For the purposes of section 1.126(b)(3), “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 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 of the person's affiliates of the prohibition in section 1.126(b) by the 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 \$100,000 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] Serve as a director on the board of directors of my company; Serve as a principal officer of my company; Have an ownership interest of more than 10 percent in my company; Are listed as a subcontractor on my bid or contract; 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 and the title of each City elective office]. This prohibition will last from [date of submission of a proposal] until the termination of negotiations or twelve months have elapsed from the date the contract is approved. I will advise you of the date that negotiations terminate or twelve 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), every 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. 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(e)) 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 certifies under penalty of perjury, in writing, including in electronic format, to the candidate that the following is true:

I am not a City contractor, or a director, officer, greater than 10% owner, 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.

## **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 1.126-9: Hosting Home or Office Fundraisers.**

Notwithstanding the definition of “contribution” set forth in the Political Reform Act, for the purpose of Section 1.126, a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office is a contribution, regardless of the value, as is the value of the use of the home or office as a fundraising event venue.

## **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 Hearing. “Discretionary Review Hearing” 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 under penalty of perjury, in writing, including in electronic format, 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, as defined in Campaign and Governmental Conduct Code section 1.127(a) (which excludes my primary residence), 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 1.127-4: Hosting Home or Office Fundraisers.**

Notwithstanding the definition of “contribution” set forth in the Political Reform Act, for the purpose of Section 1.127, a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office is a contribution, regardless of the value, as is the value of the use of the home or office as a fundraising event venue.

## **Regulation 1.128-1: Acceptance or Rejection of Voluntary Expenditure Ceilings.**

(a) Time for Filing; General Deadline. Any 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 may accept the applicable voluntary expenditure ceiling by filing the Form SFEC-128 with the Ethics Commission. The form must be filed no later than the deadline for filing nomination papers.

(b) A candidate may not accept the voluntary expenditure ceiling by filing Form SFEC-128 if the applicable ceiling has already been lifted under section 1.134.

(c) Policy of the Commission. The Ethics Commission encourages all candidates to comply with the voluntary expenditure ceilings established in section 1.130.

## **Regulation 1.130-1: Amount of Expenditure Ceilings; Adjustments.**

(a) Under section 1.130(c), the Commission is authorized to adjust the spending limits annually to reflect changes in the California Consumer Price Index ("CPI"). The spending limits under section 1.130 shall be adjusted as follows:

(1) The voluntary expenditure ceilings in section 1.130(a) and (b) shall be adjusted using the following formula: the voluntary expenditure ceiling amount in effect in January 1, 2010, multiplied by the current CPI, divided by the base CPI from January 2010, rounded to the nearest one thousand dollars (\$1,000). The resulting figure shall be the adjusted voluntary expenditure limitation in effect for all elections for City elective offices except the Mayor and the Board of Supervisors.

(b) 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.

## **Regulation 1.134-1: Reports by Candidates.**

Any 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 who receives contributions, makes qualified campaign expenditures, incurs expenses or has funds in his or her campaign contribution trust account that exceed 100 percent of the applicable expenditure ceiling must file Form SFEC-134(b) with the Ethics Commission within 24 hours of exceeding 100 percent of the applicable expenditure ceiling. A candidate need not file this form if the Ethics Commission has already lifted the applicable voluntary expenditure ceiling.

## **Regulation 1.134-2: 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 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 1.140-1: Eligibility to Receive Public Financing – “Candidate’s Previous Campaign Committee.”**

For purposes of subsections 1.140(a)(3)-(4), a “candidate’s previous campaign committees” includes any campaign committee controlled by the candidate or committee for which the candidate served as treasurer or assistant treasurer.



## **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 \$350,000 for candidates for the Board of Supervisors or \$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 1.140-3: Adjustments of Qualifying Limits and Thresholds—Board of Supervisors.**

When the Ethics Commission adjusts the dollar thresholds in sections 1.140(b)(2) and (b)(3) to reflect changes in the California Consumer Price Index (“CPI”), such adjustments will be rounded off to the nearest \$500. The adjustments shall be made using the following formula: the threshold in effect on January 1, 2008, multiplied by the current CPI, divided by the base CPI from 2008, rounded to the nearest five hundred dollars (\$500). 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 figures shall be the adjusted thresholds in effect for all applicable elections held for the Board of Supervisors until the Commission next adjusts the thresholds.

## **Regulation 1.140-4: Adjustments of Qualifying Limits and Thresholds—Mayor.**

When the Ethics Commission adjusts the dollar thresholds in sections 1.140(c)(2) and (c)(3) to reflect changes in the California Consumer Price Index (“CPI”), such adjustments will be rounded off to the nearest \$5,000. The adjustments shall be made using the following formula: the threshold in effect on January 1, 2007, multiplied by the current CPI, divided by the base CPI from 2006, rounded to the nearest five thousand dollars (\$5000). 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 adjusted thresholds in effect for all applicable elections held for the Mayor until the Commission next adjusts the thresholds.



## **Regulation 1.140-5: Amount of Individual Expenditure Ceiling—Adjustments.**

(a) The individual expenditure ceiling in section 1.140(b)(4) shall be adjusted using the following formula: the individual expenditure ceiling in effect on January 1, 2010, multiplied by the current California Consumer Price Index (“CPI”), divided by the base CPI from January 2010, rounded to the nearest one thousand dollars (\$1,000). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the adjusted individual expenditure ceiling in effect for elections for the Board of Supervisors.

(b) The individual expenditure ceiling in section 1.140(c)(4) shall be adjusted using the following formula: the individual expenditure ceiling in effect January 1, 2010, multiplied by the current California Consumer Price Index (“CPI”), divided by the base CPI from January 1, 2010, rounded to the nearest five thousand dollars (\$5,000). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the adjusted individual expenditure ceiling in effect for elections for the Mayor.

## **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) 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) 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. The information disclosed on Form SFEC-142(b) 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) Contribution Lists and Supporting Documentation. The 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 1.142-3: Supporting Material Required for Qualifying and Matching Contributions.**

(a) The supporting material and information required under sections 1.142(b) and 1.144(f) shall include the following:

(1) A copy of the deposit slip and deposit receipt for each qualifying or matching contribution.

(2) Documentation showing that a contribution was made, such as:

(A) for contributions made by check, a copy of the check itself and a listing of all contributions in a batch of deposited checks (each batch should be numbered);

(B) for contributions made by credit card, documentation from the credit card merchant showing the accountholder's name, the accountholder's billing address, the date the transaction was initiated, and the amount of the contribution; or

(C) for cash contributions, a signed and dated contributor card that includes the committee's name, the amount of the contribution, and the contributor's name and residential address in San Francisco.

(b) In addition, the supporting material shall demonstrate that the contributor is a San Francisco resident by providing evidence of any of the following:

(1) the contributor uses a San Francisco residential address as the address on any bank account or any account with a financial institution, through the submission of copies of recent bank statements, personal checks, or Address Verification Service information listing the account holder's address;

(2) the contributor uses a San Francisco residential address as a billing address, through the submission of copies of recent credit card or utility bills;

(3) the contributor lives at a San Francisco address, through the submission of copies of a current deed or lease;

(4) the contributor uses a San Francisco residential address as a mailing address, through the

submission of copies of recent mail received by the contributor;

(5) the contributor is currently registered to vote in San Francisco;

(6) the contributor has represented to a government agency that he or she lives at a San Francisco address, through the submission of copies of a driver's license, passport, government-issued identification card, or tax returns.

For the purposes of this regulation, "Address Verification Service" shall mean the system used by credit card processors to verify that the address provided by a person using the credit card is the billing address for the credit card account.

(c) A candidate may not submit affidavits or declarations as proof of a contributor's residency in San Francisco.

## **Regulation 1.142-4: Verification of Qualifying and Matching Contributions.**

Each claim for public funds shall be signed and verified under penalty of perjury by the eligible candidate. The candidate shall verify that the claim and supporting documentation are true and complete to the best of his or her knowledge, information and belief.

## **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, unless the deadline to file nomination papers is extended pursuant to California Elections Code § 10220 et seq.

(b) When a candidate submits the Form SFEC-142(b) 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) 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 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 \$10,000. 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 \$10,000. 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 70th 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(b) 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 \$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 \$1,700,000, 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 \$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 \$1,700,000 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 \$355,000 and Candidate Beatrice's supportive funds total \$405,000. The Executive Director will raise the individual expenditure ceilings for Alvin by \$100,000 to \$450,000. The Executive Director will raise the individual expenditure ceilings for Beatrice by \$50,000 to \$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 – \$355,000. The Executive Director then adds the total opposition spending against Beatrice, or \$48,000, to obtain a sum of \$403,000. The Executive Director will now raise Beatrice's individual expenditure ceiling to \$450,000.

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 \$1,800,000 and Candidate Barry's supportive funds total \$2,100,000. The Executive Director will raise the individual expenditure ceilings of Ava by \$500,000 to \$2,200,000; the Executive Director will raise the individual expenditure ceiling of Barry by \$250,000 to \$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 \$350,000. Adam, James's only opponent, reports total contributions of \$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, \$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 \$385,000. When the \$40,000 of third party spending is added, that makes Adam's total supportive funds equal \$425,000. The Executive Director will now raise James's individual expenditure ceiling to \$450,000 because Adam's total supportive funds exceed 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 2020, their reported expenditures total \$35,000. To determine James's individual expenditure ceiling, the Executive Director adds Adam's total supportive funding, \$425,000, to the total opposition spending against James, \$35,000, to obtain a sum of \$460,000. The Executive Director will raise James's individual expenditure ceiling to \$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 \$1,700,000. Ann, an opponent of Jane, reports total contributions of \$1,300,000; several committees also report spending a total of \$500,000 to support Ann, making Ann's total supportive funds \$1,800,000. The Executive Director will raise Jane's individual expenditure ceiling by \$250,000 to \$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, \$1,800,000, to the total opposition spending against Jane, \$300,000, to obtain a sum of \$2,100,000. The Executive Director will raise Jane's individual expenditure ceiling by \$250,000 to \$2,200,000.

### **Regulation 1.143-3: Objection to Executive Director's Determination Whether a Communication Supports or Opposes a Candidate.**

Any objections to the Executive Director's initial determination of whether a communication supports or opposes a candidate must be filed on Form SFEC-143, identify the communication in question, and set forth reasons why the candidate disagrees with the Executive Director's determination.

### **Regulation 1.144-1: Disbursement of Public Funds.**

Publicly financed 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 1.144-2: 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), 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 submitted by the candidate to the Executive Director on Form SFEC-144(c).



## Regulation 1.144-3: 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.

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.

### (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 Form SFEC-144(c). Eligible candidates may submit these post-election claims on a rolling basis.

## **Regulation 1.148-1: Restrictions on Use of Public Funds; Expenses that Do Not Affect the Outcome of the Election.**

Candidates who receive public funds may only use such funds to pay for qualified campaign expenditures, as defined in section 1.104, except that such candidates may use public funds to pay for a limited range of expenses incurred after the election that do not directly affect the outcome of the election. This limited range of post-election expenses includes any pro-rata costs of post-election rent and utility bills that accrue until the campaign office is closed or 30 days after the election, whichever is sooner; expenses associated with the Ethics Commission's audit of the campaign committee; and expenses related to preparing and filing post-election campaign finance disclosure reports as required by the California Political Reform Act and the San Francisco Campaign Finance Reform Ordinance. Public funds may not be used to hold celebrations or events to celebrate a victory or to thank campaign volunteers. Public funds may also not be used for any post-election advertising, announcements or notices.

## **Regulation 1.152-1: Supplemental Reporting in Elections for the Board of Supervisors – Candidates.**

(a) Each candidate for the Board of Supervisors must file Form SFEC-152 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 \$10,000 within 24 hours of reaching or exceeding that limit.

(b) Thereafter, each candidate for the Board of Supervisors must file a Form SFEC-152 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 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 or reaching or exceeding that threshold.

## **Regulation 1.152-2: Supplemental Reporting in Elections for Mayor – Candidates.**

- (a) Each candidate for Mayor must file Form SFEC-152 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 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 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 1.161-1: Filing Requirements for Mass Mailings.**

- (a) To comply with the filing requirements set forth in sections 1.161(b)(2) and (3), 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. 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), the phrase, “date of the mailing” shall mean the date on which the filer or the 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.**

- (a) 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.
- (b) Estimated Costs of Independent Expenditure. Filers who do not know the actual costs associated with an independent expenditure when they file Form 496 as described in subsection (a) of this regulation may provide a good faith estimate, provided that they amend the form within 48 hours of receiving more information about the actual costs of the independent expenditure.

## 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 and contribution amount 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.

## **Regulation 1.161-4: Exceptions to Disclaimer Requirements**

(a) If complying with the minimum disclaimer requirements of Section 1.161 and Ethics Commission Regulation 1.161-3 results in the advertisement's disclaimer taking up more than one-third of the total advertisement, the committee may do the following:

(1) For print advertisements, including mass mailings and smaller written advertisements:

A. The committee may disregard the font requirements of Section 1.161 and Ethics Commission Regulation 1.161-3 and instead rely solely on the font requirements specified in the California Political Reform Act and its enabling regulations.

B. If after adjusting the font requirements as specified in subsection A, the disclaimer still takes up more than one-third of the total advertisement, the committee may omit information regarding any secondary major contributors, that would otherwise be required by Section 1.161 and Ethics Commission Regulation 1.161-3.

(2) For any audio, radio, telephone, video, television, or electronic advertisements for which a disclaimer must be spoken or visually displayed:

A. The committee may omit information regarding any secondary major contributors from the spoken or visual components of the disclaimer, that would otherwise be required by Section 1.161 and Ethics Commission Regulation 1.161-3.

(b) For print advertisements and the visual components of television, video, or electronic advertisements, a disclaimer takes up more than one-third of the total advertisement if the total area of the disclaimer exceeds one-third of the total area of the advertisement.

(c) For the spoken component of any audio, radio, telephone, video, television, or electronic advertisements for which a disclaimer must be spoken, a disclaimer takes up more than one-third of the total advertisement if the total number of seconds required to speak the disclaimer exceeds one-third of the total length of the advertisement. When determining the amount of time it takes to speak a disclaimer, the disclaimer must be read in a tone and pitch similar to the rest of the advertisement, at a pace no slower than the rest of the advertisement, and at a pace that can be clearly understood.

# Regulation 1.162-1. Electioneering Communications.

(a) To comply with the filing requirements set forth in section 1.162, persons must use the Form SFEC-162.

(b) Persons who do not know the actual costs of an electioneering communication when they file the Form SFEC-162 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 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 1.162, 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.

## **Regulation 1.170-1: Provision of Documents.**

The Ethics Commission may specify and require the method by which evidence, records, documents, and information is provided for audits and investigations, including in electronic format. Failure to provide evidence, records, documents, or information in the format specified by the Ethics Commission constitutes withholding such materials.

## **Regulation 1.170-2: Provision of Documents.**

Failure to provide evidence, records, documents, or information requested pursuant to a subpoena from the Ethics Commission, or to provide a timely response to a subpoena, constitutes withholding of such materials.

## **Regulation 1.172-1. Extension of Deadlines that Fall on Weekends and Holidays.**

(a) Except as otherwise provided in Regulation 1.172-1(b), when a filing deadline under Chapter 1 of the Campaign and Governmental Conduct Code falls on a weekend day or holiday, the deadline will be extended until the next business day during which the Ethics Commission is open. For purposes of this regulation, the term “weekend” means Saturday and Sunday and the term “holiday” means any holiday on which the Ethics Commission is authorized by law to close.

(b) The deadline will not be extended for campaign reports that are due during the late reporting period or the last sixty (60) days before an election.

## **Regulation 1.174-1: Notification to Director of Elections, the Board of Supervisors and the Public.**

The Executive Director shall notify the Director of Elections, the Board of Supervisors and the public via a posting on the Commission website and a press release, within 24 hours of the date the Director of Elections submits a certified statement of the results of the election to the Board of Supervisors, whether each candidate who according to the certified statement of results has been elected to a City elective office has filed all required campaign declarations, statements or reports.