



California Political Attorneys Association

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December 16, 2019

VIA E-MAIL

Chair Miadich and Commissioners Cardenas, Hatch and Hayward
Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811

Re: Request for Regulatory Changes

Dear Chair Miadich and Commissioners:

We write on behalf of the California Political Attorneys Association (“CPAA”), regarding Item 9 on the Commission’s December 19, 2019 meeting agenda (Regulation Projects and Schedule for 2020). We appreciate the Commission putting forth the schedule and its list of regulatory priorities, and we look forward to working with Commission staff to provide input on these projects throughout the year. We respectfully request that the Commission consider making the following regulatory changes: (1) requiring notification to donors upon transfers between a candidate’s controlled committees; (2) permitting state candidates to remedy excess contributions within a reasonable time period; (3) requiring inclusion of the relevant election date on statement of organizations; and (4) additional review of recordkeeping requirements for Multipurpose Organizations.

1. Notification to Donors Upon Transfers Between a Candidate’s Controlled Committees

A state candidate may transfer campaign funds from one election committee to another election committee belonging to that same candidate. Pursuant to FPPC Regulation 18536, the candidate committee making the transfer must use a reasonable accounting method, such as last in, first out (“LIFO”) or first in, first out (“FIFO”) to attribute the transfer to specific contributors. The transferred funds then count toward the amount the contributors may give to the committee receiving the transfer.

Currently, there is no requirement to notify the donors whose contributions are transferred from one committee to another. Donors are almost always unaware that their prior contributions have been transferred to a new committee. Nor are they aware that the prior contribution now counts against the donors' contribution limit to the new committee. This can lead to the donors inadvertently making excess contributions to the new committee. To provide transparency to those donors, we request that the Commission adopt a requirement for notifying donors whose contributions are transferred between a candidate's controlled committees where attribution is required by FPPC Regulation 18536.

2. Remediating Excess Contributions

Currently, state law does not provide a mechanism to remedy excess contributions received by candidates and committees. In most instances, excess contributions are the result of human error and are inadvertent in nature, rather than bad actors intentionally contributing over the legal contribution limit. For example, more and more donors are choosing to contribute to candidates via reoccurring credit card contributions, resulting in inadvertent excess contributions. Other times, donors do not realize that they've already contributed the maximum allowed under the law. Similarly, excess contributions can result from campaign staff error.

Other jurisdictions have long-standing provisions in their laws that allow campaigns to cure excess contributions. For example, federal candidates may remedy excess contributions by refunding the excessive amount within 60 days of when the contribution is received. Similarly, City of Los Angeles candidates may remedy excess contributions by refunding the excessive amount within 75 days after the filing deadline for the campaign finance report in which the excess contribution was disclosed. We request that the Commission adopt a similar rule that allows candidates and committees to cure excess contributions by refunding any excess portion within a reasonable time period.

3. Requiring Inclusion of the Relevant Election Date on Form 410 for Candidates and Ballot Measures

Currently, the Form 410 (Statement of Organization) requires a controlled committee to include the name of the candidate, officeholder or state measure proponent, the elective office sought or held, and the year of election, among other things. For committees that are primarily formed to support or oppose a candidate or ballot measure, the committee is required to include the candidate and or measure's full title, as well as the candidate's office sought or held or the measure's jurisdiction.

We propose that controlled committees and primarily formed committees be required to include the relevant election date (as opposed to the year of election) on the committee's Statement of Organization. Requiring committees to include this information on the Statement of Organization would be helpful to filers to confirm if a 24-hour report is required, and would impose a minimal burden on committees that are already required to include other similar information on the Statement of Organization.

4. Reconsideration of Regulations Governing Recordkeeping for Multipurpose Organizations

At its September 2019 meeting, the Commission considered and adopted regulations implementing new recordkeeping requirements for Multipurpose Organizations. At that time, CPAA submitted written comments requesting various changes to the proposed regulations. By definition, Multipurpose Organizations are entities that exist for various reasons other than making California political expenditures, and we cautioned the Commission against imposing a recordkeeping scheme that places overly burdensome recordkeeping requirements on these organizations' non-California and non-political activities. While the Commission ultimately adopted the regulations as initially drafted, we respectfully request that you bring back these regulations for discussion in 2020. We believe that having a follow-up discussion regarding these regulations is important and that we will have insight to provide based on our collective experience advising clients under the existing regulations. We are attaching CPAA's comment letter and alternative draft regulations submitted in September 2019 for your reference.

CPAA has engaged Commission staff on these and other projects, and we appreciate the Commission's consideration of the proposals set forth in this letter. Please do not hesitate to contact us if you wish to discuss these matters further.

Very truly yours,



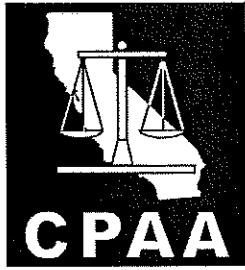
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September 17, 2019

VIA E-MAIL

Chair Miadich and Commissioners Cardenas, Hatch and Hayward
Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811

Re: Adoption of Proposed Amended Regulation 18422 and Proposed Regulation 18422.1

Dear Chair Miadich and Commissioners:

The undersigned counsels write on behalf of the California Political Attorneys Association, as well as on behalf of multiple clients that are registered as Multipurpose Organizations under Cal. Govt. Code § 84222 and Commission Regulation 18422.¹

We thank the Commission for its work on the draft amendment to Regulation 18422, as well as draft regulation 18422.1. While we commend the FPPC's efforts to attempt to synchronize the recordkeeping requirements for Multipurpose Organizations with those for candidates, treasurers, and elected officers in Regulation 18401, the nature of Multipurpose Organizations makes compliance with portions of the proposed, expanded recordkeeping requirements extremely burdensome. By definition, Multipurpose Organizations are entities that exist for various reasons *other than* making California political contributions or expenditures. Often, organizations that qualify as Multipurpose Organizations under Cal. Gov. Code §84222 are organizations that make very occasional California political expenditures. Because these entities engage in various activities in addition to any California political activities, we believe it is necessary to impose a recordkeeping scheme that takes this into account in order to avoid placing overly burdensome recordkeeping requirements on these organizations' non-California and non-political activities.

In our collective experience, very few Multipurpose Organizations intentionally solicit funds for California activity. As a result, most non-California contributors that could be subject to the Multipurpose Organization requirements – Federal PACs, non-California PACs, or 501(c) organizations – do not raise funds specifically for California contributions and expenditures, and

¹ David Mitrani of Sandler Reiff Lamb Rosenstein & Birkenstock, P.C. is not a member of the California Political Attorneys Association, but represents national organizations that have or may in the future register as Multipurpose Organizations, and routinely advises organizations on compliance with the Political Reform Act.

instead report using the “Last-In, First-Out” (“LIFO”) method described in Cal. Govt. Code § 84222(e)(1)(C) and Cal. Govt. Code § 84222(f)(1), itemizing donors on reports that gave \$1,000 or more up to the amount of spending.

These types of organizations are typically subject to a host of other recordkeeping requirements, including those imposed by the Federal Election Commission, the Internal Revenue Service and state corporate law requirements for nonprofit organizations – it is crucial to consider existing recordkeeping requirements placed on Multipurpose Organizations in adopting recordkeeping rules.

To balance the need for adequate records under the Political Reform Act with the unique nature of Multipurpose Organizations, we are proposing changes to both the proposed amendments to Regulation 18422, as well as draft Regulation 18422.1. We believe that the changes we propose will provide access to the necessary documentation for political contributions and expenditures made by Multipurpose Organizations without imposing a significant burden on organizations who only occasionally engage in California political activities.

I. Changes to Draft Amended Regulation 18422

Cal. Gov. Code §84222(c)(5)(A) provides that a multipurpose organization who makes contributions or expenditures using only available nondonor funds does not qualify as a committee. The statute provides: “A multipurpose organization that makes contributions or expenditures with nondonor funds shall briefly describe the source of the funds used on its major donor or independent expenditure report.”

Accordingly, Draft Amended Regulation 18422(c)(4) imposes a requirement for a multipurpose organization that makes contributions or expenditure with nondonor funds to describe the source of the nondonor funds. In addition to requiring a description of the type of funds used, the draft regulation proposes to require the “identification of the source of nondonor funds used,” including the name of the entity producing investment income, name of the institution where the income producing investment is held.

Our proposed revisions to the draft regulation remove this language. The statute provides that an organization is required to “briefly,” describe the source of nondonor funds, and we believe that requiring inclusion of this information goes beyond the scope of what is required by the statute. Further, the types of information requested are more appropriate for the recordkeeping provisions, and we have accordingly addressed this in Draft Regulation 18422.1. We believe that the brief description required by the statute is sufficient for the FPPC to enforce against any filer who simply notes “nondonor funds” on a filing without further information.

II. Changes to Draft Proposed Regulation 18422.1

While our proposed edits to Draft Regulation 18422.1 appear at first glance to be a total revision of the initial draft provided by staff, we have retained much of the language included in the original draft, as well as language that exists in current recordkeeping Regulation 18401.

We have reorganized the draft regulation to address the recordkeeping requirements for contributions and expenditures separately, in part to address the different types of records that should be required for contributions solicited specifically for California political activities versus contributions that are disclosed as part of a last-in, first out analysis or disclosed as a result of activity by a federal or out-of-state PAC. We believe there is a critical difference to the types of records that should be required for contributions solicited specifically for California activity versus those that are not. Unlike contributions, expenditures for California political activities should all be subject to the same rules so there is less need to distinguish between types of multipurpose organizations.

Of particular concern, under the original draft regulation language, federal and out-of-state committees and organizations that qualified as committees pursuant to Cal. Gov. Code §84222(c)(5) would be required to keep records to prove that they *did not* otherwise qualify as a Multipurpose Organization under Cal. Govt. Code § 84222(c)(2), (c)(3) and (c)(4).

Sections (b)(1) and (b)(2) would require records about how a Multipurpose Organization solicits its funds – requiring records of every solicitation (whether or not with regards to California activity), correspondence related to grant proposals, grant letters, other records to substantiate a donor’s intent for contributing to the Multipurpose Organization.

Put simply, subjecting Federal PACs, non-California PACs, and 501(c) organizations that do not solicit funds specifically for California activities to this requirement would require them to “prove a negative”, that they *did not* solicit funds in a certain way. This requirement could also allow enforcement and audit officials to posit and ask questions regarding a donor’s intent for a contribution – which would be difficult and costly to refute.

Instead, these organizations would be certifying their compliance with Cal. Govt. Code § 84222 when they file their campaign finance reports. There is no need to separately require records to confirm that an organization qualifying under Cal. Govt. Code § 84222(c)(1) and (c)(5) *did not* otherwise qualify under other portions of the Multipurpose Organization reporting regime. Accordingly, Section (b)(1) and (b)(2) of the proposed rule should only be applicable to Multipurpose Organizations formed under Cal. Govt. Code § 84222(c)(2), (c)(3) and (c)(4).

In light of these concerns and others discussed above, below are several of the key changes included in our revised draft:

1. **Recordkeeping for Federal and Out-of-State Political Committees.** Under Revised Draft Regulation 18422.1(b)(1), a Multipurpose Organization that qualifies as a committee pursuant to Cal. Gov. Code §84222(c)(1) is required to maintain records of contributions reported as required by state or federal law that governs disclosure and recordkeeping where the committee is principally registered and filing reports. Federal and out-of-state political committees who are required to register and file reports in California as a result of California political activity are subject to other recordkeeping requirements in their principal jurisdiction. These recordkeeping requirements should be considered sufficient and state law in California should not impose a separate set of

recordkeeping requirements for federal and out-of-state political committees who make occasional California political contributions.

2. **Recordkeeping for Multipurpose Organizations that Solicit, Accept or Reach an Agreement to Use Funds for California political expenditures.** Under Revised Draft Regulation 18422(b)(2), Multipurpose Organizations that qualify as political committees pursuant to Cal. Gov. Code §84222(c)(2),(3), and (4) are subject to the most burdensome recordkeeping requirements.

Organizations qualify as a political committee as a result of soliciting funds specifically for California political activity or who accept funds subject to a condition or agreement that the funds be used for California political activity should be subject to recordkeeping requirements similar to California political committees under Cal. Gov. Code §82013(a).

These committees are soliciting and accepting funds specifically to engage in California political activities, and, as a result, the funds used for those activities should be subject to robust recordkeeping requirements. The language in Revised Draft Regulation 18422(b)(2) closely tracks the existing requirements of Regulation 18401 with respect to contributions received and contains similar language to the prior version of this draft regulation.

3. **Recordkeeping for Multipurpose Organizations Required to Disclose Donors on a Last-In, First-Out (LIFO) Basis.** Under Revised Draft Regulation 18422(b)(3), a Multipurpose Organization that qualifies as a committee pursuant to Section 84222(c)(5) or that must report the balance of its contributions and expenditures pursuant to Cal. Gov. Code §84222(e)(1) is required to maintain more limited records for contributions received.

This is because requiring retroactive recordkeeping for these donors that are itemized on a Multipurpose Organization's report under the LIFO method would be prohibitive – *as some of these records would likely not exist otherwise, or would regard activity unrelated to California contributions or expenditures.*

Revised Draft Regulation 18422(b)(3) attempts to simplify the requirements as they relate to contributions disclosed pursuant to a LIFO analysis. Instead of imposing a burdensome recordkeeping provision that requires the organization to prove that they did not solicit funds in a particular way, the revised regulation requires the organization to provide sufficient accounting and bank records to demonstrate the LIFO accounting, as well as documentation on the donors who are disclosed (and, if a donor is not disclosed, why the donor meets a relevant exception).

4. **Recordkeeping for Nondonor Funds.** As discussed above, we are proposing revisions to amended Regulation 18422 to remove the proposed requirement to include information on the specific source of nondonor funds on the face of a report. Instead, we have added language to 18422.1(f)(3) to require that organizations that make contributions or expenditures using only available nondonor funds retain documentation of the specific

Letter to Chair Miadich and Commissioners Cardenas, Hatch and Hayward

September 17, 2019

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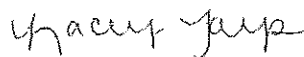
source of nondonor funds, including for example the entity where an income producing investment is or was held, the type of goods or services provided, the facilities rented, or identifying information for other assets sold.

We appreciate your consideration of our proposed changes to the draft regulations, and look forward to discussing these changes with you at the Commission meeting.

Very truly yours,



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David Mitrani
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on behalf of the California Political Attorneys Association

1 Amend 2 Cal. Code Regs., Section 18422 to read:

2 **§ 18422. Multipurpose Organization Political Activity Transparency**

3 (a) Any person or group that receives contributions from others of \$2,000 or more to
4 make expenditures in California must register as a committee and file campaign reports under
5 Section 82013 and the Act. In addition, a multipurpose organization making political
6 expenditures in California that qualifies as a committee pursuant to Section 84222 must file a
7 statement of organization and campaign reports to disclose the funds that it used for the political
8 expenditures and the sources of those funds.

9 (b) Statement of Organization.

10 (1) Multipurpose Organization Committee Name. A multipurpose organization
11 committee's name must be the full legal name of the organization. Pursuant to Section
12 84222(e)(1)(A), a multipurpose organization filing a statement of organization must indicate in
13 its committee name that it is filing under Section 84222 by including one of the following
14 descriptions in parentheses after its name: (i) For a non-profit tax-exempt organization include
15 "nonprofit 501(c)()" specifying the type of nonprofit tax-exempt organization from Internal
16 Revenue Code Section 501(c)(3)-(10); (ii) For a federal or out-of-state political committee,
17 include "Fed PAC ID #" or the two letter state abbreviation such as "TX PAC ID #"; or (iii) For
18 any other type of multipurpose organization, include "multipurpose organization" or "MPO".
19 This description must appear at the end of the committee's name in parentheses on the
20 committee's statement of organization and campaign reports. Notwithstanding any other
21 provision of the Act or Commission regulations, this description is not required to be included in
22 the committee's name on advertisements, communications, sender identification, or disclaimers.

1 (2) The statement of organization shall also describe the multipurpose organization's
2 mission or most significant activities and describe the organization's political activities. This
3 description shall include all activities undertaken for the purpose of directly or indirectly
4 supporting or opposing state or local candidates for elective office; or qualifying, supporting, or
5 opposing a state or local ballot measure whether or not a candidate is elected or defeated, or a
6 measure qualifies, passes, or is defeated. An organization may comply with this requirement by
7 referencing where the organization's Internal Revenue Service Return of Organization Exempt
8 From Income Tax form may be accessed.

9 (3) Calendar Year Filers. A multipurpose organization that becomes a committee subject
10 to Section 84222(c)(5) whose reporting obligations terminate automatically each year as
11 specified in Section 84222(e)(1)(B), must indicate its committee status to the filing officer when
12 it files its statement of organization, in the manner provided on the instructions to Form 410. If
13 such a multipurpose organization elects to remain registered as a committee beyond the calendar
14 year, it may do so by stating its election to remain registered on the initial statement of
15 organization or on an amendment to the statement of organization filed before the end of the
16 calendar year. If a multipurpose organization whose registration terminated automatically in one
17 year qualifies as a committee again in a subsequent year, the organization must use the same
18 committee identification number the Secretary of State previously assigned.

19 (c) Reporting.

20 (1) Multipurpose Organizations under Section 84222(c)(1). A federal or out-of-state
21 political committee required to register in California because it is making expenditures on
22 California candidates or measures reports as specified in Section 84222(d). Such committees are
23 required to send major donor notices and expedited nonprofit filer notices as required by Section

1 84105, Regulation 18427.1, and subdivisions (d) and (e) of this regulation, when applicable. A
2 federal political committee must determine to whom to send notices by referring to the most
3 recent donors identified on its federal reports prior to the date of its expenditure in California.

4 (2) Multipurpose Organizations under Section 84222(c)(2), (3), or (4). A multipurpose
5 organization required to register as a committee under Section 84222(c)(2), (3) or (4) must
6 follow the same reporting requirements that apply to a recipient committee under Section
7 82013(a). Such committees are required to send major donor notices and expedited nonprofit
8 filer notices as required by Section 84105, Regulation 18427.1, and subdivisions (d) and (e) of
9 this regulation, when applicable.

10 (3) Multipurpose Organizations under Section 84222(c)(5).

11 (A) Identifying Contributors. An organization that makes a contribution or expenditure
12 qualifying it as a committee required to report donors under Section 84222(c)(5), must identify
13 contributors using the last in, first out (LIFO) accounting method by the following times:

14 (i) During the 90 days prior to an election, within three business days following the
15 contribution or earlier if required for a report under Section 84204.

16 (ii) At all other times, within 10 business days following each contribution or
17 expenditure.

18 Donations to multipurpose organizations that are reported based on the LIFO accounting method
19 must be disclosed listing the date contributions were received as the date of the expenditure
20 made by the multipurpose organization.

21 (B) Employer Information. If the employer and occupation information cannot be
22 obtained, the report must provide an explanation of the organization's attempts to obtain the
23 information.

1 (C) Remaining Balance. If a multipurpose organization that makes a contribution or an
2 expenditure from its general treasury is required to identify additional donors because those
3 described in Section 84222(e)(1)(C) did not provide the full amount of the contribution or
4 expenditure, the organization must attribute the remaining balance of the contribution or
5 expenditure to itself.

6 (4) Description of Nondonor Funds. A multipurpose organization that makes
7 contributions or expenditures using nondonor funds shall describe the source of those nondonor
8 funds on its campaign report or statement for the relevant period. This description shall include
9 the following: each type of nondonor funds used, namely whether the funds are: investment income,
10 including from capital gains; net income earned from providing goods, services, or facilities,
11 whether related or unrelated to the multipurpose organization's program; sale of assets; or other
12 receipts that are not donations, including but not limited to income received from advertisements,
13 promotions, tributes, royalties, rents, or leases.

14 (d) Major Donor Notices. If a multipurpose organization identifies contributors who
15 meet the major donor notice thresholds of Section 84105 and Regulation 18427.1, the
16 organization must send the contributors a major donor notice informing them that they may be
17 required to file campaign statements. The organization must send major donor notices to

1 contributors within the one or two week time frames specified in Section 84105 following the
2 date the organization receives the contributions and identifies the contributors by the LIFO
3 accounting method under paragraph (c).

4 (e) Multi-Layer Reporting.

5 (1) Funds Moving from One Multipurpose Organization to Another. To obtain disclosure
6 of the original sources of funds used by a multipurpose organization for political expenditures,
7 under Section 84222(e)(5), if a multipurpose organization identifies another multipurpose
8 organization as a source of funds, and the contributing organization qualifies as a committee, the
9 contributing organization may be required to file expedited campaign statements disclosing its
10 donors, if applicable.

11 (2) Expedited Notice. If a multipurpose organization identifies a contributor of more than
12 \$ 50,000 that is itself a multipurpose organization, the recipient organization must send a
13 “nonprofit filer notice” to the contributing organization stating that it may be required to register
14 and file expedited campaign statements disclosing its donors, if applicable. The “nonprofit filer”
15 notice must be provided within 24 hours of when the recipient organization identifies the
16 contributor, during the 90-day period before an election and within ten business days outside that
17 period. The recipient organization must send the contributing organization notice by electronic
18 mail, overnight delivery, or facsimile, and must maintain a record of all notices sent. The
19 nonprofit filer notice must contain the language of the major donor notice specified in Regulation
20 18427.1 paragraph (a)(2), and at the beginning, must contain the following language or
21 substantially similar language:

22 The Political Reform Act requires disclosure of the source of donor funds used for
23 political expenditures and tracks back to the original donors when funds are contributed by one

1 multipurpose organization to another. Your organization was identified as a contributor of more
2 than \$ 50,000 in funds that our organization used for political expenditures. Therefore, your
3 organization may qualify as a committee under Government Code Section 84222 and Fair
4 Political Practices Commission (FPPC) Regulation 18422, contained in Title 2, Division 6 of the
5 California Code of Regulations, that is required to register with the Secretary of State on FPPC
6 Form 410 and file expedited reports on FPPC Form 460 disclosing donors for such funds within
7 three business days during the 90 days before an election or within 10 business days at all other
8 times.

9 (3) Expedited Filing. A multipurpose organization identified as a contributor that
10 qualifies as a recipient committee under Section 84222(c) (the contributing organization) must
11 register and file campaign statements of its own, disclosing its donors, if applicable. The
12 multipurpose organization qualifies as a committee on the date it knows or has reason to know
13 that it met the qualification thresholds of Section 84222(c) by receiving the "nonprofit filer
14 notice" referred to in paragraph (2) above, receiving a major donor notice pursuant to Section
15 84105 and Regulation 18427.1, or being otherwise put on notice. The contributing multipurpose
16 organization must file a statement of organization and an initial campaign statement on Form 460
17 within three business days during the 90 days before an election, and within 10 business days at
18 all other times.

19 ~~(f) Recordkeeping. A multipurpose organization must maintain all records necessary to~~
20 ~~establish its compliance with Section 84222, and must maintain records concerning its mass~~
21 ~~mailings, notices to contributors of \$ 5,000 or more, and expenditures for advertisements, as~~
22 ~~specified in Regulation 18401.~~

- 1 Note: Authority cited: Section 83112, Government Code. Reference: Sections 82015 and 84222,
- 2 Government Code.

§ 18422.1 Required Recordkeeping for Multipurpose Organizations.

(a) A multipurpose organization must maintain detailed records and original source documentation necessary to establish its compliance with the registration and reporting requirements of Section 84222 of the Act and Regulation 18422.

(b) The following records must be maintained for donations that must be reported as contributions received under Section 84222.

(1) A multipurpose organization that qualifies as a committee pursuant to Section 84222(c)(1) shall maintain records of contributions reported as required by the state or federal law that governs disclosure and recordkeeping where the committee is principally registered and filing reports.

(2) A multipurpose organization that qualifies as a committee pursuant to Section 84222(c)(2), (3), or (4) shall maintain records of contributions that must be disclosed pursuant to Section 84222(e)(1)(C) as follows:

(A) For a contribution received of less than \$25:

(i) A continuous computation of the balance of contributions accepted pursuant to Section 84222(c)(2), (3), or (4) and a listing reflecting the dates and daily totals of the contributions.

(ii) The original source documentation must consist of all bank statements, check registers, check stubs, bank or passbooks, and any other records reflecting a continuous computation of the balance of contributions accepted pursuant to Section 84222(c)(2), (3), or (4) in any account in any bank or other financial institution where funds subject to disclosure under Section 84222 are held.

(B) For a contribution received of more than \$25 but less than \$100:

(i) All information required in subdivision (b)(2)(A)(i) and the date of each contribution, the amount, the full name and street address of the contributor, the cumulative amount received from the contributor during the calendar year and documentation whether the contribution is monetary or nonmonetary. In the case of a nonmonetary contribution, the fair market value must also be recorded, along with a description of the goods or services received.

(ii) The original source documentation must consist of all items required in subdivision (b)(2)(A)(ii), and copies of contributor checks, cashier's checks, money orders, wire transfers, deposit or duplicate deposit slips, and any other documents, reflecting all deposits of funds subject to disclosure under Section 84222(c)(2), (3), or (4) in any bank or other financial institution. Original source documentation must also include contributor cards, letters of transmittal, and notices received from contributors, if any. In the case of a nonmonetary

contribution, if the contributor has not provided the value of the nonmonetary contribution, the original source documentation must also include a memorandum or other record describing the method used to determine the value of the goods or services contributed. In the case of contributions made through wire transfer, credit card transaction, debit account transaction, or similar electronic payment option (including those made via the Internet), the original source documentation must also include all credit card receipts, transaction slips or other writings signed by the contributor, credit card vouchers, and other documentation of credit card transactions, including credit card confirmation numbers and itemized transaction reports, as well as any other information collected when debiting the contributor's account. In the case of contributions made through electronic transactions via the Internet, original source documentation must also include a record of the transaction created and transmitted by the cardholder including the name of the cardholder, the cardholder's address and the last four digits of the card number or if no credit card was used in the transaction, a transaction number.

(C) For a contribution received of more than \$100:

(i) The accounts and records must contain all information required in subdivisions (b)(2)(A)(i) and (b)(2)(B)(i), and include the occupation and employer (or, if self-employed, the name of the principal place of business) of the contributor. Section 85700 requires the return, not later than 60 days from receipt, of a contribution of \$100 or more subject to disclosure under Section 84222(c)(2), (3), or (4) for which the multipurpose organization does not have on file the name, address, occupation and employer of the contributor. Regulation 18570 sets forth additional recordkeeping requirements concerning occupation and employer information.

(ii) The original source documentation must consist of all items required in subdivisions (b)(2)(A)(ii) and (b)(2)(B)(ii), and all communications caused to be sent by multipurpose organization to secure this information.

(D) Written records of the following:

(i) Solicitations to donors for funds being raised for the purpose of making contributions or expenditures and documentation that funds were received in response to the solicitations.

(ii) The source and amount of funds subject to a condition from the donor or subject to an agreement or understanding with the donor that all or a portion of the funds may be used for making contributions or expenditures in California. If not applicable to the entire donation, such documentation shall also include the amount subject to this condition, agreement or understanding.

(iii) The date and terms of any subsequent agreement or understanding between the multipurpose organization and a prior donor that all or a portion of

the prior donation may be used for contributions or expenditures in California. If not applicable to the entire prior donation, such documentation shall also include the amount subject to this subsequent agreement between the multipurpose organization and the donor.

(E) If there is no formal written instrument that satisfies subparagraph (D) above, the multipurpose organization may document the arrangements with the donor through a letter, electronic communication or a contemporaneous or subsequent internal memorandum.

(3) A multipurpose organization that qualifies as a committee pursuant to Section 84222(c)(5) or that must report the balance of its contributions and expenditures pursuant to Section 84222(e)(1)(c), shall maintain the following records related to the last in, first out accounting used to identify contributors to disclose.

(A) Accounting and bank records sufficient to demonstrate the last in, first out accounting including the date and amount of all deposits and expenditures during the report period that are required to be disclosed on campaign reports.

(B) The name, address, occupation and employer information for any donor of \$1,000 or more identified pursuant to the last in, first out accounting. Any donors below the \$1,000 threshold may be documented based on the multipurpose organization's existing records and procedures. Correspondence with donors to collect any donor information necessary to comply with Act must also be maintained in said records.

(C) If the multipurpose organization maintains multiple accounts, whether bank accounts or fund accounts, and a specific account or specific accounts are used to make contributions or expenditures in California, the last in, first out accounting records are only required for the account or accounts in fact used for contributions and expenditures that are subject to disclosure under Section 84222.

(D) Written record of the basis for not identifying an otherwise reportable donor based on Section 84222(e)(2)(A), (B), or (C). Such documentation may include an original grant agreement, contemporaneous correspondence, a memorandum or other writing documenting the arrangement with the donor, or documentation of the donor's status as private foundation covered by subdivision (e)(2)(C).

(c) For all written notices sent to all contributors of \$5,000 or more, pursuant to Section 84105 and Regulation 18427.1, and for all written notices sent to contributors of \$50,000 or more which are themselves multipurpose organizations, pursuant to Section 84222 and Regulation 18422:

(1) The accounts and records must contain the date of each notice and the name and address of the person to whom each notice is sent.

(2) The original source documentation must consist of a copy of each notice sent.

(d) The following records must be maintained for payments that must be reported as contributions or expenditures made under Section 84222.

(1) For an expenditure of \$25 or more, or a series of payments for a single product or service totaling \$25 or more:

(A) The accounts and records must contain the date the expenditure was made (or, for an accrued expense, the date the goods or services were received), the amount of the expenditure, the full name and street address of the payee, and a description of the goods or services for which each expenditure was made. If the person or vendor providing the goods or services is different from the payee, the accounts and records must also contain the same detailed information for that person or vendor. For an expenditure that is a contribution to a candidate or committee, or an independent expenditure, the records must also contain the cumulative amount of the contributions to, or independent expenditures to support or oppose, each candidate, committee, or ballot measure.

(B) The original source documentation must consist of cancelled checks, wire transfers, credit card charge slips, bills, receipts, invoices, statements, vouchers, and any other documents reflecting obligations incurred by the multipurpose organization and disbursements made by the multipurpose organization from any account used for contributions or expenditures in California. In lieu of cancelled checks, the original source documentation may consist of copies of cancelled checks that contain a legible image of the front and back of the cancelled check, provided the copy was obtained from the financial institution.

(2) For a loan made or received:

(A) The accounts and records must contain the detailed information set forth in subdivisions (b)(2)(A), (b)(2)(B), and (b)(2)(C), and include the interest rate and due date, if any, of the loan, and the full name and street address of any guarantor, or any person liable directly, indirectly, or contingently for the loan.

(B) The original source documentation must consist of all promissory notes, extensions of credit, security agreements, loan guarantees, and any other documents reflecting the indebtedness.

(e) A membership organization that elects to report contributions and expenditures on the reports of a sponsored committee pursuant to 84222(f) shall maintain documentation of membership dues structure sufficient to demonstrate qualification for this reporting option. Such documentation shall include dues amounts, membership totals and information detailing what monies are received per member per calendar year and what monies will be used or allocated to make contributions or expenditures.

(f) A multipurpose organization that makes contributions and expenditures from nondonor funds as provided for in Section 84222(c)(5)(A) must maintain documentation sufficient to verify the source of those nondonor funds and that the contributions or expenditures were made using available nondonor funds. Such documentation must show that there was a sufficient balance of

nondonor funds at the time of the expenditure or accrued expense to cover the contribution or expenditure of the multipurpose organization. Examples of such required documentation include but are not limited to:

(1) Bank records, including account statements, and source documentation for transfers and deposits into the organization's account related to nondonor funds.

(2) Financial statements, receipts, invoices, and other documentation that the organization made contributions or expenditures using any of the following: investment income, including capital gains; net income earned from providing goods, services or facilities; sale of assets, or other receipts that are not donations.

(3) Documentation of the specific source of nondonor funds including for example the entity where an income producing investment is or was held, the type of goods or services provided, the facilities rented, or identifying information for other assets sold.

(g) Notwithstanding any other provision of this regulation or other regulations adopted by the Commission, multipurpose organizations may redact transactions that are not reportable under Section 84222 on any and all records required to be maintained under this regulation, including but not limited to bank statements and check registers, before providing those records to the Fair Political Practices Commission or Franchise Tax Board in connection with any audit or enforcement action under the Political Reform Act because those transactions are not relevant to demonstrating the multipurpose organization's compliance with Section 84222.

(h) A multipurpose organization must maintain the records provided for in this regulation and copies of filed campaign statements and reports for a period of four years following the date the campaign statement to which they relate is filed.