



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

To: Chair Miadich, Commissioners Cardenas, Hatch, and Hayward

From: Dave Bainbridge, General Counsel, Legal Division
Sukhi Brar, Supervising Commission Counsel, Legal Division
Toren Lewis, Commission Counsel, Legal Division

Subject: Pre-Notice Discussion of Multipurpose Organization Reporting and Recordkeeping (Amend Regulation 18422 and Adopt Regulation 18422.1)

Date: July 8, 2019

Requested Action

Staff presents amendments to Regulation 18422 and adoption of new Regulation 18422.1 for pre-notice discussion. As proposed, amendments to Regulation 18422 and adoption of Regulation 18422.1 will clarify the reporting and recordkeeping requirements for multipurpose organizations.¹

Background

Under the Act, a multipurpose organization (MPO) is an organization that solicits funds, at least in part, for purposes other than making political expenditures, but nevertheless makes political expenditures in California. Section 84222 requires an MPO that conducts certain levels of campaign activity in California elections to register as a committee and file campaign reports. These MPO committees are required to disclose their sources of funds used for campaign activity on campaign reports, whether those funds are from donors to the MPO or from existing non-donor funds raised in other ways such as through interest or investment income. (Section 84222.) Under Section 84222, an MPO can qualify as a recipient committee in the following five ways:

- 1) The organization is a federal political committee registered with the Federal Election Commission (FEC), or an out-of-state political committee, that makes contributions or expenditures in California totaling at least \$2,000 in a calendar year;
- 2) The organization makes contributions or expenditures in California totaling more than \$50,000 in 12 months or \$100,000 in four consecutive years;

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- 3) The organization solicits and receives payments from donors totaling at least \$2,000 in a calendar year for the purpose of making contributions or expenditures in California;
- 4) The organization accepts payments from donors totaling at least \$2,000 in a calendar year subject to a condition, agreement, or understanding with the donor that all or a portion of the payments may be used for making contributions or expenditures in California;
- 5) The organization has existing funds from a donor, but reaches a subsequent understanding with the donor that all or a portion of the funds may be used to make contributions or expenditures totaling at least \$2,000 in calendar year in California.

Section 84222(c)(1-5).

While MPOs that use nondonor funds for campaign activity are required to disclose information about the source of nondonor funds, some MPOs have provided vague or inadequate descriptions such as “nondonor funds” on campaign statements rather than listing the source of the funds, or the type of nondonor funds per Section 84222(c)(5)(B). Such limited information makes it difficult to identify and verify the true source of such funds.

Similarly, while current Regulation 18422 sets forth reporting and recordkeeping requirements for such MPOs, the FPPC Enforcement Division and the Franchise Tax Board (“FTB”) have identified a lack of clarity in the MPO recordkeeping requirements as an impediment to completing audits and investigations of MPOs required to file as recipient committees under the Act. Specifically, there have been MPO committees that are the subject of an audit by FTB that have refused to provide adequate documentation to the FTB to support the entity’s campaign reporting. This has made it difficult to verify sources of funding for MPOs and ensure compliance with the Act.

Discussion and Summary of Proposed Actions

Staff proposes amendments to Regulation 18422 and adoption of Regulation 18422.1. The changes include clarifying what information a multipurpose organization must provide related to the use of nondonor funds in Regulation 18422 and deleting subdivision (f) of Regulation 18422 regarding recordkeeping requirements and replacing it with new Regulation 18422.1.

The addition of subdivision (c)(4) to Regulation 18422 will clarify what information MPOs must provide on their campaign statements and reports when making contributions and expenditures using nondonor funds.

The deletion of subdivision (f) of Regulation 18422, meanwhile, is proposed so that a new Regulation 18422.1 can take its place with a more detailed explanation of recordkeeping requirements for MPOs. Subdivision (f) of Regulation 18422 currently reads:

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

Proposed Regulation 18422.1 expands upon the current language in Regulation 18422(f) in the following way: Subdivision (a) clarifies the basic recordkeeping requirements for all MPO committees in accordance with Recordkeeping Regulation 18401, the existing regulation covering general recordkeeping requirements for committees; Subdivision (b) details specific forms of documentation required for MPOs in addition to subdivision (a); and Subdivision (c) addresses recordkeeping requirements for MPOs that use non-donor funds for political activity in California.

Requiring disclosure of MPO donor information to comply with audits and investigations is consistent with Section 81002 of the Act, which provides that the Commission shall accomplish certain purposes, including that receipts and expenditures in election campaigns “be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.” (Section 81002(a).)² These recordkeeping requirements are also consistent with authority provided to the Commission in Section 84014 of the Act. Section 84104 requires that committees maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements. Regulation 18401 lays out these recordkeeping requirements in greater detail.

Attachments:

**Amendments to Regulation 18422
Proposed Regulation 18422.1**

² Section 81003 further provides that the Act should be liberally construed to accomplish its purposes.