

March 17, 2025

Fair Political Practices Commission  
1102 Q Street, Suite 3000  
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Sent Via Email: CommAsst@fppc.ca.gov

**RE: 2025 Updates to Regulations for Section 84308 of the Political Reform Act (AKA The Levine Act)**

Dear Chair Silver and Commissioners Brandt, Ortiz, and Wilson:

California Common Cause and California Clean Money Campaign would like to thank the Fair Political Practices Commission's (FPPC) staff for preparing the proposed regulations for California Government Code Section 84308 in light of recent updates to the Levine Act. It is clear that staff have worked diligently on crafting applicable regulations while carefully considering stakeholder feedback. We agree with many of the proposals from the FPPC staff; however, we have some concerns that we hope will be addressed by implementing the recommendations outlined below.

As the sponsors of SB 1439 (Glazer, 2022, Chapter 848) and key negotiators of SB 1243 (Dodd, 2024, Chapter 1017) and SB 1181 (Glazer, 2024, Chapter 785), we are keenly aware of the intent and purpose of the Levine Act, and its multiple amendments over the last four years. We support regulations that clarify the law without diminishing the intent and purpose of the Levine Act: to enhance public trust in government by establishing checks on large donations from special interests to government officials, especially when there is a risk of corruption or its appearance is greatest, i.e., when those interests are seeking favorable votes from the officials to whom they donate.

Considering this, we recommend the following:

**[§ 18438.2. Proceedings Under Government Code Section 84308.](#)**

**We strongly recommend keeping the current regulation's definition of "competitively bid contract."** The definition provides a minimum standard that gives clarity and prevents exploitation of the Levine Act. In fact, removing that definition would undermine the intent of the Levine Act that we and others worked so hard to uphold in our negotiations on SB 1243 and SB 1181 because we relied on it in the amendments we suggested and agreed to.

If the FPPC feels adamant that defining a competitively bid contract is no longer needed or feasible, then we recommend implementing a similar definition for the newly introduced term “competitive process.”

Not defining “competitively bid contract” or “competitive process” could create a loophole that allows local jurisdictions to openly flout the Levine Act by employing agency rules or policies that are antithetical to the traditional meaning of a competitive contract or bid process. It will also likely result in the FPPC being inundated with request-for-advice letters on how to apply the law based on each jurisdiction’s contract code, rules, policies, and definition of “competitively bid.”

For example, the City of Alhambra has a Consulting and Professional Services contracting code that veers significantly from the traditional competitive bidding process,<sup>1</sup> making it ripe for the City to do an end-run around the Levine Act, particularly if regulations for Section 84308 do not define “competitively bid contract” or the “competitive process.”

In sections [3.38.030-40](#) of Alhambra’s municipal code, the City’s competitive process does not mandate that the city go with the lowest responsive bidder, but the applicant who is “most advantageous to the city” (see Section 3.38.030(E)(1)) where price is not part of the evaluation process when ranking qualified bidders (see Section 3.38.040(C)(6)(a)). Furthermore, in Section [3.38.050](#) of the City’s municipal code, the entire competitive bid process is discretionary. This effectively nullifies the competitive process and paves the way for cronyism.

To be more concrete, both of the following examples illustrate a shameful path that a city with similar language to Alhambra’s could pursue (and potentially get away with) while adhering to state law, if the terms “competitively bid contract” or “competitive process” are not clearly defined:

1) Receive ten bids for a contract that all meet the City’s criteria, but the City Council could choose to go with the highest bidder, who also happens to be a significant campaign donor to most city councilmembers *while* being exempt from the Levine Act because Alhambra “policy” treats the competitive bidding process in a non-traditional and arguably non-competitive manner.

2) Decide to forego the entire competitive bidding process since it is “discretionary” *and* still potentially be exempt from the Levine Act because “discretionary” is part of the City’s competitive bid policy as written into its code.

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<sup>1</sup> See Alhambra Municipal Code, Chapter 3.38, particularly Sections 3.38.030, 3.38.040, and 3.38.050. [https://codelibrary.amlegal.com/codes/alhambra/latest/alhambra\\_ca/0-0-0-119680](https://codelibrary.amlegal.com/codes/alhambra/latest/alhambra_ca/0-0-0-119680).

Another example is the scandal-plagued City of Huntington Park,<sup>2</sup> whose dubious contracting practices, as outlined in a 2021 PBS investigative piece, were a partial catalyst to SB 1439.<sup>3</sup> Like Alhambra, Huntington Park has a clause in its contract code for formal bid procedures that makes its competitive bidding process discretionary if the City Council finds “that it would be impracticable, useless or economically infeasible to follow such procedures and that the public welfare would be promoted by dispensing with them.”<sup>4</sup> This clause was likely used to justify the large no-bid contracts now under investigation by the Los Angeles District Attorney’s Office.<sup>5</sup>

If SB 1439 and the Levine Act’s current regulatory definition of “competitively bid contract” were active at the time these contracts were made, then there is a strong likelihood that these questionable contracts would never have occurred.<sup>6</sup> However, removal of the definition of “competitively bid contract” in Regulation 18438.2 would open the door for such contracts to continue to occur while potentially being exempt from the Levine Act because no guardrails exist in the law’s regulations to address a jurisdiction with a non-standard and weak competitive process.

For these reasons, along with the arguments presented in the League of California Cities’ January letter to the Commission<sup>7</sup> and comments conveyed by the L.A. County Board of Supervisors, as referenced in the March 2025 FPPC memo to the Commission,<sup>8</sup> we believe the FPPC is justified in maintaining the current definition of “competitively bid contract” in Regulation 18438.2, or alternatively, establishing a minimum standard definition for “competitive process” under the new regulation law.

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<sup>2</sup> See Vives, Ruben. “Huntington Park Was Promised a \$24-Million Pool Complex. It Was Never Built. Where Did the Money Go?” Los Angeles Times, 26 Feb. 2025, [www.latimes.com/california/story/2025-02-26/huntington-park-city-hall-and-mayors-home-raided-by-law-enforcement-as-part-of-corruption-probe](https://www.latimes.com/california/story/2025-02-26/huntington-park-city-hall-and-mayors-home-raided-by-law-enforcement-as-part-of-corruption-probe). Accessed 13 Mar. 2025.

<sup>3</sup> PBS SoCal. “Hefty Contracts for Campaign Contributors in Huntington Park.” PBS SoCal, 27 July 2021, [www.pbssocal.org/news-community/hefty-contracts-for-campaign-contributors-in-huntington-park](https://www.pbssocal.org/news-community/hefty-contracts-for-campaign-contributors-in-huntington-park); See also PBS SoCal. “A Culture of “Pay to Play” in Huntington Park | SoCal Update.” YouTube, 30 July 2021, [www.youtube.com/watch?v=fK7oLYE6b9M](https://www.youtube.com/watch?v=fK7oLYE6b9M).

<sup>4</sup> See Huntington Park Code of Ordinances, Section 2-5.12(i). <https://ecode360.com/44526975#44527007>.

<sup>5</sup> See Schwebke, Scott, et al. “Huntington Park City Hall, Home of Mayor among 11 Locations Raided in Public Corruption Probe.” LA Daily News, 27 Feb. 2025, [www.dailynews.com/2025/02/26/huntington-park-city-hall-home-of-mayor-among-11-locations-raided-in-public-corruption-probe/](https://www.dailynews.com/2025/02/26/huntington-park-city-hall-home-of-mayor-among-11-locations-raided-in-public-corruption-probe/).

<sup>6</sup> Multiple news articles have reported that the recipients of the contracts in question were also campaign donors to councilmembers who approved the contracts. See Vives, Ruben. “Huntington Park Residents Lambaste Leaders over Corruption Probe.” Los Angeles Times, 2 Mar. 2025, [www.latimes.com/california/story/2025-03-02/its-a-tale-as-old-as-time-huntington-park-residents-lambaste-leaders-over-corruption-probe](https://www.latimes.com/california/story/2025-03-02/its-a-tale-as-old-as-time-huntington-park-residents-lambaste-leaders-over-corruption-probe); See also “Huntington Park Was Promised a \$24-Million Pool Complex. It Was Never Built. Where Did the Money Go?” Los Angeles Times, 26 Feb. 2025, [www.latimes.com/california/story/2025-02-26/huntington-park-city-hall-and-mayors-home-raided-by-law-enforcement-as-part-of-corruption-probe](https://www.latimes.com/california/story/2025-02-26/huntington-park-city-hall-and-mayors-home-raided-by-law-enforcement-as-part-of-corruption-probe). Accessed 13 Mar. 2025.

<sup>7</sup> League of California Cities. Re: ITEM NO. 8 - Comments on Proposed Amendments to Regulations 18438.2, 18438.3, 18438.4, 18438.5, 18438.6, 18438.7, 18438.8, 18360. 16 January. 2025. Pages 4-5. <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/Comment%20Letters/2025/january/Public%20Comment%20-%20Morgan%20Foley.pdf>.

<sup>8</sup> California Fair Political Practices Commission. Proposed Adoption of Amendments to Regulations 18438, 18438.2, 18438.4, 18438.5, 18438.6, 18438.7, 18438.8, 18360.1, and 18705, and Repeal of Regulation 18438.3. California Fair political Practices Commission, 10 Mar. 2025. Page 4. <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2025/march/Section%2084308%20Memo.pdf>.

We also believe that the FPPC staff's rationale from 2023 for providing a minimum-standard definition of what constitutes a "competitively bid contract" in the current regulations, supported by precedent and case law, remains equally valid, necessary, and defensible today. Indeed, it is worth posting that portion of Staff's 2023 memo<sup>9</sup> to the commission in its entirety:

With respect to "competitively bid contracts," the proposed definition is consistent with prior Commission advice letters interpreting the phrase to apply to contracts where the agency is required to select the lowest qualified bidder. (See, e.g., Collins Advice Letter, No. A-20-138.) For the sake of providing greater specificity than simply referring to "qualified" bidders, staff proposes language similar to language used in the Public Contract Code and the Department of General Services' State Contracting Manual—that is, requiring "competitively bid contracts" be awarded to a responsible bidder with the lowest responsive bid. (See Cal. Pub. Contract Code Sections 1103, 10182, 10301, 20162; see also Department of General Services, State Contracting Manual, "Determining Responsive Bid and Responsible Bidder – 1404.2," available online.) The language is also similar to language used in many municipal codes. (See *Eel River Disposal & Resource Recovery, Inc. v. County of Humboldt* (2013) 221 Cal.App.4th 209, 233-234 (writing, regarding the technical meaning of the phrase "competitive bidding" in the context of public procurement, "[v]irtually all authorities on government procurement and public contract law define the competitive sealed bidding process employed by the County in this case as one in which 'the award is made to the responsible bidder having the lowest responsive bid.'").)

**Additionally, we believe that removing the definition of "competitive bid contract" and/or leaving "competitive process" undefined in the regulations undermines the intent and purpose of the Levine Act.** Those involved in negotiating the final language of SB 1243 (Dodd), including California Common Cause and the California Clean Money Campaign, aimed to simplify compliance rather than weaken the law's authority and efficacy in preventing pay-to-play practices. In fact, we negotiated language based on the fact that current regulations for the Levine Act already defined the term "competitively bid contract." We assumed that this definition would remain in the regulations and, therefore, did not need to be spelled out in the law itself. **Consequently, eliminating this definition from the regulations now would hinder, not clarify, the law's intent and purpose.**

Finally, if the FPPC believes that it cannot define "competitively bid contract" under current law, then we request that the Commission define the newly introduced term "competitive process" in a manner that provides a minimum standard similar to the current regulation's definition of "competitively bid contract."

### **[§ 18438. Application of Government Code Section 84308.](#)**

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<sup>9</sup> Bainbridge, Dave, and Kevin Cornwall. Proposed Adoption of Section 84308 Regulations Implementing SB 1439. California Fair political Practices Commission, 8 May 2023, <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/lawandpolicy/2023/may/84308%20Staff%20Memo%205.8.23.pdf>.

Before consulting with FPPC staff for clarification on this regulation, we were uncertain about the following:

1. Whether all proceedings initiated in 2024 would continue to follow the 2024 law, including the \$250 contribution limit, until those proceedings are concluded and for an additional 12 months afterward (regardless of whether they end after 2024).
2. Whether all proceedings would reset under the new version of the law each time it changes. (California Common Cause does not support this option, as it would enable interested parties to contribute amounts exceeding those intended by the law.)
3. Whether the new contribution limit would apply to pending proceedings initiated in 2024 without disqualifying any contributions that have already been received.

After communicating with the FPPC, we learned that the intended interpretation aligns with the third option. Additionally, we were informed that any official, party, participant, or agent who violated Section 84308 under a previous version of the law would still be held liable for that violation, even if the law has since been updated. We hope that this can be clarified further in the regulation to avoid the confusion we experienced when reviewing the currently proposed language.

#### **[§ 18438.8: Disclosure Under Government Code Section 84308](#)**

We support the staff's recommendation to include criteria in proposed Regulation 18438.8(a)(2) regarding the public disclosure and verification of an officer's return of a disqualifying contribution. Currently, the law does not explicitly address how to disclose the return of disqualifying contributions after an official has participated in a proceeding. Therefore, this type of disclosure is vital for upholding the law's intent and purpose and for ensuring its proper enforcement.

Thank you very much for your work on these important regulations. We'd be happy to discuss any questions you might have about our requests.

Sincerely,

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