

# CONTRIBUTIONS

This chapter begins with a definition of “contribution” and provides guidelines to ensure proper reporting of contributions, including a discussion on valuing nonmonetary contributions.

## A. What is a Contribution?

A “contribution” is a monetary or nonmonetary payment received by a committee for which the committee has not provided full and adequate consideration in return. See the definition of “contribution” in Regulation 18215. A contribution may take any of the following forms:

- Money (cash, check, credit card, wire transfers, text contributions);
- Nonmonetary items (donated goods or services);
- Payments made by a third party for advertising or other communications;
- Loans (including loan guarantees, co-signing, and lines of credit); and
- Enforceable promises to make a payment (for example, a contributor promises, in writing, to pay for specific goods or services and, based on that written promise, the committee expends funds or enters into a legally-enforceable contract to purchase the goods or services).

Note: Contributions of \$100 or more may never be made or received in cash. Contributions must be returned if the contributor’s name, address, occupation, and employer are not obtained within 60 days of receipt of the contribution. Additionally, contributions of \$100 or more from a limited liability company (LLC) must be returned if, within 60 days, the committee’s records do not contain the following: the name of the LLC and the full legal name the LLC’s responsible officer (for an LLC that has qualified as an independent expenditure committee or major donor); the name of the LLC’s committee and the LLC’s principal officer (for an LLC that has qualified as a recipient committee); or, for an LLC that has not qualified as a committee, the full legal name of the individual primarily responsible for approving the contribution.

Each type of contribution is reported differently. In fact, the date a contribution is received is determined in part by what type of contribution it is.

In general, a **monetary** contribution is considered to be received on the date that the committee or an agent of the committee obtains possession or control of the cash, check, or other item that constitutes the contribution.

When an agent of the committee, such as a campaign consultant, receives a contribution for the committee, the treasurer must be notified by the agent no later than the closing date of the next campaign statement due. The date of the contribution is the date the agent obtained possession of the contribution. (See Chapter 2 for specific examples.)

**Ex 3.1** – A committee’s campaign consultant received a hand-delivered check at a May 14, Friday evening fundraiser. The check was delivered to the committee’s treasurer the following Monday, May 17. The contribution was received on May 14, the day the committee’s agent obtained possession of the check.

The committee also contracts with a website service to receive contributions over the Internet. The website service sends the committee’s treasurer an email each time a contributor logs on to the website service and enters their donor information and credit card number. Logging onto the website service, the treasurer can accept the contribution and receive the funds. The committee reports receipt of the contribution on the date it receives the email because it controls the contribution on that date.

A **nonmonetary** contribution is received on the **earlier** of the following:

- The date funds were expended by the contributor for the goods or services;
- The date the committee or an agent of the committee obtained possession or control of the goods or services;
- The date the committee received the benefit of the expenditure.

A nonmonetary contribution of **employee services** is made by the contributor and received by the candidate or committee on the **payroll date** of the employee. See the discussion later in this chapter for information about how to value a contribution of employee services.

**Ex 3.2** – A 501(c)(3) nonprofit organization would like to provide legal assistance to a ballot measure committee. The employees of the organization will assist with drafting the language of the measure, and will train volunteers about how to circulate petitions. Drafting proposed ballot measure language does not constitute a contribution, but training volunteers on how to do petition circulation is a reportable nonmonetary contribution to the ballot measure committee.

A committee may solicit a contribution of **cryptocurrency** as a monetary contribution, subject to specific requirements. Contributions received in cryptocurrency are subject to any applicable limits and may not be accepted from foreign principals, lobbyists, or anonymous sources. Committees cannot receive cryptocurrency contributions directly. However, a committee may receive cryptocurrency contributions through a payment processor selected to act as a vendor on behalf of the committee.

Any cryptocurrency contribution must be made and received through a U.S. based cryptocurrency payment processor registered with the U.S. Department of Treasury, Financial Crimes Enforcement Network, which utilizes know your customer (KYC) protocols to verify the identity of the contributor for all contributions. A committee that chooses to solicit contributions in cryptocurrency must ensure that the payment processor it selects to process these contributions does all of the following:

- Utilizes KYC procedures that enable it to know the identity of each contributor,
- Collects the name, address, occupation, and employer of each contributor at the time the contribution is made and transmits this to the committee within 24 hours of the time the contribution is made, and

- Immediately converts the cryptocurrency to U.S. dollars upon receipt at the prevailing rate of exchange at the time of receipt, and deposits the funds into the committee’s campaign bank account within two business days of receipt.

The amount of a cryptocurrency contribution is the fair market value of the cryptocurrency at the time the payment processor obtains possession of the contribution. A cryptocurrency contribution is received on the date the payment processor, an agent of the committee, obtains possession of the cryptocurrency that constitutes the contribution.

An **enforceable promise** is received on the date the committee or an agent of the committee receives documents verifying that a contributor has made a legally enforceable promise to make a payment. A person makes an “enforceable promise to make a payment” if they:

- Guarantee a loan.
- Furnish security for a loan.
- Endorse a loan.
- Cosign a loan.
- Make and deliver a post-dated check.
- Establish a line of credit at a bank or other commercial lending institution for a candidate or committee.

## B. Contribution Exceptions

There are many exceptions to the definition of “contribution,” contained in Regulation 18215. Exceptions for certain types of political communications are also discussed in detail in Chapter 6. Some of the most common exceptions include:

**Volunteer Personal Services:** If an individual donates their personal or professional services to a campaign (including a volunteer’s travel expenses), no contribution has been made or received as long as there is no understanding of reimbursement. “Volunteer personal services” does not include any tangible items. Donated goods are contributions.

If an employer donates employee services to a committee, and any employee spends more than 10 percent of their compensated time in a calendar month performing campaign activities for one or more campaigns, the employer has made a nonmonetary contribution to the committee. (See “Employee Time” in Section F., Valuing Nonmonetary Contributions.)

**Ex 3.3** – A primarily formed ballot measure committee on insurance rates is sponsored by an insurance company. The company has paid for envelopes, postage, and the salaries of employees working more than 10 percent of their compensated time per month on behalf of the ballot measure committee. These expenditures should be reported on the sponsored committee’s report, or on the sponsor’s own report, as nonmonetary contributions to the ballot measure committee. They are not exempt from the definition of contribution as administrative costs of a sponsored PAC under Regulation 18215(c)(16).

**Home/Office Fundraisers:** If a person, other than a lobbyist (or a cohabitant of a lobbyist) or lobbying firm, holds a fundraiser or other campaign event for a candidate or committee in their home or office, the costs incurred by the occupant of the home or office need not be reported as long as the total cost of the event is \$500 or less. However, if someone else donates food, beverages, or anything else of value to the event, the fair market value of those donated goods is a nonmonetary contribution. In addition, the donated goods must be counted to determine whether the total cost of the event is \$500 or less.

If a fundraiser will exceed \$500, all payments are reportable nonmonetary contributions, including the reasonable rental value of the home/office for the duration of the fundraiser. If the costs of the home/office fundraiser do not otherwise exceed \$500, the reasonable rental value of the space is not factored in.

**Ex 3.4** – A committee member holds a fundraiser in their home. As long as all expenses are \$500 or less, the committee does not report the cost of the event as a nonmonetary contribution.

**Ex 3.5** – A business hosts a campaign fundraiser at its headquarters. The business spends approximately \$450. A separate business entity provides the beverages valued at \$200. Since the total cost of the event exceeds \$500, both businesses have made a reportable contribution.

**Note:** The home/office fundraiser exception does not apply to a state lobbyist (or to a cohabitant of a state lobbyist). A registered state lobbyist may not make a contribution to an elected state officer or candidate for elective state office if the lobbyist is registered to lobby the official's agency or the agency for which the candidate is seeking election. A fundraiser held in the home of a lobbyist is considered a contribution; therefore, a lobbyist is prohibited from holding a fundraiser in their home for a candidate seeking election to a governmental agency that the lobbyist is registered to lobby. The same prohibition applies to lobbying firms holding fundraisers at their offices.

**Member Communications:** Payments made by an organization (including a political party) for certain communications that are sent only to the organization's members, employees, shareholders, or their families, are not contributions to a ballot measure committee whose measure is endorsed in the communication. See Chapter 6 for additional information.

## C. Aggregating Contributions

Contributions received from certain individuals and entities must be added together to determine the total amount that will be treated as received from a single contributor.

**QUICK TIP:** The term “person” includes an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, and association.

The following are aggregated:

- Contributions from the personal funds of an individual and contributions made by an entity when the same individual directs and controls the entity’s contributions.
- Contributions from two or more entities if a majority of the same persons direct and control the contributions of each entity.
- Contributions made by entities that are majority owned by any person with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.

The following are basic examples to provide general guidance regarding aggregation of contributions. Every case is unique. If these examples are not helpful for your situation, contact the FPPC for advice.

**Ex 3.6** – Sally Perez Jones contributed \$98 from personal funds and another \$98 from the funds of their business, Flowers by Sally, to the Committee for Measure F. Because contributions from an individual and their business, or from any other account they direct and control, are considered to be from a single contributor, the committee must itemize both contributions and report a cumulative amount received of \$196 on its campaign statement.

**Ex 3.7** – EXtream Snowboards, Inc., made a contribution of \$99 to the Committee for Measure F. EXtream Snowboards, Inc. is a wholly owned subsidiary of LeesureTech Industries, which also made a contribution of \$99 to the committee. Because there was coordination between EXtream Snowboards and LeesureTech Industries, their contributions are considered to be from a single contributor. The committee must itemize both contributions and report a cumulative amount received of \$198 on its campaign statement.

**Ex 3.8** – William Smith is a developer with four separate corporations. William makes political contributions from personal funds and directs and controls the contributions of each of William’s corporations. William made a contribution of \$1,000 from personal funds and contributions of \$2,000 from the funds of each of William’s four corporations to the Committee for Measure F. Because William directed and controlled all of these contributions, they are considered to have been made by a single contributor. The committee must itemize each contribution and show a cumulative amount received of \$9,000.

**Ex 3.9** – Southwest TeleCom has a greater than 50 percent ownership interest in American TeleCom. Each entity, entirely on its own, and with separate decision making bodies, makes a contribution of \$1,000 to the Committee for Measure F. The committee does not aggregate these contributions because Southwest TeleCom and American TeleCom acted completely independently in their decisions to make the contributions.

## D. Reporting the Intermediary of a Contribution

An intermediary is a person or entity that makes a contribution on behalf of another person and has been or will be reimbursed for the contribution. For each contribution of \$100 or more from an intermediary, the name, address, and, if applicable, the occupation and employer information must be disclosed for both the true source of the contribution and the intermediary. Additionally, for contributions from an intermediary that is a limited liability company (LLC) that has

qualified as an independent expenditure committee or major donor, include the name of the LLC and the full legal name of the LLC's responsible officer as defined in Regulation 18402.2. If the contributor is an LLC that has qualified as a recipient committee, include the name of the committee and its principal officer as defined in Section 82047.6. For an LLC that has not qualified as a committee, include the name of the LLC and the full legal name of the individual primarily responsible for approving the contribution. If more than one individual shares in the primary responsibility of approving a contribution, at least one such individual must be identified.

**QUICK TIP:** Media reports often refer to the omission of reporting a true source as campaign money laundering.

**Failure to disclose the true source of a contribution is considered one of the most serious violations of the Political Reform Act.**

**Ex 3.10** – Benny Barr and Vienna Waltz each made a \$100 contribution from their personal funds to support the Committee for Measure F, with the understanding that they would be reimbursed by their employer, the Music Company. Benny and Vienna must tell the committee that they are acting as intermediaries on behalf of their employer, the Music Company. The committee must itemize the \$200 contribution from the Music Company, and it must also itemize Benny Barr and Vienna Waltz as intermediaries of \$100 each on its campaign statement.

**Ex 3.11** – A corporation has asked its employees to make personal contributions to Friends of the Forest, a Committee for Proposition 305, with the intent of reimbursing its employees for the contributions they make. Neither the employees nor the corporation inform the committee that the employees will be reimbursed. The corporation and the employees have violated the Act.

**Ex 3.12** – The Playa del Sol Stockbrokers Emporium requested its employees to attend a fundraiser for Friends of the Forest, a committee for Proposition 305 with the intent of reimbursing the employees for their contributions. The employees informed Friends that their contribution would be reimbursed by the Emporium. When the committee’s treasurer completed the committee’s Form 460, they reported the total of the contributions coming from Playa del Sol Stockbrokers Emporium and itemized those employees who contributed \$100 or more as intermediaries for the Emporium. No violation took place.

Committees are required to check, and, if necessary, correct any information regarding the true source of a contribution that a person of reasonable prudence would question based on all of the surrounding circumstances. If there is reason to believe the information contained on the contribution check does not contain the name of the person who is actually making the contribution, the donor should be asked if they are acting as an intermediary for the true source of the contribution.

## E. Earmarked Contributions

A contribution to a committee that is earmarked for a contribution to any other particular committee, ballot measure, or candidate is required to be disclosed as outlined below.

A contribution is earmarked if it is made under any of the following circumstances:

- The committee or candidate receiving the contribution solicited the contribution for the purpose of making a contribution to another specifically identified committee, ballot measure, or candidate, requested the contributor to expressly consent to such use, and the contributor consents to such use.
- The contribution was made subject to a condition or agreement with the contributor that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

- After the contribution was made, the contributor and the committee or candidate receiving the contribution reached a subsequent agreement that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

However, there is an exception for dues, assessments, fees, and similar payments made to a membership organization or its sponsored committee in an amount less than five hundred dollars (\$500) per calendar year from a single source for the purpose of making contributions or expenditures. Such funds are not considered to be earmarked by each individual contributor, instead the membership organization is to be reported as the source for these funds.

The committee making an earmarked contribution shall provide the committee receiving the earmarked contribution with the name and address and, if applicable, the occupation and employer of the contributor who earmarked their funds and the amount of the earmarked contribution at the time it makes the contribution. If the committee making the contribution received earmarked contributions that exceed the amount contributed, or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which contributors to identify, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

## **F. Reporting Earmarked Contributions from Another Committee**

A committee that makes a contribution to another committee earmarked for a third specifically identified committee must disclose the specifically identified committee as the recipient of the contribution and the other committee as an intermediary at the time the earmarked contribution is made. The specifically identified committee must disclose the contributor and intermediary at the time the funds are received from the intermediary. The intermediary must disclose receipt

of the funds as a miscellaneous increase to cash on Schedule I of Form 460 at the time the funds are received and must disclose the expenditure as the transfer of an earmarked contribution from the contributor to the specifically identified committee at the time the funds are given to the specifically identified committee.

A committee that makes a contribution to another committee and subsequently reaches an agreement with that committee that all or a portion of the contribution would be used for another committee, ballot measure or candidate must include a notation on its next statement that the original contribution was subsequently earmarked, including the name of the specifically identified committee, ballot measure, or candidate. The committee that initially received the funds must also include a notation on its next statement that the original contribution was subsequently earmarked and must disclose the original contributor to any new committee to which it transfers the earmarked funds. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

A committee that makes a contribution earmarked for a specifically identified ballot measure or candidate must disclose a contribution to the committee that received the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate. The committee receiving the earmarked contribution must disclose the contributor with a notation that the contribution was earmarked for the specific ballot measure or candidate when the contribution is received. This committee is solely responsible for disclosing the ultimate use of the earmarked contribution, whether by contribution or expenditure, at the time the funds are used. If the committee receiving the earmarked contribution contributes any portion of the contribution to another committee to support or oppose the specifically identified ballot measure or candidate, that committee shall disclose the true source of the contribution to the new committee receiving the earmarked funds for disclosure on the new committee's campaign report. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

## G. Reporting Common Contributions

**Electronic Receipt of Contributions:** Contributions may be received by credit card, wire transfer, Internet, cell phone text message, telephone, debit account transaction, or similar electronic payment options:

- For contributions of \$25 or more, the committee treasurer should send a copy of the credit card voucher or other documentation to the committee as soon as practicable after the contributions are made.
- The entire amount charged to the contributor is reported as a contribution.
- Fees associated with this type of fundraising, or deducted by the vendor before the contributions are sent to the committee, are reported as expenditures; the fees are not deducted from the amount of each contribution reported.

**Fundraisers:** The full amount (face value) of a fundraiser ticket is a reportable contribution.

**Ex 3.13** – Your committee holds a fundraiser and charges \$100 per person. After the event, you determine that your committee spent \$25 per person to pay for the caterer, hall rental, entertainment, invitations, etc. Report on Schedule A of the Form 460 each contributor's name, address, occupation, and employer and the full \$100 per ticket contribution. Do not subtract \$25 from each ticket sold.

**Auctions and Garage Sales:** When items are donated for auction or sale at a fundraiser, the donated item is a nonmonetary contribution. (See below for determining the value.) When someone buys an item, the payment is reported as a "Miscellaneous Increase to Cash." If any one person pays \$100 or more, the payment is itemized.

When someone pays more for an item than it is worth, the amount that is equal to the fair market value is reported as a miscellaneous increase to cash and the amount over the fair market value is reported as a monetary contribution. Each is itemized at \$100 or more.

**Ex 3.14** – Andy Foster owns an electronics store and donates a TV worth \$500 to your committee. At your committee’s auction, Gloria Fernandes bids \$600 for the TV. Itemize \$500 as a nonmonetary contribution from Andy’s store. Then, itemize \$500, the part of Gloria’s payment that is the fair market value of the TV, as a miscellaneous increase to cash. Also itemize \$100, the amount over the fair market value, as a monetary contribution from Gloria.

**Bar Receipts:** Funds received by selling drinks at a fundraiser at fair market value are reported as miscellaneous increases to cash, not contributions.

**Raffles:** Receipts from the sale of raffle tickets at a fundraiser are reported as contributions. Items donated for raffle prizes are reported as nonmonetary contributions. (Note that Penal Code Section 319 imposes some restrictions on raffles. Contact your county’s district attorney for further information.)

**Joint Checking Accounts:** Individuals (including spouses) may make separate contributions from a joint checking account. For reporting purposes, the full amount of the contribution is reported as coming from the individual who signs the check. If two or more individuals sign the check, the contribution is divided equally between or among the signers, unless there is an accompanying document signed by each individual whose name is printed on the check that clearly indicates a different apportionment.

**Ex 3.15** – Linda and Jerry Nelson have a joint checking account. From this account, Linda signed a \$100 check payable to Citizens Against Street Crime, Yes on Measure D. The committee identifies Linda Nelson as the contributor of the full \$100.

A check drawn on a joint checking account that is signed by an individual not listed on the check (e.g., an accountant) must be accompanied by a document signed by at least one of the individuals listed on the check stating to whom the check is to be attributed.

**Business Accounts:** Generally, if a check is drawn on the account of a business entity, the contributor is the business entity, not the person who signs the check.

**Minor children:** A contribution made by a child under the age of 18 is presumed to be a contribution from their parent or guardian, unless the facts show otherwise, e.g., that the child actually chose to make the contribution.

## H. Valuing Nonmonetary Contributions

This section provides assistance in determining how to value nonmonetary contributions so that they may be reported accurately. The varieties of nonmonetary contributions are vast, so not all possibilities are presented. Contact the FPPC for assistance.

### Fair Market Value

When a nonmonetary contribution is received, the fair market value of the goods or service must be reported.

If the committee does not know the fair market value of a nonmonetary contribution, such as an original piece of artwork, the committee may send a letter requesting that the contributor provide the value of the contribution in writing. The contributor is legally obligated to provide an amount if the value of the contribution is \$100 or more.

**Ex 3.16** – The owner of an audio-visual store donates a television worth \$500 to your committee for sale at an auction. Although the television costs the store owner less than \$500, the fair market value of the television (the amount it would cost any member of the public to purchase the television from the store) is \$500. Therefore, the nonmonetary contribution from the store owner is \$500.

**Employee time:** If an employer donates the use of an employee to work on campaign activities for one or more campaigns, the amount the individual is paid is reportable as a nonmonetary contribution from the employer if the employee spends more than 10 percent of their compensated time in a calendar month working on campaign activities. To determine the contribution amount, allocate the gross compensation to the time spent on campaign activity. Compensation includes wages paid and any benefits in lieu of wages, such as stock options or an annuity purchase. Compensation does not include routine benefits, such as the employer's payments to a health care or retirement plan.

**Ex 3.17** – An accounting firm provides your committee with the services of an accountant during the last month of the campaign. The accountant spends 25 percent of their time working for the campaign, for which their gross compensation from the accounting firm is \$2,500. The amount of the contribution from the accounting firm, therefore, is \$2,500.

**Discounts:** If the committee receives a discount on goods or services it purchases and the discount is not offered to the public in the regular course of business, the discount is a nonmonetary contribution that must be reported.

**Ex 3.18** – Your committee treasurer knows the owner of Janns' Printing Shop and gets the owner to give your committee a 50 percent discount on the printing of a brochure that normally would cost \$1,200. Your committee has received a nonmonetary contribution of \$600 from Janns' Printing Shop.

**Email Lists:** If a list of email addresses is donated, the fair market value must be reported as a nonmonetary contribution.

**Corporate Stock:** The contribution of corporate stock must be reported and valued as listed on the stock exchange on the date of receipt. When the stock is sold, the total proceeds of the sale are reported on Schedule I as a miscellaneous increase to cash. If the purchaser is unknown, report the brokerage firm as the source with a notation that the payment represents the sale of stock. Broker's fees must be reported on Schedule E.

**Cryptocurrency:** The amount of a cryptocurrency contribution is the fair market value of the cryptocurrency at the time the payment processor obtains possession of the contribution. A cryptocurrency contribution is received on the date the payment processor, an agent of the committee, obtains possession of the cryptocurrency that constitutes the contribution. Some tips on reporting cryptocurrency contributions include:

- The entire amount of the cryptocurrency contribution is reported as a monetary contribution. The processing fee charged by the payment processor is not deducted from the amount reported.
- The processing fee is reportable as an expenditure of the committee at the time the fee is deducted or charged.

**Ex 3.19** - Your committee contracts with a payment processor, which charges a 2% processing fee, to accept cryptocurrency on its behalf for the upcoming election. The payment processor accepts a contribution in bitcoin valued at \$1,000 on October 15. The committee would report the receipt of the \$1,000 cryptocurrency in the following ways on the Form 460:

- Schedule A: The committee would report the receipt of the \$1,000 as a monetary contribution. The committee would disclose the date received as October 15 and report all the required contributor information.
- Schedule E: The committee would report the processing fee of \$20 as an expenditure.

Please note that if a cryptocurrency contribution is received and valued at \$1,000 or more from a single source in the 90 days prior to or on the date of an election, the committee may incur additional filing obligations such as the Form 497.

## I. Valuing Mailings, Telephone Banks, Polls

**Multiple Candidates/Measures.** If a communication expresses support of or opposition to more than one ballot measure or candidate, the fair market value attributable to each may be calculated by prorating the costs among the featured candidates and ballot measures. The prorated value is based on the amount of space allotted to each candidate or measure supported or opposed in the mailer.

The value of a mailer that supports or opposes candidates and measures being voted on in different jurisdictions may be prorated based on the number of mailers sent to each candidate or ballot measure's jurisdiction.

**Ex 3.20** – The Weston Chamber of Commerce produces and mails a one-page flyer urging voters to vote for Proposition 310, and to vote against Propositions 322 and 323. Half of the flyer is devoted to supporting Proposition 310 and the other half equally opposes the other measures. The Chamber coordinates the mailing with the committee primarily formed to support Proposition 310, but does not coordinate with any committee set up to oppose the two other measures. The total cost of producing and mailing the flyer is \$14,000. The committee supporting Proposition 310 has received a nonmonetary contribution valued at \$7,000, and the Chamber has made independent expenditures of \$3,500 each opposing the two other ballot measures. See Chapter 6 for additional information about independent expenditures.

**Political and Non-Political Material.** The cost of a communication containing both express advocacy in support of or opposition to a ballot measure, as well as non-political material, may be prorated. Costs directly associated with the political message are reportable by the ballot measure committee, including, for example, compensation paid to employees who spend more than 10 percent of their compensated time in a calendar month producing or mailing the political materials, and the pro rata cost of paper, envelopes, and postage. The allocation may be based on the additional weight of the political material or the comparative number of pages between the political and non-political material.

**Ex 3.21** – A local association of realtors is holding a golf tournament, which will be featured as a networking and marketing event for its members. The association sends invitations, which include an option for attendees to donate an additional sum earmarked for the association’s sponsored committee. Because the invitations include non-political material as well as political material (i.e., the portion of the invitation that solicits contributions for the association’s sponsored committee), the costs may be prorated. Costs directly associated with the political message are reportable by the committee, including the pro rata costs of paper, envelopes, and postage. The allocation may be based on the comparative amount of space devoted to political versus the non-political material.

**Member Communications:** Payments made by an organization or its sponsored committee for a communication that supports or opposes a ballot measure are not contributions or expenditures as long as the communication is made only to the organization’s members, employees, or shareholders, or the families of its members, employees, or shareholders. The communication may not be for general public advertising, such as billboards, newspaper ads, or radio or television ads. (See Chapter 6.)

**Bulk Rate Permits:** Use of another organization’s bulk rate permit is a nonmonetary contribution from the organization. If the committee pays the actual postage costs incurred, the fair market value of the contribution is either:

- The price the organization paid for the bulk mailing permit; or
- The difference in postage costs between the bulk mailing rate and that of regular mail.

If the organization pays for the costs of the mailing using its bulk rate permit, and the committee does not have such a permit, the value of the contribution is (1) the amount it would have cost to pay for the mailing using regular mail; or (2) the cost of the bulk rate mailing plus the cost of a permit.

**Phone Banks:** Businesses and other entities will sometimes allow a ballot measure committee to use their phones to call prospective voters during non-business hours. The fair market value of the use of the phones is calculated to determine the amount reported as a nonmonetary contribution, even if only local calls are made. One method to determine the fair market value is to contact organizations that provide phone banks as a business.

**Polls and Surveys:** A person or entity that pays for and provides data to a committee from a public opinion poll or survey is making a nonmonetary contribution if the committee requests the data or the data are used for political purposes. FPPC staff has advised that a formula utilized by the Federal Election Commission may be used for valuing polling or survey data, as long as the formula is used in a reasonable manner to provide a fair estimate. The formula calculates the value based on the age of the data. The chart below illustrates the fair market value of data based on the number of days that pass from the date the entity originally received the data to the date the data were provided to the committee.

**Ex 3.22** – A local business association commissioned a public opinion poll to determine voters’ attitudes about three city issues: development of an arena, an expanded no-smoking ban, and a local recreational park bond. The association provided the poll results to the ballot measure committee formed to pass the recreational park bond. Since only a portion of the data pertained to the bond issue, the ballot measure committee reported a prorated amount when disclosing the nonmonetary contribution received.

Age of Data	Value
0 -15 days	Full Value
16 - 60 days	50%
61 - 180 days	5%
More than 180 days	No Value

When only a portion of a survey is provided to or for the benefit of a committee, the nonmonetary contribution is the prorated portion of the total value of the survey.

## J. Contributions Between Multipurpose Organizations: Expedited Notice and Filing

If a multipurpose organization (including a nonprofit) identifies another multipurpose organization as a contributor of more than \$50,000 on its campaign report using LIFO, a notice must be sent to the contributing multipurpose organization that the organization may be required to file expedited campaign reports. The notice must include the major donor notification language below (see “Notification to Contributors of \$5,000 or More”), as well as the following **additional language**:

*The Political Reform Act requires disclosure of the source of donor funds used for political expenditures and tracks back to the original donors when funds are contributed by one multipurpose organization to another. Your organization was identified as a contributor of more than \$50,000 in funds that our organization used for political expenditures. Therefore, your organization may qualify as a committee under Government Code Section 84222 and Fair Political Practices Commission (FPPC) Regulation 18422, contained in Title 2, Division 6 of the California Code of Regulations, that is required to register with the Secretary of State on FPPC Form 410 and file expedited reports on FPPC Form 460 disclosing donors for such funds within three business days during the 90 days before an election or within 10 business days outside that period.*

The notice must be sent by email, overnight delivery, or fax within 24 hours during the 90-day period before an election and within ten business days outside that period. The organization must maintain a record of all notices it sends. (Gov. Code Section 84222; Regulation 18422.)

## K. Notification to Contributors of \$5,000 or More

Committees that receive one or more contributions totaling \$5,000 or more in a calendar year from an individual or entity that made the contribution(s) from personal, business, corporate, or general funds must send the contributor written notice that they may have a filing obligation.

**QUICK TIP:** Once contributions of \$10,000 or more are made, the Form 497 may be immediately required. Committees should provide donors the link to the appropriate FPPC filing schedule.

Generally, the notice must be mailed, faxed or emailed to the contributor **within two weeks** of receiving contributions totaling \$5,000 or more. If a contribution of \$10,000 or more is received in the 90 days prior to or on the date of the election, the notice must be mailed, faxed or emailed to the contributor **within one week**. A copy of each notice or a record of all notices showing the date sent and the name and address of the person receiving the notice must be retained.

**QUICK TIP:** A multipurpose organization (including a nonprofit) that identifies another multipurpose organization as a contributor of more than \$50,000 on its campaign report by the “last in, first out” (LIFO) accounting method, must send an expedited notice as described in Section H.

The notice need not be sent again for subsequent contributions received from the same contributor in the same calendar year. In addition, the notice does not need to be sent if the source of the contribution is a candidate, officeholder, or an existing committee because they already are required to file campaign statements.

The notice may be tailored as long as it contains language substantially similar to the language below:

### ***Major Donors***

*If your contribution(s) to this committee and to other California state or local committees total(s) \$10,000 or more in a calendar year, California law requires you to file a Major Donor Committee Campaign Statement (Form 461). The deadline and location for filing this statement will depend upon the timing and type of contribution(s) you have made. For additional information, visit [www.fppc.ca.gov](http://www.fppc.ca.gov) and review the available campaign materials.*

## ***Multipurpose Organizations Including Nonprofits***

*If your organization is a multipurpose group, it may qualify as a major donor committee required to file Form 461 or as a recipient committee required to file the Form 460 disclosing donors. Refer to Government Code Section 84222 and FPPC Regulation 18422 to determine your filing requirements. For additional information, visit [www.fppc.ca.gov](http://www.fppc.ca.gov) and review the available campaign materials.*

## ***24-Hour/10-Day Reports***

*Major donors and multipurpose organizations that trigger reporting obligations must also file a 24-Hour/10-Day Contribution Report (Form 497) if you:*

*Make contributions totaling \$1,000 or more to a single candidate, any of the candidate's controlled committees, or to a committee primarily formed to support or oppose a candidate or ballot measure during the 90 days before the election, including the date of the election, in which the candidate or measure is being voted on; or*

*Make contributions totaling \$1,000 or more to a state or county political party committee during the 90 days prior to, including the date of, a state election, including a state special election.*

### ***Electronic Filing***

*State committees that make contributions of \$25,000 or more must file electronically with the Secretary of State. State committees that are required to file the Form 497 (24-Hour/10-Day Contribution Report) must file this form electronically even if the \$25,000 threshold has not yet been met. For more information on the electronic filing requirements, contact the Secretary of State's office at (916) 653-6224. Local committees should contact the local jurisdiction to determine if there are electronic filing requirements.*

### ***Late Filing Penalties and Fines***

*Failure to file campaign statements may result in late filing penalties of \$10/day (state committees may be fined \$20/day if they must file electronically and on paper) and fines of up to \$5,000 per violation.*

### ***FPPC Assistance***

*For assistance with your filing obligations, contact the Fair Political Practices Commission toll-free at (866) ASK-FPPC, send an email to [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov), or refer to their website: [www.fppc.ca.gov](http://www.fppc.ca.gov).*

## L. Returning Contributions

There are several provisions in the Act and FPPC regulations that regulate the return of contributions.

**General Rules:** A contribution may be returned in whole or in part to the contributor at any time. A contribution that is deposited, cashed or negotiated must be disclosed on a campaign statement, even if it is subsequently returned. Only under the first two circumstances below may monetary contributions be returned and not reported.

**QUICK TIP:** See Chapter 9 for the rules about reporting contributions that are returned.

**Outside the 90-Day Election Cycle:** A contribution is not required to be reported (by the donor or the committee receiving the funds) if it is not deposited, cashed, or negotiated, and it is returned to the contributor before the closing date of the campaign statement on which it would otherwise be reported.

**24-Hour Contributions:** A primarily formed committee that receives a contribution of \$1,000 or more during the 90 days before an election, including the date of the election, is not required to report if it is not deposited, cashed, or negotiated, and it is returned within 24 hours of receipt. The donor is also not required to report if it is returned within 24 hours.

**Missing Contributor Information:** A contribution of \$100 or more must be returned within 60 days of receipt if the committee has not obtained the contributor's name, address, and, in the case of a contributor who is an individual, their occupation and employer. Additionally, contributions of \$100 or more from a limited liability company (LLC) must be returned if, within 60 days, the committee's records do not contain the following: the name of the LLC and the full legal name the LLC's responsible officer (for an LLC that has qualified as an independent expenditure committee or major donor); the name of the LLC's committee and the LLC's principal officer (for an LLC that has qualified as a recipient committee); or, for an LLC that has not qualified as a committee, the full legal name of the individual primarily responsible for approving the contribution.

## M. State Contribution Limits

A primarily formed or general purpose ballot measure committee is not subject to state contribution limits, including those committees controlled by a state candidate or officeholder. But funds from a state candidate controlled ballot measure committee may not be used for the state candidate's election.

As described below, contribution limits may apply if a ballot measure committee, at the behest of a state candidate, makes a payment of \$50,000 or more for a communication about a ballot measure that features the state candidate within 45 days of their election.

### Communications Identifying State Candidates

Under the Act's issue advocacy provision, a ballot measure committee that pays \$50,000 or more for a communication identifying a state candidate within 45 days of their election must file an online electronic disclosure report (E-530). See Chapter 11 for the Form E-530 reporting requirements.

A committee must file the report and is subject to a contribution limit of \$45,500 per calendar year (through December 31, 2024) from a single source if all of the following conditions are met:

1. The committee makes a payment or a promise of a payment totaling \$50,000 or more;
2. The payment is for a communication that clearly identifies a candidate for elective state office;
3. The communication does not expressly advocate the election or defeat of the candidate;
4. The communication is disseminated within 45 days of an election in which the identified candidate will appear on the ballot; and,
5. The communication is made at the behest of the identified candidate.

Once a committee receives a contribution of more than \$45,500, the committee may not make a payment for a communication described above. (This amount may be adjusted every odd-numbered year based on the Consumer Price Index.)

A candidate is “clearly identified” if the communication:

- States their name;
- Makes unambiguous reference to their office or status as a candidate;
- Unambiguously describes them in any manner; or
- Contains the voice or a visual depiction of the candidate.

**QUICK TIP:** See Chapter 6 for additional information about communications, including how to determine if a communication “expressly advocates” for or against a candidate, as well as how to determine if the communication is “made at the behest” of a candidate.

**Exception:** A candidate is not considered “clearly identified” if the candidate’s name is required by the provisions of state or federal law to appear in the communication and the candidate is not singled out in the manner of display.

**Ex 3.23** – Two weeks before an election in which Assembly member Caterina Ramos will be listed on the ballot, the Alternative Energy Committee, Yes on Proposition 580, pays \$70,000 for billboard space for an ad campaign. While the ad does not advocate Caterina’s election, it does include Caterina’s name and image and was approved by Caterina. The Yes on Proposition 580 Committee is subject to a contribution limit of \$45,500 (2023-2024 limit) in a calendar year from a single source.

**Ex 3.24** – The Santa Monica Neighbors for Reform, Yes on Measure H, buys newspaper ads in the local newspaper that read, “State Senator Juanita Frances supports Measure H.” The committee has coordinated this advertising campaign with the senator, who is running for reelection and will appear on the ballot within 45 days of placement of the ads. Even though this is a local ballot measure committee, because the ad identifies a state candidate, the committee is subject to a calendar year contribution limit of \$45,500 (2023-2024 limit) from a single source.

**Ex 3.25** – Save Our Renewable Resources, No on Proposition 444, sponsored by timber industry interests, contracts for a phone message to be distributed to registered voters statewide within 45 days before the state primary election. The phone message includes a statement that reads, “The State Controller says Proposition 444 will hurt the state budget.” The State Controller is not listed on the ballot. Therefore, the ad campaign does not trigger a \$45,500 (2023-2024 limit) calendar year contribution limit.

## Answering Your Questions

- A. We are holding a \$100-a-plate fundraiser for our committee. The actual cost of the event to our committee will be \$25 per person. When someone gives us \$100 to attend the dinner, do we report \$100 as a contribution, or do we subtract the \$25 and report receiving a \$75 contribution?**

The cost of the ticket for the fundraiser is the amount of the contribution. Report \$100 as the contribution.

- B. When we send out a fundraising letter, are we required to put our committee identification number on the invitation?**

There is no requirement to put the identification number anywhere on the letter. However, many campaigns do so because if other committees, or others with their own reporting obligations, contribute to your committee, they will need your identification number to complete their campaign reports.

- C. We would like to hold a raffle at our next fundraiser. Are there any restrictions on raffles?**

The Political Reform Act does not restrict raffles. However, Penal Code Section 319 does prohibit some raffles. This code is interpreted and enforced by each county's district attorney. Contact the local district attorney where the raffle will be held for further information. Standard reporting and recordkeeping is required.

- D. If Jan, my next door neighbor, spends \$1,000 on an event to help raise funds for two different ballot measure committees and the event is held in their home, have they made a contribution to each committee?**

Yes. The total cost of a home fundraiser must be \$500 or less, or the payment for the event will qualify as a nonmonetary contribution. This is true no matter how many committees benefit from the event.

**E. May a nonprofit organization hold a joint fundraiser with a political committee?**

Yes. However, any costs incurred by the nonprofit organization that are not reimbursed by the political committee would be considered a nonmonetary contribution from the nonprofit to the political committee. The nonprofit organization should contact the IRS for any possible restrictions based upon the organization's tax status.

**F. Three ballot measure committees wish to conduct individual polls. A polling firm has offered a reduced rate because all three polls can be combined using one very large sample. Are the committees receiving contributions from the polling firm because of the discounted fee, and are the committees making contributions to each other?**

If each committee pays only its share of the cost of the poll, the committees are not making contributions to each other. Additionally, if the polling firm provides the discount as part of its standard business policy and does not provide the discount for political purposes, the committees are not receiving contributions from the polling firm.

## Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

### Government Codes Sections

82015	Contribution.
82018	Cumulative Amount.
82025.5	Fair Market Value.
82036	Late Contribution.
82047	Person.
82015.5	Contribution; Aggregation.
84105	Notification to Contributors.
84211	Contents of Campaign Statement.
84300	Cash and In-Kind Contributions; Cash Expenditures.
84302	Contributions by Intermediary or Agent.
84306	Contributions Received by Agents of Candidates or Committees.
85305	Restrictions on Contributions by Candidates.
85308	Family Contributions.
85310	Communications Identifying State Candidates.
85312	Communications to Members of an Organization.
85319	Returning Contributions.
85700	Donor Information Requirements; Return of Contributions.
85704	Prohibition on Earmarking.

## Title 2 Regulations

- 18215 Contribution.
- 18216 Enforceable Promise to Make a Payment.
- 18402.2 Limited Liability Companies, Responsible Officer.
- 18410 Statement of Organization.
- 18421.1 Disclosure of the Making and Receipt of Contributions.
- 18421.2 Cryptocurrency Contributions
- 18421.3 Reporting of Contributions and Expenditures Collected by Contract Vendors or Collecting Agents.
- 18421.10 Reporting Contributions from Limited Liability Companies.
- 18421.31 Text Message Contributions.
- 18423 Payments for Personal Services as Contributions and Expenditures.
- 18427.1 Notification to Contributors of Filing Obligations.
- 18428 Reporting of Contributions and Independent Expenditures Required to be Aggregated.
- 18432.5 Intermediary and Earmarked Funds Disclosure.
- 18531.7 Payments for Communications – Section 85312.
- 18531.10 Communications Identifying State Candidates.
- 18533 Contributions from Joint Checking Accounts.
- 18535 Restrictions on Contributions Between State Candidates.
- 18539.2 Reporting Payments Pursuant to Government Code Section 85310.