THE CITY OF SAN DIEGO
ETHICS COMMISSION

2016 COMMITTEE MANUAL

Campaign Finance Information for the Following Committees Participating in City of San Diego Elections:

- Recipient Committees Primarily Formed to Support or Oppose City Candidates or Ballot Measures
- City, County, and State General Purpose Recipient Committees
- City, County, and State Independent Expenditure Committees

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What's New in 2015

The following recent amendments to local and state campaign finance laws are applicable to the 2016 election cycle:

- **Duplication of Candidate Materials**
  A committee that duplicates, reproduces, or republishes a candidate's campaign materials, in whole or part, even without coordinating the effort with the candidate, is making an unlawful in-kind contribution to that candidate.
- **Vendor Debt**
  Committees primarily formed to support or oppose one or more candidates or ballot measures may not accept credit from a vendor for campaign advertising if it does not have sufficient cash on hand to pay for the advertisement and a payment for the advertisement would change the identity of the committee's sponsor or top two donors.
- **Checking Accounts**
  Committees primarily formed to support or oppose one or more candidates or ballot measures may now establish their campaign checking accounts at any bank or financial institution with an office or branch in California. Committees are no longer restricted to banks in San Diego.
- **Electioneering Communications**
  Committees must include a "paid by" disclosure on electioneering communications (non-advocacy advertisements that mention a candidate's name within 90 days of an election).
- **Large Contributions (Major Donors)**
  Committees that receive contributions of $5,000 or more from any non-committee must inform the contributor within 2 weeks of a requirement to file campaign reports (or 1 week for contributions of $10,000 or more during the 90 days prior to the election).
- **Multi-Purpose Organizations**
  The rules that determine when a multi-purpose organization becomes a "committee" have changed. Refer to Chapter 1 for more information.

Introduction

This manual is designed to help political committees understand and comply with the City of San Diego's campaign laws. It is intended to serve as a supplement to the State of California Fair Political Practices Commission's [FPPC] Campaign Disclosure Manuals, which can be viewed online at the following address: http://www.fppc.ca.gov/index.php?id=505

This manual has been prepared specifically for committees that spend money to support or oppose City candidates and City ballot measures appearing on the June 7, 2016, primary election ballot and the November 8, 2016, general election ballot.

This manual is not designed for candidates. The Ethics Commission has prepared a separate 2016 Candidate Manual designed solely for candidates and their election committees. The candidate manual is available on the Commission's website.

This manual is also not designed for major donors (individuals and entities that make contributions totaling $10,000 or more in a calendar year). The City's campaign finance laws do not regulate major donors; contact the FPPC for assistance.

The majority of the state's campaign laws have been incorporated into the City's laws. This manual focuses on the particular rules and requirements that govern committees politically active in the City of San Diego, including City laws that are more stringent than the state's laws.

This manual is not meant to serve as a substitute for the actual provisions in state law (the Political Reform Act) or City law (the Election Campaign Control Ordinance).

The City Clerk is the filing official for the City of San Diego and is responsible for administering the City's elections. Questions concerning filing procedures should be directed to the City Clerk as follows:

(619) 533-4025
www.sandiego.gov/city-clerk

Other requests for advice and assistance concerning the City's campaign laws, including questions concerning the contents of disclosure statements, should be directed to the Ethics Commission as follows:

(619) 533-3476
ethicscommission@sandiego.gov

Keep in mind that the Ethics Commission can only provide technical assistance to committees and their representatives in advance of contemplated action. In other words, the Ethics Commission cannot help you after you have violated the City's campaign laws, so please be sure to contact our office before you take the action in question.

Finally, please remember that your decision to participate in a City of San Diego election carries with it certain responsibilities. In particular, you are required to abide by state and local laws that regulate the conduct of political committees, which are explained in detail in the FPPC Manuals and in the various chapters in this manual. The failure to adhere to these laws could result in a variety of penalties, including but not limited to administrative fines imposed by the Ethics Commission in amounts up to $5,000 per violation.

Chapter 1
Campaign Committees Explained

Committees active in City of San Diego elections may take a number of different forms, depending on where their money comes from and how their money is spent. Entities that accept donations and use some or all of these donations for political purposes are considered "recipient committees" and can be either a "primarily formed recipient committee" or a "general purpose recipient committee."

On the other hand, an entity that spends its own money for political purposes without accepting donations from others is called an "independent expenditure committee."

Note: Although primarily formed recipient committees and general purpose recipient committees may make independent expenditures, they are not classified as "independent expenditure committees."

The rules defining the different types of committees are a matter of state law. The flowchart at the end of this chapter illustrates these rules, as described more fully below:

Recipient Committees

Whether a recipient committee is a "primarily formed recipient committee" or a "general purpose recipient committee" depends on where it spends its money for political purposes. On a quarterly basis, each type of recipient committee must count the contributions and expenditures it made to support or oppose candidates or measures during:

- The immediate preceding 24 months; or
- The period beginning January 1 of the most recent odd numbered year, through the end of the most recent calendar quarter. For example, a committee evaluating its activities on March 31, 2016, would review the period from January 1, 2015, through March 31, 2016.
- The committee must use whichever time period most accurately reflects its current and upcoming activities.

Each committee must review its activity at the end of March, June, September, and December to determine whether it must change its designation, except as set forth below.

- A committee that has not made contributions or expenditures of $5,000 or more to support or oppose candidates or measures in the preceding quarterly time period is not required to review or change its status.
- A <u>new committee</u> formed within six months of an election in connection with which it will make contributions or expenditures must review its activity at the end of each month (unless it has not made contributions or expenditures of $1,000 or more to support or oppose candidates or measures that month).
- If a committee's status changes, it must file a Form 410 amendment within ten days.

Note: If a City committee changes its status to a state or county committee in the middle of the year, it must continue filing a copy of its campaign statements with the City Clerk until the end of the calendar year.

Primarily Formed Recipient Committees

A committee is a City of San Diego primarily formed recipient committee under either of the following circumstances:

A. The committee's primary purpose and activities are to support or oppose: (1) a single City of San Diego candidate; (2) a single City of San Diego ballot measure; (3) a group of candidates running for office in the same City of San Diego election; or (4) two or more ballot measures being voted upon in the same City of San Diego election.

OR

B. More than 70% of its contributions and expenditures are spent on: (1) a single City of San Diego candidate; (2) a single City of San Diego ballot measure; (3) a group of candidates running for office in the same City of San Diego election; or (4) two or more ballot measures being voted upon in the same City of San Diego election.

Accordingly, a committee created to support or oppose one or more candidates running in the 2016 election cycle is a primarily formed recipient committee. A committee whose expenditures have reached the 70% threshold described above in support of or opposition to one or more candidates running in the 2016 election cycle is also a primarily formed recipient committee.

NOTE: An existing general purpose recipient committee is not required to change to a primarily formed recipient committee unless the 70% threshold has been met and it has spent at least $10,000 supporting the relevant candidate(s) or measure(s).

Primarily formed recipient committees are further divided depending on whether they are focused on candidates or ballot measures in an upcoming election. A committee formed to support one or more candidates in the same election will be referred to as a candidate primarily formed recipient committee. These committees are discussed in greater detail in Chapter 2 of this manual. A committee that is formed to support one or more ballot measures in the same election is referred to as a ballot measure primarily formed recipient committee. These committees are discussed in greater detail in Chapter 3 of this manual.

General Purpose Recipient Committees

A recipient committee that is not a primarily formed recipient committee is a "general purpose recipient committee." These committees are typically not limited to a single election. They are ongoing in nature and generally support a variety of candidates and ballot measures, often in multiple jurisdictions.

At the time of registration, a general purpose recipient committee must declare whether it is a state, county, or city committee. Its committee status may change in the future, depending on whether it makes more than 70% of its contributions or expenditures on candidates or measures being voted on in the same city or county.

EXAMPLE: Tax Alert was formed six years ago as a County of San Diego general purpose recipient committee. When reviewing the contributions and expenditures it made over the previous two years, it determined that 72% of those payments were made for the purpose of opposing City of San Diego candidates and ballot measures. Tax Alert will file a Form 410 amendment to redesignate itself as a City of San Diego general purpose recipient committee.

City general purpose recipient committees are discussed in greater detail in Chapter 4 of this manual. County and state general purpose recipient committees are discussed in greater detail in Chapter 5 of this manual.

Independent Expenditure Committees

An independent expenditure committee is an individual or entity (e.g., corporation, firm, business, or proprietorship) that makes independent expenditures totaling $1,000 or more in a calendar year. An "independent expenditure committee" is not a "recipient" committee; it does not accept payments from others to fund its political activities.

> EXAMPLE: Access Builders is a local developer opposed to a City of San Diego ballot measure that would impact affordable housing requirements. Using its own money, it spends $1,500 on billboards opposing the measure. It has become an independent expenditure committee.

Independent expenditure committees qualify anew as a committee each year. For purposes of determining its jurisdiction, an independent expenditure committee counts contributions and expenditures made to support or oppose candidates or measures during the current calendar year, and calculates the percentage quarterly at the end of March, June, September, and December.

An independent expenditure committee that has not made contributions or expenditures of $5,000 or more to support or oppose candidates or measures in the preceding quarterly time period is not required to review or change its status.

Depending on the calculation, an independent expenditure committee will fall within one of these three categories:

City of San Diego Independent Expenditure Committees

If 70 percent or more of a committee's contributions and expenditures are made to support or oppose City of San Diego candidates and/or ballot measures, and it has not spent any money on state candidates or measures, then it is a City of San Diego independent expenditure committee. These types of committees are discussed in greater detail in Chapter 6.

County Independent Expenditure Committees

If 70 percent or more of a committee's contributions and expenditures are made to support or oppose candidates or ballot measures voted on in a single county, or in more than one jurisdiction within a single county, and it has not spent any money on state candidates or measures, then it is a county independent expenditure committee. These types of committees are discussed in greater detail in Chapter 7.

State Independent Expenditure Committees

If a committee has spent any amount of money on state candidates or measures, then it is a state independent expenditure committee. These committees, are discussed in greater detail in Chapter 7.

Considerations for Multi-Purpose Organizations

An entity established for purposes other than making contributions or independent expenditures may not consider itself a political committee. If, however, such an entity decides to get involved in a political campaign, it may nevertheless qualify as a committee and become subject to disclosure obligations. For example, a nonprofit organization created to support union activities may qualify as a recipient committee if it makes political expenditures using dues or donations.

State law dictates when these types of organizations become committees. In particular, an organization becomes a recipient committee if it does any of the following:

(1) registers as a political committee with another state or with the Federal Elections Commission and makes contributions or expenditures of $1,000 or more in California; or

(2) solicits and receives payments from donors totaling $1,000 or more for the purpose of making contributions or expenditures, or with the understanding that the payments may be used for making contributions or expenditures; or

(3) has received funds from a donor, and reaches a subsequent understanding with the donor that the funds may be used for making $1,000 or more in contributions or expenditures; or

(4) makes contributions or expenditures totaling $50,000 or more in 12 months, or $100,000 or more in 4 consecutive years (unless it uses only non-donated funds, such as investment income or sales of goods and services).

If an organization doesn't meet any of the above criteria for ~~being~~ a recipient committee, but spends $1,000 or more on independent expenditures, it will have to disclose its expenditures as an independent expenditure committee.

Contact the Ethics Commission for additional assistance determining whether a multi-purpose entity has become a political committee.

Considerations for Candidate-Controlled Committees

A candidate "controls" a committee when he or she exercises significant influence over the actions and decisions of the committee, or participates in the committee's decisions regarding expenditures. Candidate-controlled committees are subject to certain rules and filing requirements that are different from those imposed on other committees.

For example, a general purpose committee that is not candidate-controlled may have two pre-election filing requirements, while a similar committee that is candidate-controlled must file three pre-election statements. In addition, any committee that is controlled by a candidate must include the candidate's last name in the committee's name. The particular rules and filing requirements applicable to candidate-controlled committees are discussed later in this manual,

Considerations for Sponsored Committees

When an entity is largely responsible for funding the operations of a committee or controls the administrative aspects of a committee, that entity is the committee's "sponsor." When an entity sponsors a committee, it must be identified in the committee's name for purposes of filing campaign statements and making disclosures on campaign advertisements.

A "sponsor" of a committee means any entity (business, organization, etc.) to whom any of the following applies:

- The committee receives 80 percent or more of its contributions either from the entity or from the entity's members, officers, employees or shareholders;
- The entity collects contributions for the committee by use of payroll deductions or dues from its members, officers or employees;
- The entity provides, alone or in combination with other organizations, all

or nearly all of the administrative services for the committee; or

- The entity sets, alone or in combination with other organizations, the policies for soliciting contributions or making expenditures of committee funds.

If a committee is a sponsored committee, it must include the name of its sponsor in the name of the committee. If the sponsored committee has more than one sponsor and the sponsors are members of an industry or other identifiable group, the name of the committee must include a term identifying that industry or group.

NOTE: If a committee is controlled by a candidate, it cannot also be "sponsored."

Contact the Ethics Commission for additional assistance regarding the requirements applicable to sponsored committees.

General Filing Notes

Keep in mind that although this manual focuses on campaign statements that are filed with the San Diego City Clerk, committees may also have reporting obligations with other filing officials in California. For example, all recipient committees must file a Statement of Organization (Form 410) with the Secretary of State. In addition, when a City of San Diego committee spends money on independent expenditures in other jurisdictions, it must file disclosure statements with the filing official in that jurisdiction.

Committees should also be mindful of the following rules:

- Every committee that has received or spent $10,000 or more on one or more City elections <u>must</u> electronically file campaign statements using the City Clerk's online filing system. A campaign statement that has been filed electronically need not be filed in paper format.

- Notwithstanding the previous bullet, there is no requirement that the Form 410 be filed electronically.

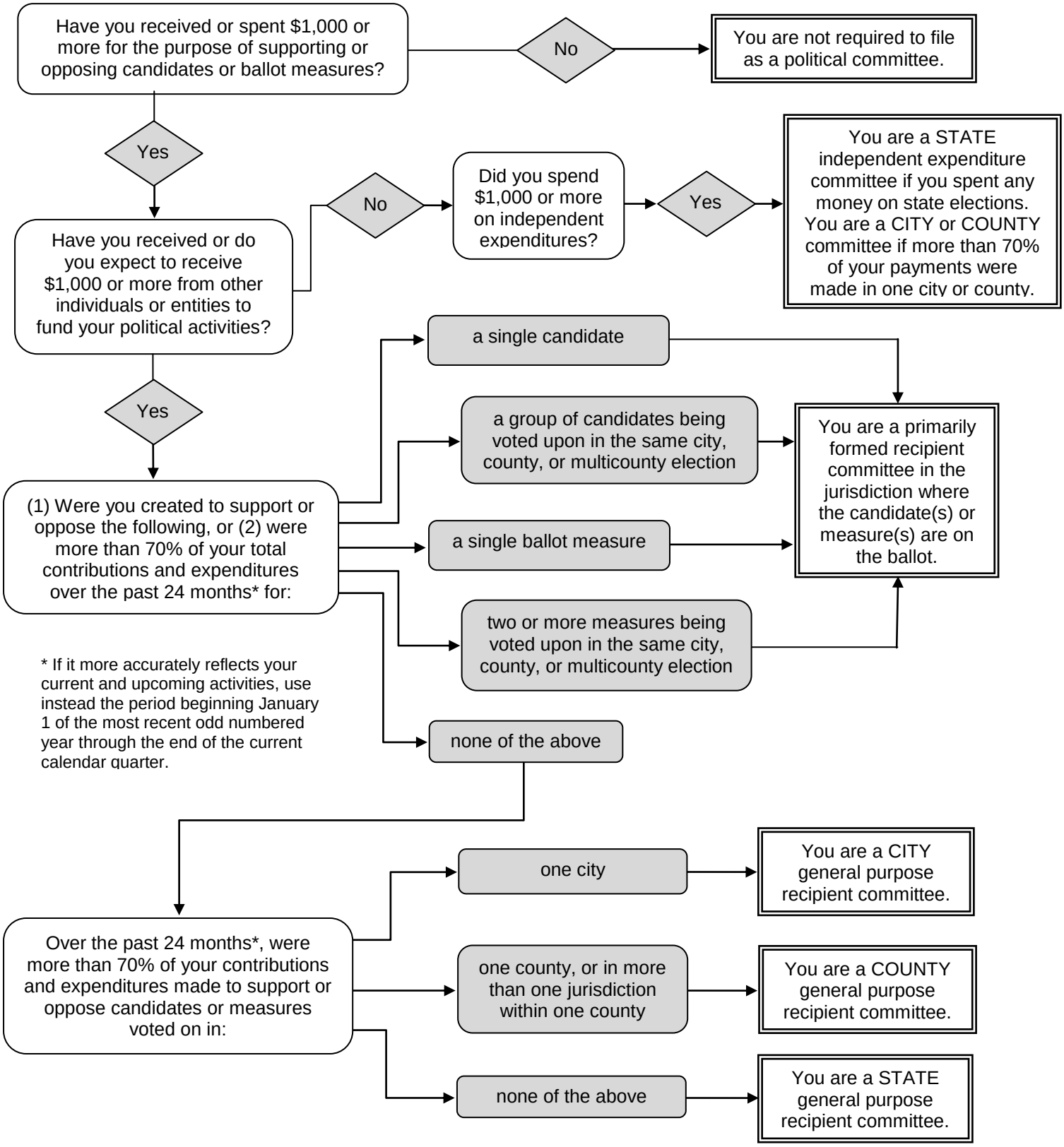
- Deadlines that fall on a Saturday, Sunday, or an official City holiday are extended to the next business day. This rule applies to electronic filings and paper filings. Note, however, that this rule does not apply to the Form 496 or to certain types of Form 410 amendments made within 16 days of an election. The extension also does not apply to a Form 497 due on a Saturday, Sunday, or official City holiday immediately prior to the date of an election.

- Most campaign statements may not be filed by fax. An exception exists for committees not required to file campaign statements electronically; such committees may file their 24 hour reports (Forms 496 and 497) by fax.

- With the exception of the Form 462, campaign statements may not be filed by e-mail.

- Campaign statements may be filed at any time prior to the deadline so long as they include all required information.

Flowchart: Types of Political Committees



Chapter 2
"Candidate" Primarily Formed Recipient Committees

This chapter focuses on recipient committees that are primarily formed to support or oppose one or more candidates seeking the office of Mayor or City Attorney, or seeking office in Council Districts 1, 3, 5, 7, or 9.

A committee is a City "candidate" primarily formed recipient committee under either of the following circumstances:

A. It was created for the purpose of running a campaign for or against (1) a single City of San Diego candidate; or (2) a group of candidates running for office in the same City of San Diego election.

OR

B. It spends more than 70 percent of its total contributions and expenditures on (1) a single City candidate (or against that candidate's opponents); or (2) a group of candidates being voted upon in the same City election.

Note that this type of committee <u>is not controlled by a candidate</u>. See the Ethics Commission's candidate manual for information regarding committees controlled by candidates for the purpose of seeking elective office.

This type of committee needn't spend all of its funds on the candidate for which it was primarily formed. It can also support other candidates and measures. Substantial payments for other purposes may, however, cause the committee's status and/or jurisdiction to change.

Refer to the rules in Chapter 1 for determining whether a committee is, or is not, a primarily formed recipient committee, e.g., whether it has reached the 70% threshold. Keep in mind that the committee must recalculate the applicable percentage quarterly at the end of March, June, September, and December. A new committee formed within six months of an election in connection with which the committee makes contributions and expenditures must calculate the percentage at the end of each month in which it spent at least $1,000 supporting candidates and measures.

Note that an existing general purpose recipient committee that meets the 70% threshold for a City candidate or group of City candidates on the same ballot will not have to redesignate itself as a primarily formed committee unless it has also spent $10,000 for those candidates.

EXAMPLE: Alliance Against Hunger is a general purpose recipient committee that recently focused its spending on City candidate Suzanne Miller. When performing its quarterly review, the committee calculated that it spent $9,500 to support Miller, an amount representing 74% of the contributions and expenditures it made during the review period. Even though it reached the 70% threshold, the committee is not required to redesignate as a primarily formed recipient committee because it did not also reach the $10,000 threshold.

Naming Requirements

The name of a committee primarily formed to support or oppose one or more City candidates must include the last name of each candidate whom the committee supports or opposes, along with the office sought and year of the election. In addition, a sponsored committee must contain the name of its sponsor.

Example: *A committee is primarily formed to support Betty Azul for Council District 3 in the June 2016 election. It obtains nearly all of its funding from the Mission Beach Restaurant Association. When it files its Form 410 Statement of Organization, it identifies itself as "Citizens United to Support Azul for City Council 2016, sponsored by the Mission Beach Restaurant Association."*

Limits and Prohibitions

The City's campaign laws do not impose on primarily formed recipient committees any limits on the sources or amounts of contributions they receive. For example, such committees may receive a $5,000 contribution from a business entity and use those funds to make an independent expenditure supporting a City candidate.

NOTE: These committees must be careful when accepting contributions from candidate-controlled committees, which are prohibited under state law from making contributions to other committees for the purpose of making independent expenditures supporting or opposing a candidate.

Primarily formed recipient committees may not make a contribution to a City candidate. Nor may they make expenditures at the request, suggestion, or direction of, or in cooperation, consultation, concert or coordination with, a City candidate. Such expenditures are not considered "independent"; they would instead be treated as an unlawful in-kind (non-monetary) contribution to the candidate.

Checking Account

All City of San Diego primarily formed recipient committees must open a campaign checking account at a financial institution that has an office or branch in California. All contributions must be deposited into this account, and all expenditures must be made from this account. In addition:

- a committee has "received" a contribution whenever any representative of the committee (i.e. treasurer or fundraiser) takes possession of the contribution.
- once the committee receives a contribution, it must be deposited into the committee's bank account within 30 business days; see the "Recordkeeping" section below for information that must be obtained from the contributor before a contribution is deposited.
- if a contribution is not deposited within 30 business days, it must be returned to the contributor as soon as possible, but no later than 35 business days after receipt.

Recordkeeping

Primarily formed recipient committees are required to maintain records associated with all contributions received and all expenditures made by their committees for a period of four years. In particular, committees must maintain the following records:

- for contributions made via check, credit card, or electronic payment, copies of the written instrument, credit card receipt, and/or transaction records, as well as deposit slips;

- for cash contributions, a notation that cash was received, and a legible photocopy of the bank deposit slip showing that the cash contribution was deposited into the campaign contribution checking account;

- if a contribution is something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the contribution, and the basis for the estimate;

- for each check drawn on the campaign checking account, the canceled check and the bank statement showing the payment.

- for every expenditure, records reflecting the date and amount of the expenditure, the name and address of the payee, and a description of the goods or services provided, as well as all source documentation such as invoices and receipts.

In addition, the City of San Diego has more stringent laws than the State of California when it comes to records associated with contributors. In particular, unlike state law, local law requires that primarily formed recipient committees obtain all of the following information before a contribution may be deposited:

- the contributor's full name; and

- the contributor's street address (business addresses are permitted but not post office boxes); and

- the contributor's occupation and employer (if the contributor has given the committee a total of $100 or more). If a contributor is self-employed, the committee must obtain the name of the business.

This requirement applies to all contributions, whether they are made via cash, check, or credit card.

Although the City's laws do not expressly require that committees obtain contributor information directly from the contributor, the Ethics Commission strongly encourages them to do so to avoid obtaining inaccurate information. If you choose to obtain the required information from other sources (e.g., the host of a fundraiser or a campaign statement filed by another committee), you do so at your own risk. Keep in mind that the failure to disclose accurate contributor information could result in an Ethics Commission fine.

Committee representatives must produce copies of records associated with campaign contributions and expenditures to the Ethics Commission upon request. In addition, if requested, committees must provide the Ethics Commission with written authorization to obtain records pertaining to their campaign bank accounts.

Filing Official

The San Diego City Clerk is the primary filling official for the committee. Most of the committee's campaign statements will be filed solely with the City Clerk. There are several exceptions, including the Statement of Organization (Form 410), which is filed with the Secretary of State (and a copy filed with the City Clerk), and the Form 462 (e-mailed to the FPPC). In addition, if the committee makes independent expenditures in another jurisdiction, it may have to file reports with the filing official in that jurisdiction.

NOTE: If a City of San Diego primarily formed recipient committee qualifies as another type of committee in the middle of a calendar year (e.g., it becomes a County committee), it must continue to file copies of the Form 460 with the City Clerk until the end of the calendar year.

Typical Filings with the City Clerk

Form 410 – upon qualifying as a committee

Form 410 – amendments to committee information

Form 460 – semi-annual activity

Form 460 – pre-election activity

Form 465 – independent expenditures made

Form 496 – independent expenditures made during the 90 days prior to the election

Form 497 – contributions made or received during the 90 days prior to the election

Form 497 – pre-election activity

From 410 – termination of committee

Form 460 – termination of committee

EXAMPLE: A committee is formed to support Salvador Bunuel for Mayor in the 2016 election cycle. On May 26, 2015, within ten days of raising $1,000, it files a Form 410 with the Secretary of State (copy with the City Clerk). It will also file:

- ✓ a Form 460 semi-annual statement by July 31, 2015, reporting its activities through the end of June;
- ✓ another Form 460 semi-annual statement by January 31, 2016, reporting its activities from July 1, 2015, through December 31, 2015;
- ✓ two pre-election Forms 460 in 2016 leading up to the June election (each accompanied by a Form 465 to report the independent expenditures made during the pre-election period); and,
- ✓ one pre-election Form 497 on the Friday before the June election.

If it makes independent expenditures during the 90 days prior to the election, it will report those expenditures within 24 hours using the Form 496. If it receives contributions of $1,000 or more during that 90 day period, it will report them within 24 hours on a Form 497.

After the election, if Salvador Bunuel doesn't prevail or proceed to the general election in November, the committee will file a Form 410 termination statement with the Secretary of State (copy with the City Clerk) and a Form 460 termination statement with the City Clerk.

Campaign Statements

The following are general filing rules applicable to primarily formed recipient committees formed to support or oppose a City candidate.

Form 410
Statement of Organization (initial)

GENERAL INFORMATION

An entity must file this form when it becomes a primarily formed recipient committee (by receiving $1,000 in contributions).

Committees state their official name on the Form 410. As indicated above, the name must include the last name(s) of the candidate(s) supported or opposed, the office(s) sought, and the year of the election. It must also state whether the committee supports or opposes the candidate. If the committee is sponsored by another entity, the sponsor's name must appear within the committee's name.

The Form 410 must include the name, street address, and telephone number of the committee's principal officers. Principal officers are the individuals primarily responsible for approving the activities of the committee, including authorizing the content of committee communications, authorizing the committee's contributions and expenditures, and determining the committee's campaign strategy. If more than three individuals qualify as principal officers of the committee, identify no fewer than three.

NOTE: Identifying a "straw" person as a principal officer on a Form 410 in order to conceal the true identity of an individual responsible for the committee's activities is a violation of law.

Addresses reported on a Form 410 for the committee, the treasurer, and the principal officers must be actual street addresses. Post Office boxes and mail receiving services like Mail Boxes Etc. are not acceptable.

WHEN TO FILE

The Form 410 must be filed within 10 days of the committee receiving contributions of $1,000 or more.

The Form 410 may be filed prior to raising $1,000, but must be amended within 10 days of reaching the $1,000 threshold to indicate the date the entity qualified as a committee.

An entity may become qualified as a committee at any time regardless of the proximity to the date of an election.

WHERE TO FILE

File the original and one copy of the form with the Secretary of State, and one copy with the City Clerk.

The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 410
Statement of Organization (amendment)

GENERAL INFORMATION

A primarily formed recipient committees must file an amendment when there is any change to the information contained on its Form 410.

WHEN TO FILE

The Form 410 must be filed within 10 days of any change to the information on the form.

EXAMPLE: A committee is formed to support a City candidate in the primary election. Several months into its existence, it changes its treasurer. It has ten days to file an amendment to disclose the new treasurer's name.

Note that if, during the 16 days prior to the election, a change occurs in the name of the committee, the treasurer, or other principal officers, an amendment must be filed with the Secretary of State and the City Clerk within 24 hours of the change. If not filed electronically, the amendment must be sent by fax, guaranteed overnight delivery, or personal delivery.

WHERE TO FILE

File the original and one copy of the form with the Secretary of State, and one copy with the City Clerk.

The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 410
Statement of Organization (termination)

GENERAL INFORMATION

Primarily formed recipient committees file this report as part of terminating the committee. It should be filed along with a Form 460 termination statement.

WHEN TO FILE

A primarily formed committee may terminate at any time, so long as <u>all</u> the following circumstances are present:

- it is no longer receiving contributions or making expenditures;
- it does not anticipate receiving contributions, repayments of outstanding loans, or any other receipts, and does not anticipate making expenditures in the future;
- it has eliminated, or has no intention or ability to discharge, its debts, loans received, and other obligations;
- it has no campaign funds; and,
- it has filed all required campaign statements disclosing all reportable transactions.

WHERE TO FILE

File the original and one copy of the form with the Secretary of State, and one copy with the City Clerk.

The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 425
Semi-Annual Statement of No Activity

GENERAL INFORMATION

Primarily formed recipient committees may use this form as a semi-annual statement if they have no financial activity during the reporting period. It is to be used only by recipient committees that have not received any contributions and not made any expenditures during the six-month period covered by a semi-annual statement.

WHEN TO FILE

It is filed on a semi-annual basis in lieu of filing the Form 460, but only if the committee had no activity during the reporting period.

WHERE TO FILE

The Form 425 is filed with the City Clerk. The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 450
Recipient Committee Short Form (semi-annual and pre-election report)

GENERAL INFORMATION

Primarily formed recipient committees may use this form as a semi-annual or pre-election statement if they have limited financial activity during the reporting period. The Form 450 is for use by a recipient committee if the committee: (1) has not received a contribution that must be itemized (a cumulative amount of $100 or more from a single source); (2) has not received any other payment of $100 or more (miscellaneous increases to cash); (3) has no outstanding loans made or received; and (4) has no accrued expenses (unpaid bills).

WHEN TO FILE

It is filed on a semi-annual or pre-election basis in lieu of filing the Form 460, but only if the primarily formed recipient committee had very limited activity during the reporting period.

WHERE TO FILE

The Form 450 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline).

Form 460
Recipient Committee Campaign Statement (semi-annual report)

GENERAL INFORMATION

Primarily formed recipient committees file semi-annual reports until they terminate.

This form is filed by campaign committees to provide a comprehensively accounting of the committee's activities during the reporting period.

WHEN TO FILE

As a general rule, the semi-annual Form 460 is due no later than July 31, covering the period January 1 through June 30, and no later than January 31, covering the period July 1 through December 31. The reporting period will change, however, if the

committee is also filing pre-election reports. The reporting period begins on the day following the last day covered by the previous Form 460.

Specific filing deadlines for 2015 and 2016 are set out near the end of this chapter.

EXAMPLE: A committee supporting candidate Glenda Goodwich filed its second pre-election Form 460 covering the period from March 18, 2016, through May 21, 2016. The committee's semi-annual Form 460 will cover the period from May 22, 2016, through June 30, 2016.

If the committee is filing its first campaign statement, the reporting period begins with January 1 of the current calendar year.

WHERE TO FILE

The semi-annual Form 460 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline).

Form 460

Recipient Committee Campaign Statement (pre-election report)

GENERAL INFORMATION

Primarily formed recipient committees must file pre-election reports (regardless of the level of their financial activity) if the candidate(s) they are formed to support or oppose is/are being voted on in the upcoming election.

EXAMPLE: A committee is formed to support Brian Griffin for City Council in the June 7, 2016, primary election. It must file two pre-election Forms 460 in the months leading up to the June election (and a third pre-election report using a Form 497, as discussed later in this chapter).

EXAMPLE: Brian Griffin lost in the primary election and will not appear on the ballot for the November general election. The committee formed to support Griffin is not required to file pre-election Forms 460 leading up to the November election. It will, however, continue to file semi-annual Forms 460 until it terminates.

WHEN TO FILE

Primarily formed committees file pre-election reports in accordance with specific deadlines that are set out near the end of this chapter.

WHERE TO FILE

Pre-election reports must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the first pre-election Form 460 may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline); the second pre-election Form 460 must be filed using a guaranteed overnight delivery service or by personal delivery.

Form 460
Recipient Committee Campaign Statement (termination report)

GENERAL INFORMATION

Primarily formed recipient committees file this report as part of terminating the committee. It can be filed along with a Form 410 termination statement.

WHEN TO FILE

The form is filed when the committee has stopped accepting contributions and making expenditures, and has a zero cash balance.

WHERE TO FILE

The Form 460 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail.

Form 462
Verification of Independent Expenditures

GENERAL INFORMATION

Primarily formed recipient committees must submit this form in conjunction with making independent expenditures in connection with a candidate or ballot measure election.

The form must be signed by a principal officer of the committee. The purpose of the form is for the committee to verify that it is not coordinating its independent expenditures with the affected candidate or his or her opponent or with the proponent of a state ballot measure.

WHEN TO FILE

The report is required within 10 days from the date of an independent expenditure that totals, in the aggregate, $1,000 or more to support or oppose a candidate or measure in a calendar year.

Note that committees are required to identify particular candidates and measures on a Form 462 only once per election.

For example if a committee makes an independent expenditure to support a candidate in the 2016 primary election, it will submit a Form 462 to identify that candidate, but needn't file another Form 462 if it makes additional independent expenditures for the same candidate for the same election. If, however, the committee makes an independent expenditure for the same candidate for the 2016 general election, it must submit another Form 462 identifying that candidate.

WHERE TO FILE

This Form 462 is filed with the Fair Political Practices Commission by e-mail (form462@fppc.ca.gov). The originally signed form must be maintained with the committee's campaign records.

Please contact the FPPC (866-275-3772) for additional information concerning the Form 462.

Form 465
Supplemental Independent Expenditure Report

GENERAL INFORMATION

A primarily formed recipient committee files a Form 465 if it makes independent expenditures totaling $1,000 or more in a calendar year to support or oppose a single candidate or a single measure, including the candidate(s) for which it was primarily formed.

The Form 465 is required to be filed in addition to any other pre-election, semi-annual, or independent expenditure report that must be filed.

The filing requirement is not triggered until the primarily formed recipient committee has reached the $1,000 calendar year threshold for a single candidate or measure. For example, spending $900 on an independent expenditure supporting a candidate through the first pre-election period would not trigger the filing of a Form 465, but spending $100 on an independent expenditure for the same candidate during the second pre-election period would require filing a Form 465 that discloses both sets of independent expenditures.

If a communication lists more than one candidate or measure, apportion the costs of the communication to determine the amount spent to support each particular candidate or measure. A separate Form 465 is required for each candidate or measure for which $1,000 or more was spent.

The "period covered" begins the day after the closing date of the most recent Form 465 filed related to the candidate supported or opposed. If no previous Form 465 has been filed, the reporting period begins on January 1 of the current calendar year.

WHEN TO FILE

The 465 is filed at the same time that the candidate or ballot measure committee supported or opposed by the independent expenditure files a Form 460.

EXAMPLE: Primarily formed recipient committee Libertarians for Lannister for City Council 2016 makes a $1,200 independent expenditure to support Palmer during the first pre-election period. The committee will file a Form 465 by the first pre-election filing deadline (the same deadline applicable to Palmer's first pre-election Form 460).

Note that candidates file Forms 460 semi-annually and pursuant to a pre-election filing schedule. Ballot measure committees file quarterly, semi-annually, and pursuant to a pre-election filing schedule. For specific filing dates, refer to the deadlines that are set out near the end of this chapter.

If the independent expenditure is made during the 90 days prior to the election, the committee will also report the expenditure on a Form 496 Independent Expenditure Report within 24 hours of making the expenditure.

WHERE TO FILE

The Form 465 must be filed with the City Clerk if the independent expenditure is supporting or opposing a City candidate or measure.

The form must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form may be filed in person or through the mail (post-marked on or before the deadline).

If the committee spends $1,000 or more to support a candidate or measure in another jurisdiction, file a Form 465 with the filing official in that jurisdiction.

Form 496
Independent Expenditure Report
(24 hour reporting period)

GENERAL INFORMATION

A primarily formed recipient committee must file a Form 496 if it makes independent expenditures cumulatively totaling $1,000 or more to support or oppose a single candidate or measure during the 90 days prior to the election.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

The Form 496 is filed in addition to any required pre-election or semi-annual campaign statements. Independent expenditures also must be disclosed on the committee's next Form 460, and on a Supplemental Independent Expenditure Report (Form 465).

Once the committee has reached the cumulative $1,000 threshold, it will report all independent expenditures made during the 90 day period supporting or opposing the candidate or measure, including those that were less than $1,000. After an initial Form 496 has been filed, a subsequent Form 496 will be required each time the committee makes independent expenditures aggregating $1,000 or more to support or oppose the same candidate or measure.

Primarily formed candidate committees may make independent expenditures to support or oppose candidates other than the ones for whom they were created. They may also make independent expenditures to support or oppose ballot measures. Reaching the $1,000 threshold for other candidates or measures will require the committee to file a separate Form 496 with the filing official in the applicable jurisdiction.

WHEN TO FILE

File the form within 24 hours of making independent expenditures cumulatively totaling $1,000 or more to support or oppose a single candidate or ballot measure during the 90 days prior to the election.

An independent expenditure is <u>made</u> on the date the communication is mailed, broadcast, or otherwise disseminated to the public. A committee making an ongoing independent expenditure (e.g., canvassers targeting district households over the course of a week) may estimate the total cost and disclose that amount on a single Form 496 filed within 24 hours of commencing the effort. The Form 496 may be amended later if the estimated amount needs to be adjusted.

NOTE: The Form 496 must be filed within 24 hours, regardless of the day of the week. An independent expenditure made on a Saturday, for example, must be reported by Sunday.

WHERE TO FILE

The Form 496 must be filed with the City Clerk if the independent expenditure is supporting or opposing a City candidate or measure.

The form must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form must be filed by fax,

guaranteed overnight delivery, or personal delivery. Regular mail may not be used.

Form 497
Contribution Report
(24 hour reporting period)

GENERAL INFORMATION

This report is required when a primarily formed recipient committee receives or makes a contribution of $1,000 or more during the 90 day period prior to the election.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

The 1,000 threshold is cumulative. Any contributions made during the 90 day period, even if less than $1,000, must be reported on a Form 497 if the cumulative $1,000 threshold is ultimately reached (for a single candidate or committee) during that period.

A contribution is received on the date the committee, or an agent of the committee, obtains possession or control of the check or non-monetary item that constitutes the contribution. A contribution is made on the date the contribution is mailed, delivered, or otherwise transmitted to a candidate or committee.

A primarily formed recipient committee must file a Form 497 if it:

- receives contributions aggregating $1,000 or more, from a single source during the 90 days prior to the election; or
- makes contributions aggregating $1,000 or more to a candidate in another jurisdiction or to another primarily formed recipient committee ("candidate" or ballot measure") during the 90 days before the election; or
- makes a contribution or contributions totaling $1,000 or more to a state or county political party committee during the 90 days before a state election.

NOTE: Primarily formed recipient committees may not make contributions (in any amount) to City of San Diego candidates. Restrictions applicable to candidates in other jurisdictions are outside the scope of this manual.

WHEN TO FILE

The deadlines for filing the Form 497 depend on the type of contribution made, as follows:

Monetary contributions: The committee must file the Form 497 within 24 hours of making or receiving a $1,000 monetary contribution.

Non-monetary contributions: The committee must file the Form 497 within 24 hours of making a $1,000 non-monetary contribution (and must also notify the recipient of the value of the non-monetary contribution by personal delivery, fax, or guaranteed overnight mail; no particular form is required). It must file the Form 497 within 48 hours of receiving a $1,000 non-monetary contribution.

NOTE: If the filing deadline for a Form 497 falls on a weekend or official holiday, it is generally extended to the next business day. This extension does not apply, however, when the due date falls on a Saturday, Sunday, or official City holiday immediately prior to the election.

WHERE TO FILE

File the form with the City Clerk (the same filing official where the committee regularly files its Form 460s). Thus, the committee will file the Form 497 with the City Clerk even if the contribution is intended to support or oppose a County candidate or State measure.

If the contribution is made to another primarily formed recipient committee, the other committee must file its own Form 497 to report its receipt of the contribution.

The Form 497 must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form must be filed by fax, guaranteed overnight delivery, or personal delivery. Regular mail may not be used.

NOTE: Committees making contributions to support candidates/measures other than the ones for which they were primarily formed may be required to change their committee type. See Chapter 1 for more information.

Form 497

Contribution Report
(third pre-election report)

GENERAL INFORMATION

In addition to filing pre-election reports on the Form 460 (see discussion above), primarily formed recipient committees must file a third pre-election report using the Form 497.

The third pre-election report uses a different form because it requires far less information than the pre-election reports that use the Form 460. For third pre-election filings, the committee is required only to identify previously unreported contributions of $100 or more, i.e., the contributor's name, address, occupation/employer, and the date and amount of the contribution.

Note that filing a third pre-election report does not eliminate the need to file separate Forms 497 within 24 hours of receiving $1,000+ contributions during the 90 days leading up to the election. Once a contribution is disclosed on a Form 497 24-hour report, it does not have to be re-disclosed on a Form 497 pre-election report.

EXAMPLE: A committee is formed to support a candidate running for office in the June election. During the third pre-election period, it collects ten contributions of $100 or more, including one for $1,000. It will report the $1,000 contribution within 24 hours on a regular Form 497. It will report the other nine contributions on a third pre-election report (Form 497) by the 3rd pre-election reporting deadline.

The reporting period for the third pre-election report begins after the closing date for the previous pre-election report (see the pre-election Form 460 filing dates later in this chapter) and continues through to the end of the Wednesday before the election.

WHEN TO FILE

The third pre-election report must be filed no later than the Friday before the election. The filing deadline for the primary election is June 3, 2016. The filing deadline for the general election is November 4, 2016.

WHERE TO FILE

Committees subject to electronic filing requirements must submit the third pre-election report using the City Clerk's electronic filing system. All other

committees must have the statement personally delivered or sent to the City Clerk with delivery guaranteed by the Monday before the election.

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Specific Filing Deadlines

The committee's activities in 2015 are reported on semi-annual campaign statements, as follows:

1st semi-annual period (Form 460)
reporting period: 1/1/15 – 6/30/15
filing deadline: 7/31/15

2nd semi-annual period (Form 460)
reporting period: 7/1/15 – 12/31/15
filing deadline: 2/1/16

In 2016, primarily formed recipient committees participating in the primary election must file three pre-election reports before the election, and then a semi-annual report after the election, as follows:

1st pre-election period (Form 460)
reporting period: 1/1/16 – 3/17/16
filing deadline: 3/22/16

2nd pre-election period (Form 460)
reporting period: 3/18/16 – 5/21/16
filing deadline: 5/26/16

3rd pre-election period (Form 497)
reporting period: 5/22/16 – 6/1/16
filing deadline: 6/3/16

1st semi-annual period (Form 460)
reporting period: 5/23/16 – 6/30/16
filing deadline: 8/1/16

In 2016, primarily formed recipient committees continuing to participate in the general election must also file three pre-election reports before the general election, and then a semi-annual report after the election, as follows:

1st pre-election period (Form 460)
reporting period: 7/1/16 – 9/30/16
filing deadline: 10/5/16

2nd pre-election period (Form 460)
reporting period: 10/1/16 – 10/22/16
filing deadline: 10/27/16

3rd pre-election period (Form 497)
reporting period: 10/23/16 – 11/2/16
filing deadline: 11/4/16

2nd semi-annual period (Form 460)
reporting period: 10/23/16 – 12/31/16
filing deadline: 1/31/17

A primarily formed recipient committee must also file a Form 465 in accordance with any of the above reporting periods and deadlines (except the third pre-election period) in which it makes an independent expenditure. If it makes independent expenditures after the 2nd pre-election period, it will file the Form 465 by the next semi-annual reporting deadline.

After the election, the committee will continue to file semi-annual Form 460 campaign statements. The reporting period for these statements commences on the day following the last day covered by the previous Form 460. The committee must file semi-annual campaign statements until it terminates.

NOTE: These deadlines are in addition to the 24-hour filing deadlines for Forms 496 and 497, which are discussed earlier in this chapter.

Electronic Filing

Every primarily formed recipient committee that has received contributions or made expenditures totaling $10,000 in connection with one or more City of San Diego elections must file its campaign statements using the City Clerk's electronic filing system.

A committee that has reached the $10,000 threshold must continue to file electronically until it has terminated.

Committees that have not reached the $10,000 threshold may file electronically on a voluntary basis.

A committee that has filed a campaign statement electronically is not required to also file that statement in paper format. All of the campaign statements discussed in this Chapter may be filed electronically (except that the Form 410 and 425 may be filed electronically only if using third party vendor software). Contact the City Clerk's Office for additional information regarding its electronic filing system.

Audits

The San Diego Municipal Code authorizes the Ethics Commission to audit primarily formed recipient committees. Committees will be randomly selected for audit following each election cycle as follows:

- 75% of committees that raise or spend more than $100,000 will be audited;
- 50% of committees that raise or spend between $10,000 and $99,999 will be audited.

Committees that raise or spend less than $10,000 will not be placed in the pool for the random drawing.

In addition to the random audit drawing, the Ethics Commission may conduct an audit of a committee in connection with a pending investigation.

Chapter 3
"Ballot Measure" Primarily Formed Recipient Committees

This chapter focuses on recipient committees that are primarily formed to support or oppose one or more ballot measures in the City of San Diego.

A committee is a City "ballot measure" primarily formed recipient committee under either of the following circumstances:

A. Its primary purpose and activities are to support or oppose (1) a single City of San Diego ballot measure; or (2) a group of ballot measures being voted upon in the same City of San Diego election.

OR

B. It spends more than 70 percent of its total contributions and expenditures on (1) a single City of San Diego ballot measure; or (2) a group of ballot measures being voted upon in the same City of San Diego election.

NOTE: In addition to controlling his or her own candidate committee an elected City Official or City candidate may also control a "ballot measure" primarily formed recipient committee.

This type of committee needn't spend all of its funds on the measure(s) for which it was primarily formed. It may also support or oppose other measures. If the committee is not candidate-controlled, it can also support or oppose candidates. Substantial payments for other purposes may, however, cause the committee's status and/or jurisdiction to change.

Refer to the rules in Chapter 1 for determining whether a committee is, or is not, a primarily formed recipient committee, i.e., whether it has reached the 70% threshold. Keep in mind that the committee must recalculate the applicable percentage quarterly at the end of March, June, September, and December. A new committee formed within six months of an election in connection with which the committee makes contributions and expenditures must calculate the percentage at the end of each month in which it spent at least $1,000 supporting candidates and measures.

Note that an existing general purpose recipient committee that meets the 70% threshold for one or more measures on the same City ballot will not have to redesignate itself as a primarily formed committee unless it has also spent $10,000 for those measures.

EXAMPLE: A county general purpose recipient committee is supporting a ballot measure that will mandate City funding to incentivize the purchase of electric vehicles. After conducting its quarterly review, the committee determined that it spent $8,350 to support the measure, an amount representing 75% of the contributions and expenditures it made during the review period. Even though it reached the 70% threshold, the committee will not have to redesignate as a primarily formed recipient committee because it did not also reach the $10,000 threshold.

Naming Requirements

The name of a committee primarily formed to support or oppose a City ballot measure must include the following:

(1) The name of any candidate controlling the committee;

(2) The name of any sponsoring entity;

(3) A word or a phrase that clearly identifies the economic interest of each individual or entity donating $50,000 or more to the committee if that economic interest is likely to be affected by the ballot measure. If there is no relevant economic interest, the committee name must instead use a word or phrase identifying the goal or purpose likely to be affected by the measure.

(4) The name of the common employer of the major donors of $50,000, if one exists;

(5) The names of candidates or their controlled committees if, as a group or individually, they are major contributors of $50,000 or more; and

(6) The measure's ballot letter and the committee's position on the measure (for or against), within 30 days of the designation of the alphabetical order of the propositions on the ballot.

EXAMPLE: A committee is primarily formed to oppose a downtown football stadium proposal that appears on the November 2016 ballot as Proposition F. The committee is not controlled by a candidate, but is sponsored by the Downtown Residential Property Owners Association. It receives a $50,000 contribution from Entertainment Solutions, a company that owns a stadium in Los Angeles and is seeking to have the Chargers play in its facility. The committee identifies itself as "No on F, Stop the Stadium, sponsored by the Downtown Residential Property Owners Association with support by a Los Angeles Stadium Owner."

NOTE: If a ballot measure committee is controlled by a candidate, it cannot also be "sponsored."

EXAMPLE: Councilmember Stark creates and controls a committee to support Proposition B, a measure that would allow a hockey rink to be built in a City park. The committee receives a contribution of $100,000 from Greene Builders. The committee is named "Say Hello to Hockey, Yes on Proposition B, Supported by Councilmember Stark and Members of the Building Industry."

If a $50,000 donor's economic interests are not likely to be affected by the ballot measure, the committee's name should instead identify the goal or purpose likely to be affected by the measure.

EXAMPLE: A local software company donates $50,000 to a committee supporting Proposition C, a measure that would allocate funding to increase the number of bicycle lanes on City streets. The company is not one of the committee's sponsors. The measure will not have any economic impact on the software company. Upon receiving the donation, the committee renames itself "Protect Cyclists Now, Yes on C, Supported by Advocates of Bicycle Safety."

NOTE: In the above three examples, the names of the stadium owner, builder, and software company needn't be included in the committee's name (just their interests in the ballot measure). Their names may, however, be subject to disclosure on the committee's advertising. See Chapter 8, Identification of $10,000 Donors, for more information.

If there is more than one contributor of $50,000 or more, and all such contributors do not share the same economic interest or goal or purpose, the name or phrase must identify the various economic interests or goals or purposes that are likely to be affected by the ballot measure. The list must be in descending order based on the amount of contributions made by the donor to the committee.

Limits and Prohibitions

The City's campaign laws do not impose on primarily formed recipient committees any limits on the sources or amounts of contributions they receive. For example, such committees may receive a $100,000 contribution from a business entity and use those funds to make an independent expenditure supporting a City ballot measure.

In addition to supporting or opposing ballot measures, this type of committee may (unless it is candidate-controlled) make independent expenditures supporting or opposing candidates. Such committees may not, however, make a contribution directly to a City candidate. Nor may they make expenditures at the request, suggestion, or direction of, or in cooperation, consultation, concert or coordination with, a candidate. Such expenditures are not considered "independent"; they would instead be treated as an unlawful in-kind (non-monetary) contribution to the candidate.

As indicated above, a candidate-controlled ballot measure committee may not make contributions or expenditures to support any candidates.

Checking Account

All City of San Diego primarily formed recipient committees must open a campaign checking account at a financial institution that has an office or branch in California. All contributions must be deposited into this account, and all expenditures must be made from this account. In addition:

- a committee has "received" a contribution whenever any representative of the committee (i.e. treasurer or fundraiser) takes possession of the contribution.

- once the committee receives a contribution, it must be deposited into the committee's bank account within 30 business days; see the next section entitled "Recordkeeping" for information that must be obtained from the contributor before a contribution is deposited.

- if a contribution is not deposited within 30 business days, it must be returned to the contributor as soon as possible, but no later than 35 business days after receipt.

Recordkeeping

Primarily formed recipient committees are required to maintain records associated with all contributions received and all expenditures made by their committees for a period of four years. In particular, committees must maintain the following records:

- for contributions made via check, credit card, or electronic payment, copies of the written instrument, credit card receipt, and/or transaction records, as well as deposit slips;

- for cash contributions, a notation that cash was received, and a legible photocopy of the bank deposit slip showing that the cash contribution was deposited into the campaign contribution checking account;

- if a contribution is something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the contribution, and the basis for the estimate;

- for each check drawn on the campaign checking account, the canceled check and the bank statement showing the payment.

- for every expenditure, records reflecting the date and amount of the expenditure, the name and address of the payee, and a description of the goods or services provided, as well as all source documentation such as invoices and receipts.

In addition, the City of San Diego has more stringent laws than the State of California when it comes to records associated with contributors. In particular, unlike state law, local law requires that primarily formed recipient committees obtain all of the following information before a contribution may be deposited:

- the contributor's full name; and

- the contributor's street address (business addresses are permitted but not post office boxes); and

- the contributor's occupation and employer (if the contributor has given you a total of $100 or more). If a contributor is self-employed, candidates must obtain the name of the business.

This requirement applies to all contributions, whether they are made via cash, check, or credit card.

Although the City's laws do not expressly require that committees obtain contributor information directly from the contributor, the Ethics Commission strongly encourages them to do so to avoid obtaining inaccurate information. If you choose to obtain the required information from other sources (e.g., the host of a fundraiser or a campaign statement filed by another committee), you do so at your own risk. Keep in mind that the failure to disclose accurate contributor information could result in an Ethics Commission fine.

Committee representatives must produce copies of records associated with campaign contributions and expenditures to the Ethics Commission upon request. In addition, if requested, committees must provide the Ethics Commission with written authorization to obtain records pertaining to their campaign bank accounts.

Filing Official

The San Diego City Clerk is the primary filling official for the committee. Most of the committee's campaign statements will be filed solely with the City Clerk. There are several exceptions, including the Statement of Organization (Form 410), which is filed with the Secretary of State (and a copy filed with the City Clerk). In addition, if the committee makes independent expenditures in another jurisdiction, it may have to file reports with the filing official in that jurisdiction.

NOTE: If a City of San Diego primarily formed recipient committee qualifies as another type of committee in the middle of a calendar year (e.g., it becomes a County committee), it must continue to file copies of the Form 460 with the City Clerk until the end of the calendar year.

Typical Filings with the City Clerk

Form 410 – upon qualifying as a committee

Form 410 – amendments to committee information

Form 460 – quarterly activity

Form 460 – semi-annual activity

Form 460 – pre-election activity

Form 497 – contributions made or received during the 90 days prior to the election

Form 497 – pre-election activity

From 410 – termination of committee

Form 460 – termination of committee

EXAMPLE: A committee is formed to support Proposition C in the June 2016 election. On May 14, 2015, within ten days of raising $1,000, it files a Form 410 with the Secretary of State (copy with the City Clerk). It will also file:

- ✓ a Form 460 semi-annual statement by July 31, 2015, reporting its activities through the end of June;
- ✓ a Form 460 quarterly statement by November 2, 2015 covering the period between July 1, 2015, and September 30, 2015;
- ✓ another Form 460 semi-annual statement by February 1, 2016, reporting its activities from October 1, 2015, through December 31, 2015;
- ✓ two pre-election Forms 460 in 2016 leading up to the June election; and,
- ✓ one pre-election Form 497 on the Friday before the June election.

If it receives contributions of $1,000 or more from a single source during the 90 day period prior to the election, it will report those contributions within 24 hours on a Form 497. After the election, the committee will file a Form 410 termination statement with the Secretary of State (copy with the City Clerk) and a Form 460 termination statement with the City Clerk.

Campaign Statements

The following are general filing rules applicable to primarily formed recipient committees formed to support or oppose a City ballot measure.

Form 410

Statement of Organization (initial)

GENERAL INFORMATION

An entity must file this form when it becomes a primarily formed recipient committee (by receiving $1,000 in contributions).

Committees state their official name on the Form 410. As indicated earlier, the name must include the name of any controlling candidate or sponsor, the economic interest and common employer of $50,000 donors, and the alphabetical designation of the ballot measure, if known.

The Form 410 must include the name, street address, and telephone number of the committee's principal officers. The principal officers of a committee are the individuals primarily responsible for approving the activities of the committee, including authorizing the content of committee communications, authorizing the committee's contributions and expenditures, and determining the committee's campaign strategy. If more than three individuals qualify as principal officers of the committee, identify no fewer than three.

NOTE: Identifying a "straw" person as a principal officer on a Form 410 in order to conceal the true identity of an individual responsible for the committee's activities is a violation of law.

Addresses reported on a Form 410 for the committee, the treasurer, and the principal officers must be actual street addresses. Post Office boxes and mail receiving services like Mail Boxes Etc. are not acceptable.

WHEN TO FILE

The Form 410 must be filed within 10 days of the committee receiving contributions of $1,000 or more.

The Form 410 may be filed prior to raising $1,000, but must be amended within 10 days of reaching the $1,000 threshold to indicate the date the entity qualified as a committee.

An entity may become qualified as a committee at any time regardless of the proximity to the date of an election.

WHERE TO FILE

File the original and one copy of the form with the Secretary of State, and one copy with the City Clerk.

The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 410
Statement of Organization (amendment)

GENERAL INFORMATION

A primarily formed recipient committee must file an amendment when there is any change to the information contained on its Form 410.

WHEN TO FILE

The Form 410 must be filed within 10 days of any change to the information on the form.

EXAMPLE: A committee is formed to support Proposition B. Several weeks later, an individual donates $50,000 to the committee. Within ten days of receiving the contribution, the committee will file a Form 410 amendment to change its name to include the economic or other special interest of the $50,000 donor.

Note that if, during the 16 days prior to the election, a change occurs in the name of the committee, the treasurer, or other principal officers, an amendment must be filed with the Secretary of State and the City Clerk within 24 hours of the change. If not filed electronically, the amendment must be sent by fax, guaranteed overnight delivery, or personal delivery.

WHERE TO FILE

File the original and one copy of the form with the Secretary of State, and one copy with the City Clerk. The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 410
Statement of Organization (termination)

GENERAL INFORMATION

Primarily formed recipient committees file this report as part of terminating the committee. It should be filed along with a Form 460 termination statement.

WHEN TO FILE

A primarily formed committee may terminate at any time, so long as all the following circumstances are present:

- it is no longer receiving contributions or making expenditures;
- it does not anticipate receiving contributions, repayments of outstanding loans, or any other receipts, and does not anticipate making expenditures in the future;
- it has eliminated or has no intention or ability to discharge its debts, loans received, and other obligations;
- it has no campaign funds; and,
- it has filed all required campaign statements disclosing all reportable transactions.

WHERE TO FILE

File the original and one copy of the form with the Secretary of State, and one copy with the City Clerk.

The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 425

Semi-Annual Statement of No Activity

GENERAL INFORMATION

Primarily formed recipient committees may use this form as a semi-annual statement if they have no financial activity during the reporting period. It is to be used only by recipient committees that have not received any contributions and not made any expenditures during the six-month period covered by a semi-annual statement.

WHEN TO FILE

It is filed on a semi-annual basis in lieu of filing the Form 460, but only if the primarily formed recipient committee had no activity during the reporting period.

WHERE TO FILE

The Form 425 is filed with the City Clerk. The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 450

Recipient Committee Short Form (quarterly, semi-annual and pre-election report)

GENERAL INFORMATION

Primarily formed recipient committees may use this form in lieu of a Form 460 if they have limited financial activity during the reporting period. The Form 450 is for use by a recipient committee if the committee: (1) has not received a contribution that must be itemized (a cumulative amount of $100 or more from a single source); (2) has not received any other payment of $100 or more (miscellaneous increases to cash); (3) has no outstanding loans made or received; and (4) has no accrued expenses (unpaid bills).

WHEN TO FILE

It is filed on a quarterly, semi-annual, or pre-election basis in lieu of filing the Form 460, but only if the primarily formed recipient committee had very limited activity during the reporting period.

WHERE TO FILE

The Form 450 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline).

Form 460

Recipient Committee Campaign Statement (quarterly report)

GENERAL INFORMATION

Primarily formed "ballot measure" recipient committees file quarterly reports prior to reaching the semi-annual period in which the applicable measure is on the ballot. After the election, a quarterly statement will be due only if the committee makes contributions or expenditures to support another measure.

The Form 460 is filed by campaign committees to provide a comprehensively accounting of the committee's activities during the reporting period. Quarterly statements cover the first and third calendar quarters. Semi-annual statements cover the second and fourth calendar quarters (see the next section).

If a committee fails to qualify a measure for the ballot, or the measure does not otherwise appear on a ballot, the committee must file quarterly until it terminates.

NOTE: A quarterly statement (Form 450 or Form 460) must be filed regardless of whether the committee accepted contributions or made expenditures during the reporting period.

WHERE TO FILE

This form is filed on a quarterly basis. Statements are generally due on or before April 30, covering the period January 1 through March 31, and on or before October 31, covering July 1 through September 30.

EXAMPLE: Wage Reform Now formed in May of 2015 to support a measure scheduled to appear on the June 2016 ballot. This committee will file a quarterly statement by November 2, 2015, covering the period from July 1, 2015, through September 30, 2015. (As discussed in the next section, it will also file semi-annual Forms 460 covering the second and fourth quarters of 2015.) It will not file a quarterly report covering the first quarter of 2016 because it will instead be filing pre-election reports.

WHERE TO FILE

The quarterly Form 460 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline).

Form 460
Recipient Committee Campaign Statement (semi-annual report)

GENERAL INFORMATION

Primarily formed recipient committees file semi-annual reports until they terminate.

This form is filed by campaign committees to provide a comprehensively accounting of the committee's activities during the reporting period.

WHEN TO FILE

Specific filing deadlines for 2015 and 2016 are set out near the end of this chapter.

As a general rule, the semi-annual Form 460 is due no later than July 31, covering the period January 1 through June 30, and no later than January 31, covering the period July 1 through December 31. The reporting period will change, however, if the committee is also filing pre-election reports. The reporting period begins on the day following the last day covered by the previous Form 460.

EXAMPLE: A committee supporting Proposition C on the June ballot filed its second pre-election Form 460 covering the period from March 18, 2016, through May 21, 2016. The committee's next semi-annual Form 460 will cover the period from May 22, 2016, through June 30, 2016.

If the committee is filing its first campaign statement, the reporting period begins with January 1 of the current calendar year.

WHERE TO FILE

The semi-annual Form 460 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline).

Form 460
Recipient Committee Campaign Statement (pre-election report)

GENERAL INFORMATION

Primarily formed recipient committees must file pre-election reports (regardless of the level of their financial activity) if the ballot measure(s) they are formed to support or oppose is/are being voted on in the upcoming election.

EXAMPLE: A committee is formed in December of 2015 to support an initiative that is ultimately placed on the June 2016 ballot. It must file two pre-election Forms 460 (and one pre-election Form 497) in the months leading up to the June election.

WHEN TO FILE

Primarily formed committees file pre-election reports in accordance with specific deadlines that are set out near the end of this chapter.

WHERE TO FILE

Pre-election reports must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the first pre-election Form 460 may be filed with the City Clerk's Office in person or through the mail (post-marked on

or before the deadline); the second pre-election Form 460 must be filed using a guaranteed overnight delivery service or by personal delivery.

Form 460
Recipient Committee Campaign Statement (termination report)

GENERAL INFORMATION

Primarily formed recipient committees file this report as part of terminating the committee. It can be filed along with a Form 410 termination statement.

WHEN TO FILE

When the committee has stopped accepting contributions and making expenditures, and has a zero cash balance.

WHERE TO FILE

The Form 460 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail.

Form 462
Verification of Independent Expenditures

GENERAL INFORMATION

A primarily formed "ballot measure" recipient committee does not typically file a Form 462. It must submit this form in conjunction with making independent expenditures in connection with a candidate election, or with regard to an election for a ballot measure other than the one for which it was primarily formed.

The form must be signed by a principal officer of the committee. The purpose of the form is for the committee to verify that it is not coordinating its independent expenditures with the affected candidate or his or her opponent or with the proponent of a state ballot measure.

WHEN TO FILE

The report is required within 10 days from the date of an independent expenditure that totals, in the aggregate, $1,000 or more to support or oppose a candidate or measure in a calendar year.

Note that committees are required to identify particular candidates and measures on a Form 462 only once per election. For example if a committee makes an independent expenditure to support a candidate in the 2016 primary election, it will submit a Form 462 to identify that candidate, but needn't file another Form 462 if it makes additional independent expenditures for the same candidate for the same election. If, however, the committee makes an independent expenditure for the same candidate for the 2016 general election, it must submit another Form 462 identifying that candidate.

WHERE TO FILE

This Form 462 is filed with the Fair Political Practices Commission by e-mail (form462@fppc.ca.gov). The originally signed form must be maintained with the committee's campaign records.

Please contact the FPPC (866-275-3772) for additional information concerning the Form 462.

Form 465
Supplemental Independent Expenditure Report

GENERAL INFORMATION

A primarily formed "ballot measure" recipient committee does not typically file a Form 465. It will file this form only if it makes independent expenditures totaling $1,000 or more in a calendar year to support or oppose a single candidate or a single measure other than the measure(s) for which it was primarily formed.

The Form 465 is required to be filed in addition to any other pre-election, semi-annual, or independent expenditure report that must be filed.

The filing requirement is not triggered until the committee has reached the $1,000 calendar year threshold for a single candidate or measure. For example, spending $900 on an independent expenditure supporting a candidate through the first pre-election period would not trigger the filing of a Form 465, but spending an additional $100 on an independent expenditure for the same candidate during the second pre-election period would require filing a Form 465 that discloses both sets of independent expenditures.

If a communication lists more than one candidate or measure, apportion the costs of the communication to determine the amount spent to support each particular candidate or measure. A separate Form 465 is required for each candidate or measure for which $1,000 or more was spent.

The "period covered" begins the day after the closing date of the most recent Form 465 filed related to the candidate or measure supported or opposed. If no previous Form 465 has been filed, the reporting period begins on January 1 of the current calendar year.

WHEN TO FILE

The 465 is filed at the same time that the candidate or ballot measure committee supported or opposed by the independent expenditure files a Form 460.

EXAMPLE: Yes on B – Protect Our Neighborhoods is a committee formed to support a City ballot measure that would increase the transient occupancy tax. On February 24, 2016, it spends $1,500 on an independent expenditure supporting Tom York for City Council. When the York committee files its first pre-election Form 460, the Yes on B committee will also file a Form 465 to report the $1,500 expenditure it made to support York.

Note that candidates file Forms 460 semi-annually and pursuant to a pre-election filing schedule. Ballot measure committees file quarterly, semi-annually, and pursuant to a pre-election filing schedule. For specific filing dates, refer to the deadlines that are set out near the end of this chapter.

If the independent expenditure is made supporting a candidate or a different ballot measure during the 90 days prior to the election, the committee will also report the expenditure on a Form 496 Independent Expenditure Report within 24 hours of making the expenditure.

WHERE TO FILE

The Form 465 is filed with the City Clerk. It must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form may be filed in person or through the mail (post-marked on or before the deadline). If the committee spends $1,000 or more to support a candidate or measure in another jurisdiction, file a Form 465 with the filing official in that jurisdiction.

Form 496

Independent Expenditure Report
(24 hour reporting period)

GENERAL INFORMATION

A primarily formed ballot measure recipient committee does not typically file a Form 496. It files a Form 496 only when it makes independent expenditures totaling $1,000 or more to support or oppose a single candidate or a single measure other than the measure(s) for which it was primarily formed during the 90 day period prior to the election.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

The Form 496 is filed in addition to any required pre-election or semi-annual campaign statements. Any independent expenditure reported on a Form 496 must also be disclosed on the committee's next campaign statement (Form 460), and on the Supplemental Independent Expenditure Report (Form 465).

Once the committee has reached the cumulative $1,000 threshold, it will report all independent expenditures made during the 90 day period supporting or opposing the candidate or measure, including those that were less than $1,000. After an initial Form 496 has been filed, a subsequent Form 496 will be required each time the committee makes independent expenditures aggregating $1,000 or more in support of, or opposition to, the same candidate or measure.

As indicated above, primarily formed ballot measure committees may make independent expenditures to support or oppose candidates, or to support or oppose ballot measures other than the ones for which they were created. Reaching the $1,000 threshold for another candidate or ballot measure will trigger the need for the committee to file a separate Form 496 with the filing official in the applicable jurisdiction.

WHEN TO FILE

The form must be filed within 24 hours of making independent expenditures cumulatively totaling $1,000 or more to support or oppose a single candidate or ballot measure during the 90 days prior to the election.

An independent expenditure is made on the date the communication is mailed, broadcast, or otherwise disseminated to the public. A committee making an ongoing independent expenditure (e.g., canvassers targeting district households over the course of a week) may estimate the total cost and disclose that amount on a single Form 496 filed within 24 hours of commencing the effort. The Form 496 may be amended later if the estimated amount needs to be adjusted.

Keep in mind that there is no Form 496 requirement for expenditures made to support or oppose the measure(s) for which the committee was primarily formed.

NOTE: The Form 496 must be filed within 24 hours regardless of the day of the week. An independent expenditure made on a Saturday, for example, must be reported by Sunday.

WHERE TO FILE

The Form 496 must be filed with the City Clerk if the independent expenditure is supporting or opposing a City candidate or measure.

The form must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form must be filed by fax, guaranteed overnight delivery, or personal delivery. Regular mail may not be used.

Form 497

Contribution Report
(24 hour reporting period)

GENERAL INFORMATION

This report is required when a primarily formed recipient committee receives or makes a contribution of $1,000 or more during the 90 day period prior to the election.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

The 1,000 threshold is cumulative. Any contributions made during the 90 day period, even if less than $1,000, must be reported on a Form 497 if the cumulative $1,000 threshold is ultimately reached (for a single candidate or committee) during that period.

A contribution is received on the date the committee, or an agent of the committee, obtains possession or control of the check or non-monetary item that constitutes the contribution. A contribution is made on the date the contribution is mailed, delivered, or otherwise transmitted to a candidate or committee.

A primarily formed recipient committee must file a Form 497 if it:

(1) receives contributions aggregating $1,000 or more, from a single source during the 90 days prior to the election; or

(2) makes contributions aggregating $1,000 or more to a candidate in another jurisdiction or to another primarily formed recipient committee (“candidate” or ballot measure”) during the 90 days before the election; or

(3) makes a contribution or contributions totaling $1,000 or more to a state or county political party committee during the 90 days before a state election.

NOTE: Primarily formed recipient committees may not make contributions (in any amount) to City of San Diego candidates. Restrictions applicable to candidates in other jurisdictions are outside the scope of this manual.

WHEN TO FILE

The deadlines for filing the Form 497 depend on the type of contribution made, as follows:

Monetary contributions: The committee must file the Form 497 within 24 hours of making or receiving a $1,000 monetary contribution.

Non-monetary contributions: The committee must file the Form 497 within 24 hours of making a $1,000 non-monetary contribution (and must also notify the recipient of the value of the non-monetary contribution by personal delivery, fax, or guaranteed overnight mail; no particular form is required). It must file the Form 497 within 48 hours of receiving a $1,000 non-monetary contribution.

NOTE: If the filing deadline for a Form 497 falls on a weekend or official holiday, it is generally extended to the next business day. This extension does not apply, however, when the due date falls on a Saturday, Sunday, or official City holiday immediately prior to the election.

WHERE TO FILE

The form is filed with the City Clerk (the same filing official where the committee regularly files its Form 460s). Thus, the committee will file the Form 497 with the City Clerk even if the contribution is intended to support or oppose a County candidate or State measure.

If the contribution is made to another primarily formed recipient committee, the other committee must file its own Form 497 to report its receipt of the contribution.

The Form 497 must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form must be filed by fax, guaranteed overnight delivery, or personal delivery. Regular mail may not be used.

NOTE: Committees making contributions to support candidates/measures other than the ones for which they were primarily formed may be required to change their committee type. See Chapter 1 for more information.

Form 497

Contribution Report
(third pre-election report)

GENERAL INFORMATION

In addition to filing pre-election reports on the Form 460 (see discussion above), primarily formed recipient committees must file a third pre-election report using the Form 497.

The third pre-election report uses a different form because it requires far less information than the pre-election reports that use the Form 460. For third pre-election filings, the committee is required only to identify previously unreported contributions of $100 or more, i.e., the contributor's name, address, occupation/employer, and the date and amount of the contribution.

Filing a third pre-election report does not eliminate the need to file separate Forms 497 within 24 hours of receiving $1,000+ contributions during the 90 days leading up to the election. Once a contribution is disclosed on a Form 497 24-hour report, it does not have to be re-disclosed on a Form 497 pre-election report.

EXAMPLE: A committee is formed to support a ballot measure in the June election. During the third pre-election period, it collects ten contributions of $100 or more, including one for $1,000. It will report the $1,000 contribution within 24 hours on a Form 497. It will report the other nine contributions on a third pre-election report (Form 497) by the 3rd pre-election reporting deadline.

The reporting period for the third pre-election report begins after the closing date for the previous pre-election report (see the pre-election Form 460 filing dates in the following section) and continues through to the end of the Wednesday before the election.

WHEN TO FILE

The third pre-election report must be filed no later than the Friday before the election. The filing deadline for the primary election is June 3, 2016. The filing deadline for the general election is November 4, 2016.

WHERE TO FILE

Committees subject to electronic filing requirements must submit this pre-election report using the City Clerk's electronic filing system. All other committees must have the statement personally delivered or sent to the City Clerk with delivery guaranteed by the Monday before the election.

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Specific Filing Deadlines

In 2015, committees primarily formed to support or oppose the qualification or passage of a ballot measure will file semi-annual and quarterly Form 460 campaign statements in accordance with the following schedule:

1st quarterly period (Form 460)
reporting period: 1/1/15 – 3/31/15
filing deadline: 4/30/15

1st semi-annual period (Form 460)
reporting period: 4/1/15 – 6/30/15
filing deadline: 7/31/15

3rd quarterly period (Form 460)
reporting period: 7/1/15 – 9/30/15
filing deadline: 11/2/15

2nd semi-annual period (Form 460)
reporting period: 10/1/15 – 12/31/15
filing deadline: 2/1/16

In 2016, recipient committees primarily formed to support or oppose a measure appearing on the primary election ballot must file three pre-election reports before the election, and then a semi-annual report after the election, as follows:

1st pre-election period (Form 460)
reporting period: 1/1/16 – 3/17/16
filing deadline: 3/22/16

2nd pre-election period (Form 460)
reporting period: 3/18/16 – 5/21/16
filing deadline: 5/26/16

3rd pre-election period (Form 497)
reporting period: 5/22/16 – 6/1/16
filing deadline: 6/3/16

1st semi-annual period (Form 460)
reporting period: 5/22/16 – 6/30/16
filing deadline: 8/1/16

In 2016, recipient committees primarily formed to support or oppose a measure appearing on the general election ballot must file a quarterly report, a semi-annual report, three pre-election reports before the election, and then a semi-annual report after the election, as follows:

1st quarterly period (Form 460)
reporting period: 1/1/16 – 3/31/16
filing deadline: 5/2/16

1st semi-annual period (Form 460)
reporting period: 4/1/16 – 6/30/16
filing deadline: 8/1/16

1st pre-election period (Form 460)
reporting period: 7/1/16 – 9/30/16
filing deadline: 10/5/16

2nd pre-election period (Form 460)
reporting period: 10/1/16 – 10/22/16
filing deadline: 10/27/16

3rd pre-election period (Form 497)
reporting period: 10/23/16 – 11/2/16
filing deadline: 11/4/16

2nd semi-annual period (Form 460)
reporting period: 10/23/16 – 12/31/16
filing deadline: 1/31/17

A primarily formed recipient committee must also file a Form 465 in accordance with any of the above reporting periods and deadlines (except the third pre-election period) in which it makes an independent expenditure for or against a candidate or a ballot measure other than the one(s) for which it was formed. If it makes independent expenditures after the 2nd pre-election period, it will file the Form 465 by the next semi-annual reporting deadline.

After the election, the committee will continue to file semi-annual Form 460 campaign statements. The reporting period for these statements commences on the day following the last day covered by the previous Form 460. The committee must file semi-annual campaign statements until it terminates.

The committee need not file quarterly reports after the election unless it starts making contributions or expenditures to support another ballot measure.

NOTE: These deadlines are in addition to the 24-hour filing deadlines for Forms 496 and 497, which are discussed earlier in this chapter.

Electronic Filing

Every City of San Diego primarily formed recipient committee that has received contributions or made expenditures totaling $10,000 in connection with a City of San Diego election must file its campaign statements using the City Clerk's electronic filing system.

A committee that has reached the $10,000 threshold must continue to file electronically until it has terminated. Committees that have not reached the $10,000 threshold may file electronically on a voluntary basis.

A committee that has filed a campaign statement electronically is not required to also file that statement in paper format. All of the campaign statements discussed in this Chapter may be filed electronically (except that the Form 410 and 425 may be filed electronically only if using third party vendor software). Contact the City Clerk's Office for additional information regarding its electronic filing system.

Audits

The San Diego Municipal Code authorizes the Ethics Commission to audit primarily formed recipient committees. Committees will be randomly selected for audit following each election cycle as follows:

- 75% of committees that raise or spend more than $100,000 will be audited;
- 50% of committees that raise or spend between $10,000 and $99,999 will be audited.

Committees that raise or spend less than $10,000 will not be placed in the pool for the random drawing.

In addition to the random audit drawing, the Ethics Commission may exercise its discretion to conduct an audit of a committee in connection with a pending investigation.

Chapter 4
"City" General Purpose Recipient Committees

This chapter focuses on general purpose committees that spend most of their money on City of San Diego elections. A "City" general purpose committee is one that makes more than 70% of its contributions and expenditures to support or oppose candidates and measures voted on in only the City of San Diego.

NOTE: When controlled by a candidate, such committees may only exist to support or oppose ballot measures – not candidates.

This type of committee needn't spend all of its funds on City of San Diego elections. It may also support candidates (unless the committee is candidate-controlled) and measures in other jurisdictions. Substantial payments in other jurisdictions may, however, cause the committee to become a state or county committee. In addition, a committee spending a particular percentage of its money to support or oppose a particular candidate or measure may become a "primarily formed recipient committee." See Chapter 1 for more information.

Also refer to the rules in Chapter 1 for determining whether a committee remains a general purpose recipient committee over time. Committees must recalculate the applicable percentage quarterly at the end of March, June, September, and December. A new committee formed within six months of an election in connection with which the committee makes contributions and expenditures must calculate the percentage at the end of each month in which it spends at least $1,000 supporting candidates and measures.

Naming Requirements

The name of a general purpose recipient committee controlled by a candidate or elected officeholder must contain the candidate's or officeholder's last name. The name of a general purpose recipient committee that is sponsored must contain the name of the sponsoring entity.

EXAMPLE: A committee created to advance fiscal reforms in San Diego has all of its administrative services performed by the San Diego Solar Coalition, a local non-profit entity. Because it is a sponsored committee, it identifies itself as "San Diego Solar Coalition Political Action Committee."

NOTE: If a general purpose recipient committee is controlled by a candidate, it cannot also be "sponsored."

Limits and Prohibitions

The City's campaign laws do not impose on general purpose recipient committees any limits on the sources or amounts of contributions they receive. For example, a general purpose recipient committee may receive a $100,000 contribution from a business entity and use those funds to make an independent expenditure supporting a City ballot measure or a City candidate.

NOTE: State law does not allow candidate-controlled committees to make contributions to general purpose recipient committees for the purpose of making independent expenditures supporting or opposing candidates.

City general purpose recipient committees may not make a contribution to a City candidate, nor may they make expenditures at the request, suggestion, or direction of, or in cooperation, consultation, concert or coordination with, a City candidate. Such payments are not considered "independent"; they are instead treated as an unlawful in-kind (non-monetary) contribution to the candidate.

NOTE: Committees that are membership organizations may coordinate "member communications" with candidates. Contact the Ethics Commission for additional information on this subject.

As indicated above, a candidate-controlled general purpose committee may not make contributions or expenditures to support candidates.

Recordkeeping

City general purpose recipient committees are required to maintain records associated with all contributions received and all expenditures made by their committees for a period of four years. In particular, committees must maintain the following records:

- for contributions made via check, credit card, or electronic payment, copies of the written instrument, credit card receipt, and/or transaction records, as well as deposit slips;
- for cash contributions, a notation that cash was received, and a legible photocopy of the bank deposit slip showing that the cash contribution was deposited into the campaign contribution checking account;
- if a contribution is something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the contribution, and the basis for the estimate;
- for each check drawn on the campaign checking account, the canceled check and the bank statement showing the payment.
- for every expenditure, records reflecting the date and amount of the expenditure, the name and address of the payee, and a description of the goods or services provided, as well as all source documentation such as invoices and receipts.

In addition, the City of San Diego has more stringent laws than the State of California when it comes to records associated with contributors. In particular, unlike state law, local law requires that City general purpose recipient committees obtain all of the following information <u>before</u> a contribution may be deposited:

- the contributor's full name; and
- the contributor's street address (business addresses are permitted but not post office boxes); and
- the contributor's occupation and employer (if the contributor has given you a total of $100 or more). If a contributor is self-employed, candidates must obtain the name of the business.

This requirement applies to all contributions, whether they are made via cash, check, or credit card.

Although the City's laws do not expressly require that committees obtain contributor information directly from the contributor, the Ethics Commission strongly encourages them to do so to avoid obtaining inaccurate information. If you choose to obtain the required information from other sources

(e.g., the host of a fundraiser or a campaign statement filed by another committee), you do so at your own risk. Remember that the failure to disclose accurate contributor information could result in an Ethics Commission fine.

Committee representatives must produce copies of records associated with campaign contributions and expenditures to the Ethics Commission upon request. In addition, if requested, committees must provide the Ethics Commission with written authorization to obtain records pertaining to their campaign bank accounts.

Filing Official

The San Diego City Clerk is the primary filling official for the committee. Most of the committee's campaign statements will be filed solely with the City Clerk. There are several exceptions, including the Statement of Organization (Form 410), which is filed with the Secretary of State (and a copy filed with the City Clerk), and the Form 462 (e-mailed to the FPPC). In addition, if the committee makes independent expenditures in another jurisdiction, it may have to file reports with the filing official in that jurisdiction.

NOTE: If a City of San Diego general purpose committee qualifies as another type of committee later in the calendar year (e.g., it becomes a County committee), it must continue to file copies of the Form 460 with the City Clerk until the end of the calendar year.

Typical Filings with the City Clerk

Form 410 – upon qualifying as a committee

Form 410 – amendments to committee information

Form 460 – semi-annual activity

Form 460 – pre-election activity

Form 465 – independent expenditures made

Form 496 – independent expenditures made during the 90 days prior to the election

Form 497 – contributions made during the 90 days prior to the election

EXAMPLE: A committee is formed to support tax reforms in San Diego. Within ten days of raising $1,000, it files a Form 410 with the Secretary of State (copy with the City Clerk) and Forms 460 with the City Clerk on a semi-annual basis.

Early in 2016, it decides to support a City ballot measure, Proposition A, that will appear on the June 2016 ballot. On April 12, it spends $2,000 to distribute door hangers supporting Proposition A.

Because it spent $500 or more during a pre-election period, it will file a Form 460 pre-election report. Because it spent $1,000 or more to support a single measure, it will also file a Form 465. The forms are due to the City Clerk by the second pre-election period filing deadline.

If the committee makes independent expenditures during the 90 days prior to the election, it will report those expenditures within 24 hours on a Form 496 filed with the City Clerk. After the election, the committee will continue to file semi-annual reports with the City Clerk.

Campaign Statements

The following are the basic filing rules applicable to City of San Diego general purpose recipient committees.

Form 410
Statement of Organization (initial)

GENERAL INFORMATION

An entity must file this form when it qualifies as a committee (by receiving $1,000 in contributions).

The Form 410 is used to identify the committee's name, which must include the last name of any candidate controlling the committee, or the name of any entity sponsoring the committee.

The Form 410 must include the name, street address, and telephone number of the committee's principal officers. The principal officers of a committee are the individuals primarily responsible for approving the activities of the committee, including authorizing the content of committee communications, authorizing the committee's contributions and expenditures, and determining the committee's campaign strategy. If more than three individuals qualify as principal officers of the committee, identify no fewer than three.

NOTE: Identifying a "straw" person as a principal officer on a Form 410 in order to conceal the true identity of an individual responsible for the committee's activities is a violation of law.

Addresses reported on a Form 410 for the committee, the treasurer, and the principal officers must be actual street addresses. Post Office boxes and mail receiving services like Mail Boxes Etc. are not acceptable.

WHEN TO FILE

The Form 410 must be filed within 10 days of the committee receiving contributions of $1,000 or more.

The Form 410 may be filed prior to raising $1,000, but must be amended within 10 days of reaching the $1,000 threshold to indicate the date the entity qualified as a committee.

An entity may become qualified as a committee at any time regardless of the proximity to the date of an election.

WHERE TO FILE

File the original and one copy of the form with the Secretary of State, and one copy with the City Clerk.

The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 410
Statement of Organization (amendment)

GENERAL INFORMATION

A City general purpose recipient committee must file an amendment when there is any change to the information contained on its Form 410.

WHEN TO FILE

The Form 410 must be filed within 10 days of any change to the information on the form.

EXAMPLE: The committee Friends of Open Space became a sponsored committee when it received a large contribution from Balboa Park Builders. The contribution represented 80% of all the contributions the committee received, and resulted in the developer becoming the "sponsor" of the committee. The committee has ten days to amend its Form 410 to indicate that it is sponsored by Balboa Park Builders.

Note that if, during the 16 days prior to the election, a change occurs in the name of the committee, the treasurer, or other principal officers, an amendment must be filed with the Secretary of State and the City Clerk within 24 hours of the change. If not filed electronically, the amendment must be sent by fax, guaranteed overnight delivery, or personal delivery.

WHERE TO FILE

File the original and one copy of the form with the Secretary of State, and one copy with the City Clerk.

The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 410
Statement of Organization (termination)

GENERAL INFORMATION

City general purpose recipient committees file this report as part of terminating the committee. It should be filed along with a Form 460 termination statement.

WHEN TO FILE

A City general purpose recipient committee may terminate at any time, so long as <u>all</u> the following circumstances are present:

- it is no longer receiving contributions or making expenditures;
- it does not anticipate receiving contributions, repayments of outstanding loans, or any other receipts, and does not anticipate making expenditures in the future;
- it has eliminated or has no intention or ability to discharge its debts, loans received, and other obligations;
- it has a zero cash balance; and,
- it has filed all required campaign statements disclosing all reportable transactions.

WHERE TO FILE

File the original and one copy of the form with the Secretary of State, and one copy with the City Clerk. The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 425
Semi-Annual Statement of No Activity

GENERAL INFORMATION

City general purpose recipient committees may use this form as a semi-annual statement if they have no financial activity during the reporting period. It is to be used only by recipient committees that have not received any contributions and not made any expenditures during the six-month period covered by a semi-annual statement.

WHEN TO FILE

File the form on a semi-annual basis in lieu of filing the Form 460, but only if the City general purpose recipient committees had no activity during the reporting period.

WHERE TO FILE

The Form 425 is filed with the City Clerk. The form may be filed in paper format. Committees using third party vendor software to access the City Clerk's electronic filing system may choose to file the City's copy electronically.

Form 450
Recipient Committee Short Form (semi-annual and pre-election report)

GENERAL INFORMATION

City general purpose recipient committees may use this form as a semi-annual or pre-election statement if they have limited financial activity during the reporting period. The Form 450 may be used by a recipient committee if the committee: (1) has not received a contribution that must be itemized (a cumulative amount of $100 or more from a single source); (2) has not received any other payment of $100 or more (miscellaneous increases to cash); (3) has no outstanding loans made or received; and (4) has no accrued expenses (unpaid bills).

WHEN TO FILE

File the form on a semi-annual or pre-election basis in lieu of filing the Form 460, but only if the committee had very limited activity during reporting period. Applicable deadlines are set out near the end of this chapter.

WHERE TO FILE

The Form 450 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline).

Form 460
Recipient Committee Campaign Statement (semi-annual report)

GENERAL INFORMATION

City general purpose recipient committees file semi-annual reports until they terminate.

This form is filed by campaign committees to provide a comprehensively accounting of the committee's activities during the reporting period.

WHEN TO FILE

As a general rule, the semi-annual Form 460 is due no later than July 31, covering the period January 1 through June 30, and no later than January 31, covering the period July 1 through December 31. The

period covered will change, however, if the committee is also filing pre-election reports. The reporting period begins on the day following the last day covered by the previous Form 460.

EXAMPLE: A City general purpose recipient committee filed its second pre-election Form 460 covering the period from March 18, 2016, through May 21, 2016. The committee's semi-annual Form 460 will cover the period from May 22, 2016, through June 30, 2016.

If the committee is filing its first campaign statement, the reporting period begins with January 1 of the current calendar year.

WHERE TO FILE

The semi-annual Form 460 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline).

Form 460
Recipient Committee Campaign Statement (pre-election report)

GENERAL INFORMATION

City general purpose recipient committees must file Form 460 pre-election reports if they make contributions or independent expenditures totaling $500 or more during a pre-election period (candidate-controlled committees must also file a third pre-election report using a Form 497).

EXAMPLE: On February 15, 2016, a general purpose recipient committee spends $650 on yard signs to oppose Proposition E on the June 2016 ballot. It must file a Form 460 pre-election report with the City Clerk by March 22, 2016.

WHEN TO FILE

General purpose recipient committees file pre-election reports in accordance with specific deadlines that are set out near the end of this chapter.

WHERE TO FILE

Pre-election reports must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the first pre-election Form 460 may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline); the second pre-election Form 460 must be filed using a guaranteed overnight delivery service or by personal delivery.

Form 460
Recipient Committee Campaign Statement (termination report)

GENERAL INFORMATION

City general purpose recipient committees file this report as part of terminating the committee (along with a Form 410 termination statement).

WHEN TO FILE

When the committee has stopped accepting contributions and making expenditures, and has a zero cash balance.

WHERE TO FILE

The Form 460 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail.

Form 462
Verification of Independent Expenditures

GENERAL INFORMATION

A City general purpose recipient committee must submit this form in conjunction with making independent expenditures in connection with a candidate or ballot measure election.

The form must be signed by a principal officer of the committee. The purpose of the form is for the committee to verify that it is not coordinating its independent expenditures with the affected candidate or his or her opponent or with the proponent of a state ballot measure.

WHEN TO FILE

The report is required within 10 days from the date of an independent expenditure that totals, in the aggregate, $1,000 or more to support or oppose a candidate or measure in a calendar year.

Note that committees are required to identify particular candidates and measures on a Form 462 only once per election. For example if a committee makes an independent expenditure to support a candidate in the 2016 primary election, it will submit a Form 462 to identify that candidate, but needn't file another Form 462 if it makes additional independent expenditures for the same candidate for the same election. If, however, the committee makes an independent expenditure for the same candidate for the 2016 general election, it must submit another Form 462 identifying that candidate.

WHERE TO FILE

This Form 462 is filed with the Fair Political Practices Commission by e-mail (form462@fppc.ca.gov). The originally signed form must be maintained with the committee's campaign records.

Please contact the FPPC (866-275-3772) for additional information concerning the Form 462.

Form 465
Supplemental Independent Expenditure Report

GENERAL INFORMATION

A City general purpose recipient committee files a Form 465 if it makes independent expenditures totaling $1,000 or more in a calendar year to support or oppose a single candidate or a single measure.

The Form 465 is required to be filed in addition to any other pre-election, semi-annual, or independent expenditure report that must be filed.

The filing requirement is not triggered until the committee has reached the $1,000 calendar year threshold for a single candidate or measure. For example, spending $900 on an independent expenditure supporting a candidate through the first pre-election period would not trigger the filing of a Form 465, but spending $100 on an independent expenditure for the same candidate during the second pre-election period would require filing a Form 465 that discloses both sets of independent expenditures.

If a communication lists more than one candidate or measure, apportion the costs of the communication to determine the

amount spent to support each particular candidate or measure. A separate Form 465 is required for each candidate or measure for which $1,000 or more was spent.

The "period covered" begins the day after the closing date of the most recent Form 465 filed related to the candidate or ballot measure supported or opposed. If no previous Form 465 has been filed, the reporting period begins on January 1 of the current calendar year.

WHEN TO FILE

The 465 is filed at the same time that the candidate supported or opposed by the independent expenditure files a Form 460, or in the case of a ballot measure election, when a committee formed to support or oppose the measure files a Form 460.

EXAMPLE: Alice Lockhart is running for City Council in the June 2016 primary election. San Diego Coastal Club, a City of San Diego general purpose recipient committee, decides to support Lockhart's candidacy by purchasing a billboard advertisement during the second pre-election period. The committee will file a Form 465 by the second pre-election filing deadline (when candidate Lockhart files her second pre-election Form 460).

Note that candidates file Forms 460 semi-annually and pursuant to a pre-election filing schedule. Ballot measure committees file quarterly, semi-annually, and pursuant to a pre-election filing schedule. Refer to the filing schedules in Chapters 2 and 3 for the Form 460 filing deadlines applicable to candidate committees and ballot measure committees.
If the independent expenditure is made during the 90 days prior to the election, the committee will also report the expenditure on a Form 496 Independent Expenditure Report within 24 hours of making the expenditure.

WHERE TO FILE

The form is filed with the City Clerk. The Form 465 must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form may be filed in person or through the mail (post-marked on or before the deadline). If the committee spends $1,000 or more to support a candidate or measure in another jurisdiction, file a Form 465 with the filing official in that jurisdiction.

Form 496

Independent Expenditure Report
(24 hour reporting period)

GENERAL INFORMATION

A City general purpose recipient committee files a Form 496 if it makes independent expenditures cumulatively totaling $1,000 or more to support or oppose a single candidate or measure during the 90 days prior to the election.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

The Form 496 is filed in addition to any required pre-election or semi-annual campaign statements. Independent expenditures also must be disclosed on the committee's next Form 460, and on the Form 465 Supplemental Independent Expenditure Report.

Once the committee has reached the cumulative $1,000 threshold, it will report all independent expenditures made during the

90 day period supporting or opposing the candidate or measure, including those that were less than $1,000. After an initial Form 496 has been filed, a subsequent Form 496 will be required each time the committee makes independent expenditures aggregating $1,000 or more in support of, or opposition to, the same candidate or measure.

WHEN TO FILE

File the Form 496 within 24 hours of making an independent expenditure cumulatively totaling $1,000 or more to support or oppose a single candidate or a single ballot measure during the 90 days prior to the candidate's or measure's election.

An independent expenditure is made on the date the communication is mailed, broadcast, or otherwise disseminated to the public. A committee making an ongoing independent expenditure (e.g., canvassers targeting district households over the course of a week) may estimate the total cost and disclose that amount on a single Form 496 filed within 24 hours of commencing the effort. The Form 496 may be amended later if the estimated amount needs to be adjusted.

NOTE: The Form 496 must be filed within 24 hours regardless of the day of the week. An independent expenditure made on a Saturday, for example, must be reported by Sunday.

WHERE TO FILE

The Form 496 must be filed with the City Clerk if the independent expenditure is supporting or opposing a City candidate or measure.
The form must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form must be filed by fax, guaranteed overnight delivery, or personal delivery. Regular mail may not be used.

Form 497

Contribution Report
(24 hour reporting period)

GENERAL INFORMATION

A City general purpose recipient committee must file a Form 497 if, during the 90 days prior to an election, it makes a contribution of $1,000 or more, or multiple contributions aggregating $1,000 or more, to a primarily formed recipient committee ("candidate" or "ballot measure") involved in the election or to a political party.

NOTE: City general purpose recipient committees may not make contributions (in any amount) to City of San Diego candidates. Restrictions applicable to candidates in other jurisdictions are outside the scope of this manual.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

The 1,000 threshold is cumulative. Any contributions made during the 90 day period, even if less than $1,000, must be reported on a Form 497 if the cumulative $1,000 threshold is ultimately reached (for a single candidate or committee) during that period.

Contributions made to another general purpose recipient committee do not trigger the filing of a Form 497 unless the other general purpose recipient committee is a political party.

A contribution received by a City general purpose recipient committee does not trigger the filing of a Form 497.

WHEN TO FILE

The filing must take place within 24 hours of making the contribution.

A contribution is made on the date the contribution is mailed, delivered, or otherwise transmitted to a candidate or committee.

For non-monetary contributions, the committee must also notify the recipient of the value of the contribution within 24 hours (no particular form must be used).

NOTE: If the filing deadline for a Form 497 falls on a weekend or official holiday, it is generally extended to the next business day. This extension does not apply, however, when the due date falls on a Saturday, Sunday, or official City holiday immediately prior to an election.

WHERE TO FILE

The committee will file the Form 497 with the City Clerk even if the contribution is made to support or oppose a candidate or measure in another jurisdiction.

The Form 497 must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form must be filed by fax, guaranteed overnight delivery, or personal delivery. Regular mail may not be used.

If the contribution is made to a primarily formed recipient committee, that committee must file its own Form 497 to report its receipt of the contribution.

Form 497
Contribution Report
(third pre-election report)

A City of San Diego general purpose recipient committee must file a third pre-election report on a Form 497 only if (1) it is controlled by a candidate; and (2) it filed a pre-election report for the first or second pre-election period.

Most general purpose committees do not need to file this report. Only general purpose committees controlled by a candidate have this additional reporting obligation.

The third pre-election report uses a different form because it requires far less information than the pre-election reports that use the Form 460. For third pre-election filings, the committee is required only to identify previously unreported contributions of $100 or more, i.e., the contributor's name, address, occupation/employer, and the date and amount of the contribution.

Note that filing a third pre-election report does not eliminate the need to file separate Forms 497 within 24 hours of receiving $1,000+ contributions during the 90 days leading up to the election. Once a contribution is disclosed on a 24-hour report, it does not have to be re-disclosed on a third Form 497 pre-election report.

EXAMPLE: Councilmember Tyrell creates a general purpose committee to raise money to support a variety of public policy activities. The committee chooses to support a ballot measure in the June election. During the third pre-election period, it collects ten contributions of $100 or more, including one for $1,000. It will report the $1,000 contribution within 24 hours on a Form 497. It will report the other nine contributions on a third pre-election report (Form 497) by the 3rd pre-election reporting deadline.

The reporting period for the third pre-election report begins after the closing date for the previous pre-election report (see the filing schedule below) and continues through to the end of the Wednesday before the election.

WHEN TO FILE

The third pre-election report must be filed no later than the Friday before the election. The filing deadline for the primary election is June 3, 2016. The filing deadline for the general election is November 4, 2016.

WHERE TO FILE

Committees subject to electronic filing requirements must submit the third pre-election report using the City Clerk's electronic filing system. All other committees must have the statement personally delivered or sent to the City Clerk with delivery guaranteed by the Monday before the election.

Specific Filing Deadlines

The committee's activities in 2015 are reported on semi-annual campaign statements, as follows:

1st semi-annual period (Form 460)
reporting period: 1/1/15 – 6/30/15
filing deadline: 7/31/15

2nd semi-annual period (Form 460)
reporting period: 7/1/15 – 12/31/15
filing deadline: 2/1/16

In 2016, general purpose recipient committees must file pre-election reports if they make $500 or more in contributions or independent expenditures for or against a City candidate or ballot measure during a pre-election period.

If supporting or opposing candidates or measures on the primary election ballot, pre-election reports, followed by a semi-annual report, are filed in accordance with the following schedule:

1st pre-election period (Form 460)
reporting period: 1/1/16 – 3/17/16
filing deadline: 3/22/16

2nd pre-election period (Form 460)
reporting period: 3/18/16 – 5/21/16
filing deadline: 5/26/16

1st semi-annual period (Form 460)
reporting period: 5/22/16 – 6/30/16
filing deadline: 8/1/16

If the committee is controlled by a candidate (including a current officeholder), it will also file a third pre-election report, on a Form 497, as follows:

3rd pre-election period (Form 497)
reporting period: 5/22/16 – 6/1/16
filing deadline: 6/3/16

If supporting or opposing candidates or measures on the general election ballot, pre-election reports, followed by a semi-annual report, are filed in accordance with the following schedule:

1st pre-election period (Form 460)
reporting period: 7/1/16 – 9/30/16
filing deadline: 10/5/16

2nd pre-election period (Form 460)
reporting period: 10/1/16 – 10/22/16
filing deadline: 10/27/16

2nd semi-annual period (Form 460)
reporting period: 10/23/16 – 12/31/16
filing deadline: 1/31/17

If the committee is controlled by a candidate (including a current officeholder), it will also file a third pre-election report, on a Form 497, as follows:

3rd pre-election period (Form 497)
reporting period: 10/23/16 – 11/2/16
filing deadline: 11/4/16

General purpose recipient committees must also file a Form 465 in accordance with any of the above reporting periods (except the third pre-election period) in which it makes an independent expenditure. If it makes independent expenditures after the 2nd pre-election period, it will file the Form 465 by the next semi-annual reporting deadline.

After the election, the committee will continue to file semi-annual Form 460 campaign statements. The reporting period for these statements commences on the day following the last day covered by the previous Form 460. The committee must file semi-annual campaign statements until it terminates.

NOTE: These deadlines are in addition to the 24-hour filing deadlines for Forms 496 and 497, which are discussed earlier in this chapter.

Electronic Filing

Every City general purpose recipient committee that has received contributions or made expenditures totaling $10,000 in connection with a City of San Diego election must file its campaign statements using the City Clerk's electronic filing system.

A committee that has reached the $10,000 threshold must continue to file electronically until it has terminated.

Committees that have not reached the $10,000 threshold may file electronically on a voluntary basis.

A committee that has filed a campaign statement electronically is not required to also file that statement in paper format.
All of the campaign statements discussed in this Chapter may be filed electronically (except that the Form 410 and 425 may be filed electronically only if using third party vendor software). Contact the City Clerk's Office for additional information regarding its electronic filing system.

Chapter 5
State and County General Purpose Recipient Committees

This chapter focuses on general purpose recipient committees that spend most of their money in jurisdictions other than the City of San Diego, but do participate to some extent in City of San Diego elections. When participating in local elections, these committees are subject to a variety of local campaign laws.

Because these committees file most of their campaign statements (the Form 460 in particular) with filing officers in other jurisdictions, this chapter is not intended to provide comprehensive guidance regarding their overall filing obligations. Instead, it focuses on the rules and filing guidelines related to their participation in City of San Diego elections.

A state general purpose recipient committee is a committee that makes contributions or expenditures to support or oppose candidates or measures voted on in state elections (including making contributions to other state general purpose committees) and does not meet the criteria for being a city or county general purpose committee. All political party committees are state general purpose recipient committees.

A county general purpose recipient committee is a committee that makes contributions or expenditures to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county, including contributions to county general purpose committees in the same county, that collectively total more than 70 percent of the contributions and expenditures made by the committee.

NOTE: The rules in this chapter also apply to a city general purpose recipient committee in situations where the "city" is not the City of San Diego. Because such committees do not typically participate in City of San Diego elections, this chapter will discuss the applicable rules only in the context of state and county committees.

Refer to the rules in Chapter 1 for determining whether a committee is, or is not, a general purpose recipient committee. Keep in mind that each committee must recalculate the applicable percentage quarterly at the end of March, June, September, and December. A new committee formed within six months of an election in connection with which the committee makes contributions and expenditures must calculate the percentage at the end of each month in which it spent at least $1,000 supporting candidates and measures.

Limits and Prohibitions

The City's campaign laws do not impose on general purpose recipient committees any limits on the sources or amounts of contributions they receive. For example, a general purpose recipient committee may receive a $100,000 contribution from a business entity and use those funds to make an independent expenditure supporting a City ballot measure or a City candidate.

NOTE: State law does not allow candidate-controlled committees to make contributions to general purpose recipient committees for the purpose of making independent expenditures supporting or opposing candidates.

General purpose recipient committees (other than political party committees) may not make a contribution to a City candidate, nor may they make expenditures at the request, suggestion, or direction of, or in cooperation, consultation, concert or coordination with, a City candidate. Such payments are not considered "independent"; they are instead treated as an unlawful in-kind (non-monetary) contribution to the candidate.

NOTE: Committees that are membership organizations may coordinate "member communications" with candidates. Contact the Ethics Commission for additional information on this subject.

Filing Official

The San Diego City Clerk is not the primary filling official for these committees. Instead, they file most of their campaign statements with filing officers in their respective jurisdictions. They must, however, also file certain campaign statements with the City Clerk when participating in City of San Diego elections. In particular, they are required to file a Form 465 with the City Clerk if they spend $1,000 or more to support or oppose a City of San Diego candidate or ballot measure. They are also required to file a Form 496 with the City Clerk each time they spend $1,000 or more to support or oppose a City of San Diego candidate or ballot measure during the 90 days preceding the election.

Typical Filings with the City Clerk

Form 465 – independent expenditures made

Form 496 – independent expenditures made during the 90 days prior to the election

EXAMPLE: A County of San Diego general purpose committee decides to support City of San Diego Proposition D in the November 2016 election. On October 10, 2016, it spends $15,000 to distribute mailers supporting the measure. On November 1, 2016, a few days before the election, it spends $4,000 on a phone bank to support the measure. In addition to any campaign statements it files outside the City of San Diego, this committee will report the two independent expenditures on forms filed with the City Clerk as follows: it will report the mailer on a Form 496 (within 24 hours) and on a Form 465 (by the second pre-election period deadline), and it will report the phone bank expenditure on a Form 496 (within 24 hours) and on a Form 465 (by the semi-annual filing deadline).

Campaign Statements

The following are basic filing rules applicable to state and county general purpose recipient committees participating in City of San Diego elections.

Form 462
Verification of Independent Expenditures

GENERAL INFORMATION

General purpose recipient committees must submit this form in conjunction with making independent expenditures in connection with a candidate or ballot measure election.

The form must be signed by a principal officer of the committee. The purpose of the form is for the committee to verify that it is not coordinating its independent expenditures with the affected candidate or his or her opponent or with the proponent of a state ballot measure.

WHEN TO FILE

The report is required within 10 days from the date of an independent expenditure that totals, in the aggregate, $1,000 or more to support or oppose a candidate or measure in a calendar year.

Note that committees are required to identify particular candidates and measures on a Form 462 only once per election. For example if a committee makes an independent expenditure to support a candidate in the 2016 primary election, it will submit a Form 462 to identify that candidate, but needn't file another Form 462 if it makes additional independent expenditures for the same candidate for the same election. If, however, the committee makes an independent expenditure for the same candidate for the 2016 general election, it must submit another Form 462 identifying that candidate.

WHERE TO FILE

This Form 462 is filed with the Fair Political Practices Commission by e-mail (form462@fppc.ca.gov). The originally signed form must be maintained with the committee's campaign records.

Please contact the FPPC (866-275-3772) for additional information concerning the Form 462.

Form 465

Supplemental Independent Expenditure Report

GENERAL INFORMATION

A committee files the Form 465 if it makes independent expenditures totaling $1,000 or more in a calendar year to support or oppose a single City candidate or a single City ballot measure.

The Form 465 is required to be filed in addition to any other pre-election, semi-annual, or independent expenditure report that must be filed.

The filing requirement is not triggered until the committee has reached the $1,000 calendar year threshold for a single candidate or measure. For example, spending $900 on an independent expenditure supporting a City candidate through the first pre-election period will not trigger the filing of a Form 465, but spending an additional $100 on an independent expenditure for the same candidate during the second pre-election period will require filing a Form 465 that discloses both sets of independent expenditures.

If a communication lists more than one candidate or measure, apportion the costs of the communication to determine the amount spent to support each particular candidate or measure. A separate Form 465 is required for each candidate or measure for which $1,000 or more was spent.

The "period covered" begins the day after the closing date of the most recent Form 465 filed related to the candidate or measure supported or opposed. If no previous Form 465 has been filed, the reporting period begins on January 1 of the current year.

WHEN TO FILE

The 465 is filed at the same time that the applicable candidate or ballot measure committee files a Form 460.

EXAMPLE: Peter Kitteridge is running for City Council in the June 2016 primary election. Citizens for Righteous Representation, a County of San Diego general purpose recipient committee, decides to support Kitteridge's campaign by paying $3,000 for a mass mailing in February, during the first pre-election period. The committee will file a Form 465 by the first pre-election filing deadline (when candidate Kitteridge files his first pre-election Form 460).

Note that candidates file Forms 460 semi-annually and pursuant to a pre-election filing schedule. Ballot measure committees file quarterly, semi-annually, and pursuant to a pre-election filing schedule. Refer to the filing schedules in Chapters 2 and 3 for the Form 460 filing deadlines applicable to candidate committees and ballot measure committees.

If the independent expenditure is made during the 90 days prior to the election, the committee will also report the expenditure on a Form 496 Independent Expenditure Report within 24 hours of making the expenditure.

WHERE TO FILE

The 465 is filed with the City Clerk if the candidate or measure supported or opposed is a City of San Diego candidate or measure.

Form 496

Independent Expenditure Report
(24 hour reporting period)

GENERAL INFORMATION

A general purpose recipient committee files a Form 496 if it makes independent expenditures cumulatively totaling $1,000 or more to support or oppose a single City of San Diego candidate or a single City of San Diego ballot measure during the 90 days prior to the election.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

Once the committee has reached the cumulative $1,000 threshold, it will report all independent expenditures made during the 90 day period supporting or opposing the candidate or measure, including those that were less than $1,000. After an initial Form 496 has been filed, a subsequent Form 496 will be required each time the committee makes independent expenditures aggregating $1,000 or more in support of, or opposition to, the same candidate or measure.

If a political party pays for a member communication supporting a candidate during the 90 days prior to that candidate being on the ballot, and the payment is not made at the behest of the candidate, it must report the payment on a Form 496.

WHEN TO FILE

File the Form 496 within 24 hours of making independent expenditures cumulatively totaling $1,000 or more to support or oppose

a single candidate or ballot measure during the 90 days prior to the election.
An independent expenditure is made on the date the communication is mailed, broadcast, or otherwise disseminated to the public. A committee making an ongoing independent expenditure (e.g., canvassers targeting district households over the course of a week) may estimate the total cost and disclose that amount on a single Form 496 filed within 24 hours of commencing the effort. The Form 496 may be amended later if the estimated amount needs to be adjusted.

NOTE: The Form 496 must be filed within 24 hours regardless of the day of the week. An independent expenditure made on a Saturday, for example, must be reported by Sunday.

WHERE TO FILE

The Form 496 must be filed with the City Clerk if the independent expenditure is supporting or opposing a City candidate or measure.

The form must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form must be filed by fax, guaranteed overnight delivery, or personal delivery. Regular mail may not be used.

Form 497
Contribution Report
(24 hour reporting period)

GENERAL INFORMATION

A state or county general purpose recipient committee must file a Form 497 if, during the 90 days prior to an election, it makes a contribution of $1,000 or more, or multiple contributions aggregating $1,000 or more, to a candidate on the ballot, a primarily formed recipient committee ("candidate" or "ballot measure") involved in the election, or a political party.

NOTE: Except for political party committees, general purpose recipient committees may not make contributions (in any amount) to City of San Diego candidates. Restrictions applicable to candidates in other jurisdictions are outside the scope of this manual.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

The 1,000 threshold is cumulative. Any contributions made during the 90 day period, even if less than $1,000, must be reported on a Form 497 if the cumulative $1,000 threshold is ultimately reached (for a single candidate or committee) during that period.

If a political party pays for a member communication supporting a candidate during the 90 days prior to that candidate being on the ballot, and the payment is made at the behest of the candidate, it must report the payment on a Form 497.

Contributions made to another general purpose recipient committee do not trigger the filing of a Form 497 unless the other general purpose recipient committee is a political party.

A contribution received by a City general purpose recipient committee does not trigger the filing of a Form 497.

WHEN TO FILE

The filing must take place within 24 hours of making the contribution.

A contribution is made on the date the contribution is mailed, delivered, or otherwise transmitted to a candidate or committee.

For non-monetary contributions, the committee must also notify the recipient of the value of the contribution within 24 hours (no particular form must be used).

NOTE: If the filing deadline for a Form 497 falls on a weekend or official holiday, it is generally extended to the next business day. This extension does not apply, however, when the due date falls on a Saturday, Sunday, or official holiday immediately prior to an election.

WHERE TO FILE

State committees file the Form 497 with the Secretary of State. County committees file the Form 497 with the applicable county filing official.

State and county committees have no obligation to file the Form 497 with the City Clerk even if the contribution is made to support or oppose a candidate or measure in the City of San Diego. Note, however, that local committees receiving such contributions must file the Form 497 with the City Clerk.

Electronic Filing

Every general purpose committee that has received contributions or made expenditures totaling $10,000 in connection with one or more City of San Diego elections must electronically report independent expenditures made to support or oppose City of San Diego candidates and ballot measures on Forms 465 and 496 using the City Clerk's electronic filing system.

A committee that has reached the $10,000 threshold must continue to file electronically until it has terminated.

Committees that have not reached the $10,000 threshold may file electronically on a voluntary basis.

A committee that has filed a Form 465 or 496 electronically is not required to also file that statement in paper format or to fax it to the City Clerk.

Contact the City Clerk's Office for additional information regarding its electronic filing system.

Chapter 6
"City" Independent Expenditure Committees

This chapter focuses on independent expenditure committees that spend most of their money supporting or opposing City of San Diego candidates and/or ballot measures.

A City independent expenditure committee is an individual or entity that (a) uses its own funds to make contributions or expenditures to support or oppose candidates or measures voted on only in the City of San Diego that total more than 70 percent of the contributions and expenditures made by the committee during the calendar year; and (b) is not a state independent expenditure committee.

If an independent expenditure committee makes <u>any amount</u> of contributions or expenditures on state candidates or measures, it is a state independent expenditure committee.

An individual or entity will become an independent expenditure committee if it makes independent expenditures totaling $1,000 or more in a calendar year using its own money. This type of committee does not accept contributions from others. As a result, they are subject to rules that are different from those that apply to the recipient committees discussed in Chapters 2 through 5 of this manual.

Although independent expenditure committees typically focus on making independent expenditures to support or oppose a candidate or ballot measure, they may also make contributions to other committees (but not to City candidates).

Note that if a committee makes contributions totaling $10,000 or more in a calendar year, it may be considered a major donor committee. Contact the FPPC for assistance with major donor committee filing obligations.

Refer to the rules in Chapter 1 for determining whether a committee is, or is not, a City independent expenditure committee. Keep in mind that if a City committee spends significant sums on county races or on races in other cities or jurisdictions in the county, it may become a county independent expenditure committee. As mentioned above, if it spends any amount of money on state races, it will become a state independent expenditure committee.

A City independent expenditure committee must recalculate the applicable percentage quarterly at the end of March, June, September, and December, unless it spent less than $5,000 to support or oppose candidates and measures in that quarter. Independent expenditure committees are required to consider only the contributions and expenditures made during the calendar year.

NOTE: Independent expenditure committees terminate automatically at the end of each calendar year. Activity from one calendar year does not trigger filing in another calendar year.

Naming Requirements

When identifying the committee name on campaign statements, use the legal name of the individual or entity making the independent expenditure. If the filer is an entity commonly known to the public by another name, that name may be used.

Limits and Prohibitions

Independent expenditure committees do not accept donations from others for political purposes. If a committee accepts donations of $1,000 or more, it is no longer an "independent expenditure committee" and must thereafter file campaign statements as a recipient committee.

As indicated above, independent expenditure committees may not make contributions to a City candidate. Nor may they make expenditures at the request, suggestion, or direction of, or in cooperation, consultation, concert or coordination with, a City candidate. Such expenditures are not considered "independent"; they are instead treated as an unlawful in-kind (non-monetary) contribution to the candidate.

Filing Official

The San Diego City Clerk is the primary filling official for this type of committee. Most of the committee's campaign statements will be filed solely with the City Clerk. If, however, the committee makes independent expenditures in another jurisdiction, it may have to file reports with the filing official in that jurisdiction.

NOTE: If a City of San Diego independent expenditure committee qualifies as another type of committee later in the calendar year (e.g., it becomes a County committee), it must continue to file copies of the Form 461 with the City Clerk until the end of the calendar year.

Typical Filings with the City Clerk

Form 461 – semi-annual activity

Form 461 – pre-election activity

Form 465 – independent expenditures made

Form 496 – independent expenditures made during the 90 days prior to the election

EXAMPLE: A local retail establishment decides to support a ballot measure appearing on the November 2016 ballot. On October 6, 2016, it unveils a $2,500 billboard supporting the measure. As a City independent expenditure committee, it must file the following campaign statements:

- ✓ a Form 496 within 24 hours of the billboard's appearance;
- ✓ a pre-election Form 461 by October 27, 2016;
- ✓ a Form 465 by October 27, 2016; and,
- ✓ a semi-annual Form 461 by January 31, 2017.

Campaign Statements

The following are general filing rules applicable to City of San Diego independent expenditure committees.

Form 461

Independent Expenditure Committee Campaign Statement (semi-annual report)

GENERAL INFORMATION

City independent expenditure committees file the Form 461 to report contributions and independent expenditures made during the semi-annual period.

The Form 461 filing requirement is not triggered until the committee has reached the $1,000 threshold in a calendar year. For example, spending a total of $900 on independent expenditures supporting various City candidates and measures from January 1 through June 30 does not trigger the filing of a Form 461, but spending another $100 in July would require the filing of a Form 461 covering all independent expenditures made during the year.

WHEN TO FILE

The filing dates for the Form 461 depend on when the entity qualifies as an "independent expenditure committee" (reaches the $1,000 threshold) and when it makes independent expenditures, as explained in the following paragraphs.

If an entity qualifies as an independent expenditure committee during the first six months of the year, the Form 461 is due no later than July 31, covering the period January 1 through June 30. If it makes any additional contributions or independent expenditures after June 30, it will file another Form 461 no later than January 31 of the following year, covering the period from July 1 through December 31. If it does not make any additional contributions or independent expenditures after June 30, no other Form 461 is required.

If an entity or individual qualifies as an independent expenditure committee during the second six months of the year, its Form 461 will be due no later than January 31, covering the period January 1 through December 31 of the prior year.

EXAMPLE: In February of 2016, Alison Bailey spends $400 to distribute flyers to support City candidate Noah Solloway, who is on the June ballot. In April, Ms. Bailey spends $450 to display a poster opposing Proposition F, a ballot measure also on the June ballot. A few days before the election, she spends $150 to distribute more flyers supporting Solloway. Ms. Bailey will report all of these payments on a Form 461 by August 1, 2016. (Because she didn't spend $500 during a pre-election period, she needn't file any pre-election statements; see the next section for information regarding pre-election statements.)

WHERE TO FILE

The semi-annual Form 461 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline).

Form 461
Independent Expenditure Committee Campaign Statement (pre-election report)

GENERAL INFORMATION

City independent expenditure committees must file a pre-election statement if they make independent expenditures or contributions that total $500 or more during a pre-election period.

EXAMPLE: In February of 2016, Mid City Wireless spends $1,600 to print and distribute door hangers supporting Bruce Leigh, a candidate on the City's June 2016 ballot. Mid City Wireless will report the $1,600 expenditure on a pre-election Form 461 filed before March 22, 2016, the filing deadline for the first pre-election period. (Mid City Wireless will also file a Form 465 by the same date; see next section for more information.)

If the pre-election statement is the committee's first Form 461, the reporting period begins January 1. Otherwise, this date should be the day after the closing date of the most recently filed Form 461.

WHEN TO FILE

File by the applicable pre-election filing deadline. Refer to the chart near the end of the chapter for a schedule of 2016 pre-election filing deadlines.

WHERE TO FILE

The pre-election Form 461 must be filed with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline).

Form 462
Verification of Independent Expenditures

GENERAL INFORMATION

Independent expenditure committees must submit this form in conjunction with making independent expenditures in connection with a candidate or ballot measure election.

The form must be signed by a principal officer of the committee. The purpose of the form is for the committee to verify that it is not coordinating its independent expenditures with the affected candidate or his or her opponent or with the proponent of a state ballot measure.

WHEN TO FILE

The report is required within 10 days from the date of an independent expenditure that totals, in the aggregate, $1,000 or more to support or oppose a candidate or measure in a calendar year.

Note that committees are required to identify particular candidates and measures on a Form 462 only once per election. For example if a committee makes an independent expenditure to support a candidate in the 2016 primary election, it will submit a Form 462 to identify that candidate, but needn't file another Form 462 if it makes additional independent expenditures for the same candidate for the same election. If, however, the committee makes an independent expenditure for the same candidate for the 2016 general election, it must submit another Form 462 identifying that candidate.

WHERE TO FILE

This Form 462 is filed with the Fair Political Practices Commission by e-mail (form462@fppc.ca.gov). The originally signed form must be maintained with the committee's campaign records.

Please contact the FPPC (866-275-3772) for additional information concerning the Form 462.

Form 465
Supplemental Independent Expenditure Report

GENERAL INFORMATION

A City independent expenditure committee files a Form 465 if it makes independent expenditures totaling $1,000 or more in a calendar year to support or oppose a single candidate or a single measure.

The Form 465 is required to be filed in addition to any other pre-election, semi-annual, or independent expenditure report that must be filed.

The filing requirement is not triggered until the committee has reached the $1,000 calendar year threshold for a single candidate or measure. For example,

spending $900 on an independent expenditure supporting a candidate through the first pre-election period would not trigger the filing of a Form 465, but spending $100 on an independent expenditure for the same candidate during the second pre-election period would require filing a Form 465 that discloses both independent expenditures.

If a communication lists more than one candidate or measure, apportion the costs of the communication to determine the amount spent to support each particular candidate or measure. A separate Form 465 is required for each candidate or measure for which $1,000 or more was spent.

The "period covered" begins the day after the closing date of the most recent Form 465 filed related to the candidate or ballot measure supported or opposed. If no previous Form 465 has been filed, the reporting period begins on January 1 of the current calendar year.

WHEN TO FILE

The 465 is filed at the same time that the applicable candidate or ballot measure committee files a Form 460.

EXAMPLE: Frida Murtz is running for a City Council seat in the June 2016 primary election. Southwest Homes decides to support Murtz's campaign by paying $2,000 to have a plane fly a "Vote for Murtz" banner over City parks and beaches. It makes this independent expenditure during the second pre-election period. Southwest Homes will report the payment on a Form 465 (and on a Form 461) filed by May 26, 2016, the second pre-election filing deadline.

Note that candidates file Forms 460 semi-annually and pursuant to a pre-election filing schedule. Ballot measure committees file quarterly, semi-annually, and pursuant to a pre-election filing schedule. For specific filing dates, refer to the deadlines that are set out near the end of this chapter.

If the independent expenditure is made during the 90 days prior to the election, the committee will also report the expenditure on a Form 496 Independent Expenditure Report within 24 hours of making the expenditure.

WHERE TO FILE

Committees subject to electronic filing requirements must file the Form 465 with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline).

Form 496

Independent Expenditure Report
(24 hour reporting period)

GENERAL INFORMATION

A City independent expenditure committees files a Form 496 if it makes independent expenditures cumulatively totaling $1,000 or more to support or oppose a single candidate or measure during the 90 days prior to the election.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

EXAMPLE: A month before the June primary election, Millennium Manufacturing makes a $1,200 payment to a slate mailer organization to support a City ballot measure that will be listed on a slate mailer distributed throughout the City. Separate and distinct from any filings by the slate mailer organization, Millennium Manufacturing must file a Form 496 with the City Clerk within 24 hours of "making" the independent expenditure (in addition to filing Forms 461 and 465 by the applicable deadline, as described earlier in this chapter).

NOTE: When making a payment to a slate mailer organization, the independent expenditure is "made" when the payment is delivered, not when the slate mailer is distributed.

This form is filed in addition to any required pre-election or semi-annual campaign statements. Independent expenditures must also be disclosed on the committee's next campaign statement (Form 461), and on the Supplemental Independent Expenditure Report (Form 465).

Once the committee has reached the cumulative $1,000 threshold, it will report all independent expenditures made during the 90 day period supporting or opposing the candidate or measure, including those that were less than $1,000. After an initial Form 496 has been filed, a subsequent Form 496 will be required each time the committee makes independent expenditures aggregating $1,000 or more in support of, or opposition to, the same candidate or measure.

WHEN TO FILE

File the form within 24 hours of making independent expenditures that cumulatively total $1,000 or more to support or oppose a single candidate or a single ballot measure during the 90 days prior to the candidate's or measure's election.

An independent expenditure is made on the date the communication is mailed, broadcast, or otherwise disseminated to the public. A committee making an ongoing independent expenditure (e.g., canvassers targeting district households over the course of a week) may estimate the total cost and disclose that amount on a single Form 496 filed within 24 hours of commencing the effort. The Form 496 may be amended later if the estimated amount needs to be adjusted.

NOTE: The Form 496 must be filed within 24 hours regardless of the day of the week. An independent expenditure made on a Saturday, for example, must be reported by Sunday.

WHERE TO FILE

The Form 496 must be filed with the City Clerk if the independent expenditure is supporting or opposing a City candidate or measure.

The form must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form must be filed by fax, guaranteed overnight delivery, or personal delivery. Regular mail may not be used.

Form 497
Contribution Report
(24 hour reporting period)

GENERAL INFORMATION

This report is required when an independent expenditure committee makes contributions cumulatively totaling $1,000 during the 90 day period prior to the election.

NOTE: Independent expenditure committees may not make contributions (in any amount) to City of San Diego candidates. Restrictions applicable to candidates in other jurisdictions are outside the scope of this manual.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

The 1,000 threshold is cumulative. Any contributions made during the 90 day period, even if less than $1,000, must be reported on a Form 497 if the cumulative $1,000 threshold is ultimately reached (for a single candidate or committee) during that period.

Although independent expenditure committees typically make only independent expenditures, they may also make contributions to other committees and to candidates in other jurisdictions. Note that if an entity makes contributions totaling $10,000 or more in a calendar year it may become a "major donor committee" (consult the FPPC for additional guidance).

In particular, an independent expenditure committee must file a Form 497 if it:

- makes contributions aggregating $1,000 or more to a candidate or to a primarily formed recipient committee ("candidate" or "ballot measure") during the 90 days before the election on which the applicable candidate or ballot measure is on the ballot; or

- makes contributions totaling $1,000 or more to a state or county political party committee during the 90 days before a state election.

EXAMPLE: Bay Electric became an independent expenditure committee when it spent $5,000 on a billboard urging support for Proposition C on the City's June ballot. Ten days before the election, San Diego Citizens for Stronger Neighborhoods Yes on C asks Bay Electric to help offset the costs of a pro-Prop C statement on a slate mailer. Bay Electric agrees to the committee's request and makes a $1,600 payment to the slate mailer organization.

Because Bay Electric's payment was made at the behest of a committee, it is considered a non-monetary contribution to that committee. Bay Electric will file a Form 497 with the City Clerk within 24 hours of making the payment, stating that it made a $1,600 non-monetary contribution to San Diego Citizens for Stronger Neighborhoods Yes on C.

Note that if a City independent expenditure committee makes any amount of contributions or expenditures during the calendar year to support or oppose candidates or measures voted on in state elections, including contributions to other state committees, it will become a state independent expenditure committee. See Chapter 7 for more details regarding this type of committee.

Contributions reported on a Form 497 must also be disclosed on the committee's next campaign statement (Form 461).

EXAMPLE: In the above example, Bay Electric will also file a Form 461 to report its independent expenditure as well as the non-monetary contribution, and will do so by the semi-annual filing deadline following the election.

For non-monetary contributions, the committee must also notify the recipient of the value of the contribution within 24 hours (no particular form must be used).

EXAMPLE: In the above example, Bay Electric will notify San Diego Citizens for Stronger Neighborhoods Yes on C of the non-monetary contribution (the payment to the slate mailer organization at the committee's request) within 24 hours.

If a contribution is made to a City primarily formed recipient committee during the 90 day pre-election period, that recipient committee must file its own Form 497 (within 24 hours if it is a monetary contribution and within 48 hours if it is a non-monetary contribution) with the City Clerk to report its receipt of the contribution from the independent expenditure committee.

EXAMPLE: In the above example, San Diego Citizens for Stronger Neighborhoods Yes on C will file a Form 497 to disclose its receipt of the non-monetary contribution within 48 hours of Bay Electric making the payment to the slate mailer organization.

The 1,000 threshold is cumulative. Any contributions made during the 90 day period, even if less than $1,000, must be reported on a Form 497 if the cumulative $1,000 threshold is ultimately reached (for a single candidate or committee) during that period.

WHEN TO FILE

File the form within 24 hours of making a $1,000 contribution.

A contribution is made on the date the contribution is mailed, delivered, or otherwise transmitted to a candidate or committee.

NOTE: If the filing deadline for a Form 497 falls on a weekend or official holiday, it is generally extended to the next business day. This extension does not apply, however, when the due date falls on a Saturday, Sunday, or official City holiday immediately prior to the election.

WHERE TO FILE

File the form with the City Clerk (the same filing official where the committee regularly files its Form 461s). Thus, the committee will file the Form 497 with the City Clerk even if the contribution is intended to support or oppose a candidate measure in a different jurisdiction. If the contribution is made to another primarily formed recipient committee, the other committee must file its own Form 497 to report its receipt of the contribution.

The Form 497 must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form must be filed by fax, guaranteed overnight delivery, or personal delivery. Regular mail may not be used.

Specific Filing Deadlines

City independent expenditure committees file a Form 461 when they reach a monetary threshold during a pre-election or semi-annual reporting period. In conjunction with the applicable rules set forth earlier in this chapter, use the following dates for guidance.

2015 Campaign Activity

1st semi-annual period
reporting period: 1/1/15 – 6/30/15
filing deadline: 7/31/15

2nd semi-annual period
reporting period: 7/1/15 – 12/31/15
filing deadline: 2/1/16

2016 Campaign Activity

1st primary election pre-election period
reporting period: 1/1/16 – 3/17/16
filing deadline: 3/22/16

2nd primary election pre-election period
reporting period: 3/18/16 – 5/21/16
filing deadline: 5/26/16

1st semi-annual period
reporting period: 1/1/16 – 6/30/16
filing deadline: 8/1/16

1st general election pre-election period
reporting period: 7/1/16 – 9/30/16
filing deadline: 10/5/16

2nd general election pre-election period
reporting period: 10/1/16 – 10/22/16
filing deadline: 10/27/16

2nd semi-annual period
reporting period: 7/1/16 – 12/31/16
filing deadline: 1/31/17

Independent expenditure committees must also file a Form 465 in accordance with any of the above reporting periods in which it makes an independent expenditure.

NOTE: These deadlines are in addition to the 24-hour filing deadlines for Forms 496 and 497, which are discussed earlier in this chapter.

Electronic Filing

Every City independent expenditure committee that has made expenditures totaling $10,000 in connection with a City of San Diego election must file its campaign statements using the City Clerk's electronic filing system.

A committee that has reached the $10,000 threshold must continue to file electronically until it has terminated.

Committees that have not reached the $10,000 threshold may file electronically on a voluntary basis.

A committee that has filed a campaign statement electronically is not required to also file that statement in paper format.
All of the campaign statements discussed in this Chapter may be filed electronically.

Contact the City Clerk's Office for additional information regarding its electronic filing system.

Chapter 7
State & County Independent Expenditure Committees

This chapter focuses on independent expenditure committees that make most of their political expenditures outside the City of San Diego, but do participate to some extent in City of San Diego elections.

Because these committees file most of their campaign statements (the Form 461 in particular) with filing officers in other jurisdictions, this chapter is not intended to provide comprehensive guidance regarding their overall filing obligations. Instead, it focuses on the rules and filing guidelines directly related to their participation in City of San Diego elections.

A state independent expenditure committee is a committee that makes any amount of contributions or expenditures to support or oppose candidates or measures voted on in state elections (including making contributions to other state committees).

A county independent expenditure committee is a committee that (a) uses its own funds to make contributions or expenditures to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county, that total more than 70 percent of the contributions and expenditures made by the committee during the calendar year; and (b) is not a state independent expenditure committee.

An individual or entity will become an independent expenditure committee if it makes independent expenditures totaling $1,000 or more in a calendar year. Independent expenditure committees spend their own money; they do not solicit or accept political contributions from others, and thus they are subject to rules that are different from those that apply to the recipient committees discussed in Chapters 2 through 5 of this manual.

Although independent expenditure committees typically focus on making independent expenditures to support or oppose a candidate or ballot measure, they may also make contributions (except that only individuals and political parties may make contributions to City of San Diego candidates). Note that if a committee makes contributions totaling $10,000 or more in a calendar year, it may be considered a major donor committee. Contact the FPPC for assistance with major donor committee filing obligations.

NOTE: The rules in this chapter also apply to a city independent expenditure committee in situations where the "city" is not the City of San Diego. Because such committees do not typically participate in City of San Diego elections, this chapter will discuss the applicable rules only in the context of state and countv committees.

Refer to the rules in Chapter 1 for determining whether a committee is, or is not, a state, county, or city independent expenditure committee. Keep in mind that if a committee spends significant sums on races in other jurisdictions, its committee type may change (e.g., a county committee could become a city committee).

Committees must recalculate the applicable percentage quarterly at the end of March, June, September, and December, unless it spent less than $5,000 to support or oppose candidates and measures in that quarter. Independent expenditure committees are required to consider only

the contributions and expenditures made during the calendar year.

NOTE: Independent expenditure committees terminate automatically at the end of each calendar year. Activity from one calendar year does not trigger filing in another calendar year.

Limits and Prohibitions

Independent expenditure committees do not accept donations from others for political purposes. If a committee accepts donations of $1,000 or more, it is no longer an "independent expenditure committee" and must thereafter file campaign statements as a recipient committee.

As indicated above, independent expenditure committees may not make contributions to a City candidate. Nor may they make expenditures at the request, suggestion, or direction of, or in cooperation, consultation, concert or coordination with, a City candidate. Such expenditures would not be considered "independent"; they would instead be treated as an unlawful in-kind (non-monetary) contribution to the candidate.

Filing Official

The San Diego City Clerk is not the primary filling official for this type of committee. Instead, these committees file most of their campaign statements with filing officers in their respective jurisdictions. Nevertheless, as indicated above, state and county independent expenditure committees must file some campaign statements with the City Clerk when participating in City of San Diego elections.

In particular, they are required to file a Form 465 with the City Clerk if they spend $1,000 or more to support or oppose a City of San Diego candidate or ballot measure. They are also required to file a Form 496 with the City Clerk if they spend $1,000 or more to support or oppose a City of San Diego candidate or ballot measure during the 90 days preceding the election.

Typical Filings with the City Clerk

Form 465 – independent expenditures made

Form 496 – independent expenditures made during the 90 days prior to the election

EXAMPLE: A Los Angeles corporation active in campaigns throughout the state decides to support a candidate appearing on the City's November 2016 ballot. On October 15, 2016, it spends $5,000 on mailers supporting the candidate. In addition to any other forms it must file outside the City of San Diego, this independent expenditure committee must file the following campaign statements with the City Clerk:

- ✓ a Form 496 within 24 hours of the mailers being distributed; and,
- ✓ A Form 465 by October 27, 2016.

Campaign Statements

The following are general filing rules applicable to state and county independent expenditure committees.

Form 462
Verification of Independent Expenditures

GENERAL INFORMATION

State and county independent expenditure committees must submit this form in conjunction with making independent

expenditures in connection with a candidate or ballot measure election.
The form must be signed by a principal officer of the committee. The purpose of the form is for the committee to verify that it is not coordinating its independent expenditures with the affected candidate or his or her opponent or with the proponent of a state ballot measure.

WHEN TO FILE

The report is required within 10 days from the date of an independent expenditure that totals, in the aggregate, $1,000 or more to support or oppose a candidate or measure in a calendar year.

Note that committees are required to identify particular candidates and measures on a Form 462 only once per election. For example if a committee makes an independent expenditure to support a candidate in the 2016 primary election, it will submit a Form 462 to identify that candidate, but needn't file another Form 462 if it makes additional independent expenditures for the same candidate for the same election. If, however, the committee makes an independent expenditure for the same candidate for the 2016 general election, it must submit another Form 462 identifying that candidate.

WHERE TO FILE

This Form 462 is filed with the Fair Political Practices Commission by e-mail (form462@fppc.ca.gov). The originally signed form must be maintained with the committee's campaign records.

Please contact the FPPC (866-275-3772) for additional information concerning the Form 462.

Form 465

Supplemental Independent Expenditure Report

GENERAL INFORMATION

State and county independent expenditure committees file a Form 465 if they make independent expenditures totaling $1,000 or more in a calendar year to support or oppose a single City candidate or a single City measure.

The filing requirement is not triggered until the independent expenditure committee has reached the $1,000 threshold in a calendar year for a single candidate or measure. For example, spending $900 on an independent expenditure supporting a candidate through the first pre-election period would not trigger the filing of a Form 465, but spending $100 on an independent expenditure for the same candidate during the second pre-election period would require filing a Form 465 that discloses both sets of independent expenditures.

If a communication lists more than one candidate or measure, apportion the costs of the communication to determine the amount spent to support each particular candidate or measure. A separate Form 465 is required for each candidate or measure for which $1,000 or more was spent.

The "period covered" begins the day after the closing date of the most recent Form 465 filed related to the candidate or ballot measure supported or opposed. If no previous Form 465 has been filed, the reporting period begins on January 1 of the current calendar year.

WHEN TO FILE

The 465 is filed at the same time that the applicable candidate or ballot measure committee files a Form 460.

EXAMPLE: Rayna Tannehill is running for a City Council seat in the June 2016 primary election. California Construction opposes Tannehill by paying $1,500 for door hangers criticizing Tannehill's qualifications. It makes this independent expenditure during the second pre-election period. California Construction will report the payment on a Form 465 (and on a Form 461) filed by May 26, 2016, the second pre-election filing deadline.

Note that candidates file Forms 460 semi-annually and pursuant to a pre-election filing schedule. Ballot measure committees file quarterly, semi-annually, and pursuant to a pre-election filing schedule. Refer to the filing schedules in Chapters 2 and 3 for the Form 460 filing deadlines applicable to candidate committees and ballot measure committees.

If the independent expenditure is made during the 90 days prior to the election, the committee will also report the expenditure on a Form 496 Independent Expenditure Report within 24 hours of making the expenditure.

WHERE TO FILE

Committees subject to electronic filing requirements must file the Form 465 with the City Clerk's electronic filing system if the committee is a mandatory electronic filer. Otherwise, the form may be filed with the City Clerk's Office in person or through the mail (post-marked on or before the deadline).

Form 496

Independent Expenditure Report
(24 hour reporting period)

GENERAL INFORMATION

An independent expenditure committee files a Form 496 if it makes independent expenditures cumulatively totaling $1,000 or more to support or oppose a single candidate or measure during the 90 days prior to the election.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

EXAMPLE: A month before the November general election, the San Diego County Energy Coalition spends $2,500 on a mailer supporting Mayoral candidate Luther Bell. This entity must file a Form 496 with the City Clerk within 24 hours of making the independent expenditure (in addition to its other filing obligations, which include the Form 465 described earlier in this chapter).

Independent expenditures must also be disclosed on the committee's next campaign statement (Form 461, filed with the committee's primary filing officer), and on the Supplemental Independent Expenditure Report (Form 465, filed with the City Clerk).

Once the committee has reached the cumulative $1,000 threshold, it will report all independent expenditures made during the 90 day period supporting or opposing the candidate or measure, including those that were less than $1,000. After an initial Form 496 has been filed, a subsequent Form 496 will be required each time the committee

makes independent expenditures aggregating $1,000 or more in support of, or opposition to, the same candidate or measure.

WHEN TO FILE

Within 24 hours of making independent expenditures that cumulatively total $1,000 or more to support or oppose a single City of San Diego candidate or a single City of San Diego ballot measure during the 90 days prior to the candidate's or measure's election.

An independent expenditure is made on the date the communication is mailed, broadcast, or otherwise disseminated to the public. A committee making an ongoing independent expenditure (e.g., canvassers targeting district households over the course of a week) may estimate the total cost and disclose that amount on a single Form 496 filed within 24 hours of commencing the effort. The Form 496 may be amended later if the estimated amount needs to be adjusted.

NOTE: The Form 496 must be filed within 24 hours regardless of the day of the week. An independent expenditure made on a Saturday, for example, must be reported by Sunday.

WHERE TO FILE

The Form 496 must be filed with the City Clerk if the independent expenditure is supporting or opposing a City candidate or measure.

The form must be filed electronically if the committee is a mandatory electronic filer. Otherwise, the form must be filed by fax, guaranteed overnight delivery, or personal delivery. Regular mail may not be used.

Form 497

Contribution Report
(24 hour reporting period)

GENERAL INFORMATION

This report is required when an independent expenditure committee makes contributions cumulatively totaling $1,000 during the 90 day period prior to the election.

NOTE: Independent expenditure committees may not make contributions (in any amount) to City of San Diego candidates. Restrictions applicable to candidates in other jurisdictions are outside the scope of this manual.

For the 2016 primary election, the 90 day period begins on March 9, 2016. For the 2016 general election, the 90 day period begins on August 10, 2016.

Although independent expenditure committees typically make only independent expenditures, they may also make contributions to other committees and to candidates in other jurisdictions. Note that if an entity makes contributions totaling $10,000 or more in a calendar year it may become a "major donor committee" (consult the FPPC for additional guidance). If an independent expenditure committee makes contributions, it may have to file a Form 497, as explained below.

In particular, an independent expenditure committee must file a Form 497 if it:

- makes contributions aggregating $1,000 or more to a candidate or to a primarily formed recipient committee ("candidate" or "ballot measure") during the 90 days before the election on which the applicable candidate or ballot measure is on the ballot; or

- makes contributions totaling $1,000 or more to a state or county political party committee during the 90 days before a state election.

EXAMPLE: Rainbow Manufacturing is a state independent expenditure committee that made a $2,500 contribution to a committee primarily formed to support a City candidate on the June ballot. It made the contribution a month before the election. Rainbow Manufacturing will file a Form 497 with the Secretary of State within 24 hours of making the contribution.

The 1,000 threshold is cumulative. Any contributions made during the 90 day period, even if less than $1,000, must be reported on a Form 497 if the cumulative $1,000 threshold is ultimately reached (for a single candidate or committee) during that period.

WHEN TO FILE

The filing must take place within 24 hours of making the contribution.

A contribution is made on the date the contribution is mailed, delivered, or otherwise transmitted to a candidate or committee.

For non-monetary contributions, the committee must also notify the recipient of the value of the contribution within 24 hours (no particular form must be used).

NOTE: If the filing deadline for a Form 497 falls on a weekend or official holiday, it is generally extended to the next business day. This extension does not apply, however, when the due date falls on a Saturday, Sunday, or official holiday immediately prior to an election.

WHERE TO FILE

State committees file the Form 497 with the Secretary of State. County committees file the Form 497 with the applicable county filing official.

These committees have no obligation to file the Form 497 with the City Clerk even if the contribution is made to support or oppose a candidate or measure in the City of San Diego; the local committees receiving the contribution will file a Form 497 with the City Clerk instead.

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Electronic Filing

State and county independent expenditure committees that have made expenditures totaling $10,000 in connection with one or more City of San Diego elections must electronically report independent expenditures made to support or oppose City of San Diego candidates and ballot measures on Forms 465 and 496 using the City Clerk's electronic filing system.

A committee that has reached the $10,000 threshold must continue to file electronically until it has terminated.

Committees that have not reached the $10,000 threshold may file electronically on a voluntary basis.

A committee that has filed a Form 465 or 496 electronically is not required to also file that statement in paper format or to fax it to the City Clerk.

Contact the City Clerk's Office for additional information regarding its electronic filing system.

Chapter 8
Making Independent Expenditures in the City of San Diego

Under the City's campaign laws, the committees discussed in this manual (except for political party committees) are not permitted to make contributions to City candidates. Therefore, as a general rule, primarily formed recipient committees, general purpose recipient committees, and independent expenditure committees may not make monetary contributions to a City candidate, may not provide non-monetary contributions to a City candidate, and may not make any kind of payment to anyone else at the behest of a City candidate.

Instead of making contributions, the committees discussed in this manual will typically make independent expenditures to advocate for or against City candidates. This chapter provides guidance with respect to what is, and what is not, an independent expenditure in a City of San Diego candidate election.

At the Behest

An independent expenditure is a payment for a communication that expressly advocates the election or defeat of a clearly identified candidate when the communication is not coordinated with or made "at the behest" of the affected candidate or committee.

A communication is "made at the behest of" a candidate when it is made:

- ✓ under the control of the candidate or candidate's agent;
- ✓ at the direction of the candidate or candidate's agent;
- ✓ in cooperation with the candidate or candidate's agent;
- ✓ in consultation with the candidate or candidate's agent;
- ✓ in coordination with the candidate or candidate's agent;
- ✓ in concert with the candidate or candidate's agent;
- ✓ at the request or suggestion of the candidate or candidate's agent; or
- ✓ with the express prior consent of the candidate or candidate's agent.

A committee is making a payment "at the behest" of a candidate if the candidate or candidate's agent discusses with the committee any decisions regarding a communication's:

- ✓ content;
- ✓ timing;
- ✓ location;
- ✓ mode;
- ✓ intended audience;
- ✓ volume of distribution; or
- ✓ frequency of placement.

A payment made at the behest of a candidate is not "independent" of the candidate, and is therefore not considered an "independent expenditure." It is instead considered a contribution to the candidate. As stated above, the committees discussed in this manual (other than political party committees) are not permitted to make contributions to City candidates.

EXAMPLE: Grace McGuffin is running for City Council and mentions to friends at a social gathering that she has insufficient campaign funds to pay for mailers attacking her opponent's record on tax increases. Roger Thornhill is one of McGuffin's friends at the event. After listening to McGuffin, he spends $5,000 to pay for mailers attacking the opponent's record on tax increases. In doing this, Thornhill has made an unlawful in-kind contribution to Grace McGuffin.

When a committee makes a payment that advocates for or against a City candidate, it is presumed that the payment is not "independent" if:

- ✓ it is based on information about the candidate's campaign needs or plans that the candidate has provided to the committee, or
- ✓ it is made by or through an agent of the candidate in the course of the agent's involvement in the current campaign, or
- ✓ the committee retains the services of a person who provides the candidate with professional services related to campaign or fundraising strategy for that election, or
- ✓ the communication duplicates, in whole or in substantial part, a communication designed, produced, paid for, or distributed by the candidate.

EXAMPLE: Wally Huston is running for City Council and has employed Lena Dietrich to provide consulting services for his campaign. The Hoover Society would like to support Huston so they hire Dietrich to oversee design and distribution of a campaign mailer. Because Dietrich is providing consulting services to both the candidate and the Hoover Society, there will be a presumption that the mailers disseminated by the Hoover Society to support Wally Huston are not "independent," but are instead unlawful in-kind contributions to Huston.

EXAMPLE: Pete Lorry is a campaign volunteer for Sid Greenstreet's City Council campaign committee. Lorry is aware of Greenstreet's campaign strategies and planned expenditures. Lorry is also a member of MoveUp, an organization interested in supporting Greenstreet's campaign. Lorry must avoid any involvement with MoveUp's political expenditures to ensure that MoveUp's expenditures are independent of Greenstreet's committee.

There are many situations in which a connection between a person and a candidate do not rise to the level of coordinating expenditures. An expenditure is not made at the behest of a candidate or committee merely when:

- ✓ the person making the expenditure interviews the candidate on issues without discussing campaign strategy, or
- ✓ the person making the expenditure has obtained a photograph, biography, position paper, press release, or similar material from the candidate or the candidate's agents, or

- ✓ the person making the expenditure has made a contribution to the candidate, or
- ✓ the person making the expenditure is responding to a general, non-specific request for support by the candidate or the candidate's agent, provided that there is no discussion with the candidate or candidate's agent prior to the expenditure relating to details of the expenditure, or
- ✓ the person making the expenditure has invited the candidate to make an appearance before the person's members, employees, shareholders, or the families thereof, provided that there is no discussion with the candidate or candidate's agent prior to the expenditure relating to details of the expenditure, or
- ✓ an expenditure is made at the request or suggestion of the candidate or candidate's agent for the benefit of another candidate or committee.

EXAMPLE: Jim Stewart is running for a Council District seat and is invited to speak at the Aardvark Club's monthly meeting. At the meeting, Stewart discusses his platform and asks for the Aardvark Club's support, but does not provide any details regarding his advertising strategies or needs. After the meeting, the Aardvark Club sends out mailers to residents of Stewart's district. Because Stewart did not provide the Aardvark Club with any information regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the mailers, the Aardvark Club has made an "independent" expenditure.

Duplication of Candidate Materials

Recipient committees may not pay to duplicate a candidate's campaign materials and disseminate them to prospective voters, even in instances where the committee is not coordinating the effort with the candidate. Doing so would constitute the making of an unlawful in-kind contribution to the candidate.

A committee may not, for example, download a candidate's campaign video from YouTube and then pay to air that video as a television commercial. Similarly, a committee may not take a candidate's mail piece, duplicate it, and send it out to additional recipients.

There are a number of exceptions to this prohibition, as follows:

- ✓ written words, phrases, or sentences contained in a candidate's campaign materials (in other words, a committee's advertising may freely use any catch phrases or bullet points contained in a candidate's advertisement);
- ✓ statements made by a candidate while delivering a speech or speaking in public (note that this exception does not allow the committee to use any audio or video recordings made by the candidate);
- ✓ the duplication of three or fewer photographs of the candidate (committees may, of course, use an unlimited number of candidate photographs obtained from sources other than the candidate);
- ✓ an advertisement that clearly advocates the defeat of the candidate; or,

- ✓ an advertisement that is a member communication (i.e., made solely to an organization's members, not to members of the general public)

Note that these rules apply only to situations where the duplication is done without any involvement or cooperation by the candidate. Any advertisement that is created or disseminated at the behest of a candidate is an unlawful in-kind contribution to that candidate, regardless of whether any duplication took place.

Accepting Contributions and Making Expenditures

Recipient committees that make independent expenditures are not subject to contribution limits. Such committees may accept unlimited contributions from individuals and non-individual entities, including business entities and organizations, for the purpose of making independent expenditures.

NOTE: Committees may accept contributions from other committees, but must be careful when accepting contributions from committees that are controlled by a candidate. Candidate-controlled committees are prohibited under state law from making contributions to other committees for the purpose of making independent expenditures supporting or opposing a candidate.

Except as indicated in the note below, there are no limits on the amount of money a committee may spend on independent expenditures to support or oppose a candidate or ballot measure.

NOTE: Candidate-controlled committees may not make expenditures to support that candidate or to support or oppose any other candidate.

Coordination Between Committees

Committees making independent expenditures may exchange information with other such committees regarding campaign advertising, such as when two such committees discuss a scenario in which one committee will pay for mailers and the other committee will pay for a phone bank.

Committees making independent expenditures may also share the costs of campaign advertising. For example, Committee A and Committee B may jointly purchase a campaign mailer if each committee submits a check to the printer for their equal share of the cost of printing the mailer.

If, however, a committee gives anything of value to another committee without receiving full compensation in return, the item of value would be considered a contribution. For example, if Committee A pays for mailers and later receives a check equal to half the cost of the mailers from Committee B, then Committee A has received a contribution from Committee B.

Chapter 9
Campaign Advertising and Advocacy in the City of San Diego

This Chapter is intended to provide guidance to primarily formed recipient committees, general purpose recipient committees, and independent expenditure committees that make expenditures to support or oppose City of San Diego candidates or ballot measures.

Mass Campaign Literature

Mass campaign literature includes mailers, flyers, pamphlets, door hangers, walking cards, posters, yard signs, business cards, campaign buttons 10 inches in diameter or larger, and bumper stickers 60 square inches or larger.

If a committee distributes 200 or more substantially similar items of mass campaign literature in a calendar month, each item must contain the following disclosure: the words "paid for by" immediately followed by the name, street address, and city of the committee paying for the items.

The "paid for by" disclosure must be in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size (or 5% of sign height for yard signs).

A recipient committee distributing the mass campaign literature must identify itself using the same name that appears on the Statement of Organization (Form 410) that it filed with the Secretary of State. It may not use an informal, abbreviated, or past version of its name. In the case of an independent expenditure committee, the name on the campaign literature must be the same name that appears on its Form 461.

A post office box may be used instead of a street address if the committee's street address is a matter of public record with the Secretary of State (i.e., identified on the committee's Form 410).

Note that the Ethics Commission does not regulate the truth or accuracy of the content of mass campaign literature. It has no control over the dissemination of false or misleading information.

The Ethics Commission also does not regulate "paid for by" disclosures on e-mail communications; state law, however, does require such disclosures. See FPPC Regulation 18435(e) for details.

For additional details concerning mass mailing rules, please refer to the "Fact Sheet on Mass Campaign Literature," which is available on the Ethics Commission's website.

Telephone Communications

The City's campaign laws require committees to include a disclosure statement when making substantially similar live or recorded campaign-related telephone calls to 500 or more individuals or households in connection with the same election.

In order to count toward the 500-call threshold, a telephone call must be:

- made to support or oppose a City candidate or City ballot measure, or
- part of a poll that mentions a City candidate or City ballot measure.

The disclosure requirement is triggered as soon as the committee arranges for the placement of calls that will take it to or past the 500-call threshold for a single election. Once a committee knows that it will reach that threshold, it must begin making the disclosure; it may not wait until the 500th call.

Such telephone calls must include a statement that the calls are "paid for by," "authorized by," or are otherwise being made "on behalf of" immediately followed by the name of each committee paying for the resources used for the calls (e.g., the purchase of a contact list, the development of a script, overhead expenses, and telephone charges).

The applicable disclosure is determined by the following criteria:

- a call is "paid for by" a committee when the committee pays directly for the call or pays another person to make the call on its behalf.

- a call is "authorized by" a committee if a person pays for the call at the behest of the committee and that payment is a contribution to the committee.

- a call is made "on behalf of" a committee when it is made by a volunteer at the direction of the committee (even if the committee has paid for a contact list, telephone charges, etc.).

EXAMPLE: A month before the primary election, the California Conservation Coalition, a state general purpose committee, makes an independent expenditure by hiring a "phone bank" company to make 2,000 advocacy calls in support of a City candidate. Each call made by the phone bank to support the candidate must include a statement that the call is "paid for by the California Conservation Coalition."

If the telephone communication is a recording, the disclosure statement must be played at the same speed as the rest of the message. The disclosure statement must be clearly audible and at the same volume as the rest of the call. The disclosure may be made any time during the telephone call. If a person receiving a telephone call asks who paid for the call, the caller may tell the person that the disclosure will be made at the end of the call.

As a result of recent changes to Government Code section 84506, the FPPC has determined that there is a 200 call threshold for "paid for by" disclosures when committees use telephone communications to make independent expenditures (as opposed to the 500 call threshold that still applies to telephone communications made by candidates). The Ethics Commission will continue to enforce ECCO's 500 call threshold, which applies to telephone communications made by candidates and by committees that make independent expenditures. Committees making independent expenditures in the form of 200-499 telephone calls should contact the FPPC (866-275-3772) for additional guidance.

State law also contains prohibitions regarding “robocalls” (calls placed by machines using automatic dialing features). These prohibitions do not fall within the scope of the City’s campaign laws; see California Public Utilities Code sections 2871 through 2876 for more information.

Note that the Ethics Commission does not regulate the truth or accuracy of the content of telephone communications. It has no control over the dissemination of false or misleading information.

For additional details regarding the rules applicable to telephone calls, please refer to the “Fact Sheet on Telephone Communications,” which is available on the Ethics Commission’s website.

Billboards

If a committee pays for an advertisement that appears on a billboard (or other large advertisement at least 30 square feet in size), the advertisement must contain a “paid for by” disclosure that includes the name of the committee paying for the advertisement.

EXAMPLE: The committee No on F, Stop the Stadium, sponsored by the Downtown Owners Association purchases a billboard to urge voters to vote against Proposition F. The billboard must contain the words “Paid for by No on F, Stop the Stadium, sponsored by the Downtown Owners Association.”

The size of the disclosure must be at least five percent of the height of the advertisement and printed in a contrasting color. The height requirement applies to the height of the font used in the disclosure. Accordingly, if a disclosure is spread across multiple lines of text, the height of each line of text in the disclosure must be equal to or greater than five percent of the height of the billboard or sign.

Mass Media Advertisement

Committees must include a “paid for by” disclosure in any advertisement purchased in a newspaper, periodical, or magazine of general circulation.

The “paid for by” disclosure must also appear in any Internet web page advertisement. This disclosure requirement does not apply to the committee’s own website, but instead to websites that sell a portion of their web page for advertising purposes.

NOTE: if a web advertisement is too small to allow the full “paid for by” disclosure, make sure the advertisement contains a link to a webpage clearly displaying that information.

The disclosure must be in the form of “paid for by” followed by the name of the committee, and must be in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size.

EXAMPLE: The committee No on F, Stop the Stadium, sponsored by the Downtown Owners Association purchases advertising space in the Union-Tribune newspaper and on The Voice of San Diego website. Both advertisements must include the words “Paid for by No on F, Stop the Stadium, sponsored by the Downtown Owners Association.”

Radio and Television Advertising

The City’s campaign laws do not regulate radio and television advertising. There are, however, state and federal laws that apply to these forms of advertising. Such rules are beyond the scope of this manual.

Electronic Advertising

In addition to the local rules discussed in this chapter, state law now imposes "paid for by" disclosures on certain campaign advertising that appears on Internet web pages, blogs, mobile devices, and other electronic communication systems. The state also requires a "paid for by" disclosure on 200 or more substantially similar e-mail messages. These rules are outside the scope of this manual; consult the California Fair Political Practices Commission for more information.

Identification of $10,000 Donors

A committee that is primarily formed to support or oppose a City of San Diego candidate or ballot measure must include an additional disclosure statement on its advertisements if the committee has received contributions totaling $10,000 or more from a single source.

EXAMPLE: BioChem makes a $12,000 contribution to Citizens Mobilizing For Progress - Yes on A, a committee supporting a measure on the June ballot. No other donors have contributed $10,000 or more to the committee. It is not a sponsored committee. When ordering door hangers advocating for the ballot measure, the committee will include a disclosure on the door hangers stating that they are "paid for by Citizens Mobilizing For Progress - Yes on A, 101 Main Street, San Diego, with major funding by BioChem."

NOTE: the $10,000 disclosure requirement does not apply to contributions made to a general purpose recipient committee.

If there are more than two $10,000+ contributors, the committee is required only to disclose the highest and second highest contributor, in that order. In the event that more than two donors meet this disclosure threshold at identical contribution levels, the order of disclosure shall be made beginning with the most recent contributor.

Note that under state law, if a contributor has donated $50,000 or more and is itself a primarily formed recipient committee or a general purpose recipient committee, the word "committee" must be included in the disclosure.

Paid Spokespersons

A committee that pays an individual $5,000 or more to make an appearance in an advertisement supporting or opposing a ballot measure must disclose on the advertisement, in a legible 12 point font, the individual's name and the fact that he or she is being paid to appear in the advertisement. The committee must also file a Paid Spokesperson Report (Form 511) with the City Clerk within 10 days of making the expenditure.

State law requires additional disclosures and recordkeeping requirements for advertisements that portray one or more professionals (nurses, doctors, firefighters, scientists, engineers, lawyers, etc.) in support of or opposition to a ballot measure. Contact the FPPC for additional guidance.

Vendor Credit for Primarily Formed Recipient Committees

Entities that are in the business of designing, creating, printing, mailing, posting, broadcasting, or otherwise disseminating campaign advertisements may generally provide their services to committees on credit. There are, however, circumstances in which extending credit could impede the disclosure of information

to the public regarding a committee's sponsorship or funding. The City's campaign laws prevent the extension of credit in such circumstances.

As discussed above, committees must include a "paid for by" disclosure on their advertisements. Advertising disclosures must also identify any entity that is "sponsoring" the committee as well as the committee's top two donors of $10,000 or more. If a committee disseminates a campaign advertisement on credit, the advertisement might not identify a major donor or sponsor who will pay for the advertisement by making a significant contribution after it is aired or distributed.

The City's campaign laws prohibit committees from purchasing advertising on credit if it could have the effect of concealing from the public the identity of its sponsors or large donors. Primarily formed recipient committees may not accept credit from a vendor, but must instead pay the vendor in full from existing funds if all three of the following conditions are met:

- ✓ the vendor is providing goods or services relating to designing, producing, printing, mailing, posting, broadcasting, or disseminating a campaign advertisement; and
- ✓ the balance in the committee's bank account, including funds received but not yet available, cannot fully cover the amount the committee would owe for this and any other advertisements obtained on credit; and
- ✓ the identity of the committee's sponsors or top two donors of $10,000 or more would change if any person made a contribution to the committee in an amount equal to what the committee owes for all of its advertisements.

EXAMPLE: The committee Citizens for Responsible Spending is created to support Proposition A. To date, it has received $1,000 in contributions. It wants to distribute a campaign mailer to all registered voters in the City, which will cost $20,000. It tells a vendor that it will pay $1,000 now and will pay the $19,000 balance when it receives a contribution from Jackson Industries, an entity that has promised to send the money after the election. The committee may not enter into this arrangement with the vendor because doing so would result in an advertisement that does not identify Jackson Industries as a major donor or committee sponsor.

EXAMPLE: The committee Neighborhoods Promoting Slow Growth is created to oppose Proposition B in an upcoming election. To date, it has received two contributions: a $25,000 contribution from Acme Builders and a $40,000 contribution from John Smith. It currently has $1,000 in its bank account and no outstanding debts. It wants to distribute a campaign mailer to all registered voters in the City, which will cost $20,000. It tells a vendor that it will pay $1,000 now and will obtain the $19,000 balance from Grant Supplies, which has verbally agreed to send the money in a month or two. The committee may enter into this arrangement with the vendor because, under the above facts, receiving $19,000 from Grant Supplies (or any other entity) will not change the identity of the sponsor or the committee's top two donors.

NOTE: these vendor credit rules do not apply to a consultant who is paid on a regular basis for services over and above those involving campaign advertisements.