



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

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

From: Dave Bainbridge, General Counsel
Ryan O'Connor, Commission Counsel

Subject: Pre-Notice Discussion of Commission Staff's Audits and Investigations
(Regulations 18994 and 18998)

Date: February 11, 2019

Requested Action

Staff presents proposed Regulations 18994 and 18998 for pre-notice discussion. To expedite approval, staff has previously submitted the proposed regulations to the Office of Administrative Law for notice of adoption at the Commission's March 21, 2019 meeting. Accordingly, the proposed regulations cannot currently be approved by the Commission. The Commission may, however, provide input to staff, which may be incorporated into the proposal prior to the anticipated adoption at the March meeting. As proposed, Regulations 18998 will codify Commission staff's long-standing practice in conducting audits and investigations pursuant to Sections 90003, 90006, and 90008. The proposed amendment to Regulation 18994 is merely intended to correct a typographical error. The Commission's Law and Policy Committee reviewed these regulations prior to their presentation to the Commission and recommended their approval.

Background

The Franchise Tax Board performs audits mandated by Section 90001 of the Political Reform Act.¹ Commission staff performs mandatory audits pursuant to Section 90006 for specified audits due to potential conflicts of interest for the Franchise Tax Board. The Act also authorizes Commission staff and the Franchise Tax Board to perform discretionary audits and investigations pursuant to Sections 90003 and 90008.

As required by Section 90007, the guidelines, standards, and scope for audits conducted by the Franchise Tax Board are enumerated in Regulations 18994-18996. However, the auditing regulations do not contain explicit guidelines, standards, and scope for audits and investigations conducted pursuant to Section 90006 by Commission staff, or pursuant to Sections 90003 or 90008.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All further statutory references are to the Government Code. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations.

Discussion and Summary of Proposed Actions

Proposed Regulation 18998 is intended to codify Commission staff's auditing practice when conducting audits pursuant to Section 90006 to follow the same auditing standards, guidelines, and scope applied by the Franchise Tax Board when conducting audits under Section 90001. The proposed regulation is also intended to codify the standards and scope of audits and investigations conducted by Commission staff pursuant to Sections 90003 and 90008.

Specifically, subdivision (a) of Regulation 18998 addresses mandatory auditing by the Commission under Section 90006. Commission staff apply the same standards, guidelines, and scope for conducting audits under Section 90006 as the Franchise Tax Board under Section 90001, which will codify Commission staff's long-standing practice. Subdivision (b) enumerates the standards and scope for discretionary audits and investigations conducted pursuant to Sections 90003 and 90008.

Regulation 18994 concerns audits and investigations conducted by the Franchise Tax Board. The proposed amendment to Regulation 18994 does not change the standards, guidelines, and scope for conducting audits by the Franchise Tax Board. The proposed amendment is merely intended to correct a previous clerical error.

Attachments:

Proposed Regulation 18994

Proposed Regulation 18998