

**Title 33**  
**STATE BOARD OF ELECTIONS**  
**Subtitle 20 DISCLOSURE BY PERSONS DOING PUBLIC BUSINESS**  
**Chapter 01 Definitions**

Authority: Election Law Article, §§2-102(b)(4) and 14-109, Annotated Code of Maryland

**.01 Definitions.**

A. In this subtitle, the following terms have meanings indicated.

B. Terms Defined.

- (1) "Applicable contribution" has the meaning stated in Election Law Article, §14-101, Annotated Code of Maryland.
- (2) "Award" means the written notification by a governmental entity announcing that the governmental entity intends to enter into a contract for a procurement.
- (3) "Contract" has the meaning stated in Election Law Article, §14-101, Annotated Code of Maryland.
- (4) "Doing public business" has the meaning stated in Election Law Article, §14-101, Annotated Code of Maryland.
- (5) "Donation" has the meaning stated in Election Law Article, §13-306 or 13-307, Annotated Code of Maryland.
- (6) "Governmental entity" has the meaning stated in Election Law Article, §14-101, Annotated Code of Maryland.
- (7) "Independent expenditure entity" means a person required to file an:
  - (a) Independent expenditure report; or
  - (b) Electioneering Communication report.
- (8) "Political committee affiliated with a candidate" means:
  - (a) An authorized candidate campaign committee of the candidate;
  - (b) A slate of which a candidate is a member;
  - (c) A legislative party caucus committee, excluding the administrative account;
  - (d) A political party central committee, except for the administrative account, if the contributor knows that the contribution will be used for a coordinated expenditure for the candidate subject to the contribution limits pursuant to Election Law Article, §13-226(c), Annotated Code of Maryland; or
  - (e) A political action committee whose major purpose is to support or oppose an identified candidate.
- (9) "Statement of contributions" means a report that:
  - (a) Is authorized or required under Election Law Article, Title 14, Annotated Code of Maryland;
  - (b) Relates to the campaign finance activity of the person doing public business; and
  - (c) Is filed or submitted on a form prescribed by the State Board.

**.02 Effective Date.**

This subtitle is effective January 1, 2015.

**Administrative History**

Effective date: August 4, 2014 (41:15 Md. R. 893)

Regulation .01B amended effective February 29, 2016 (43:4 Md. R. 339); September 12, 2016 (43:18 Md. R. 1018)

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**Chapter 02 Statement of Contributions Requirements**

Authority: Election Law Article, §§2-102(b)(4), 14-104, and 14-109, Annotated Code of Maryland

**.01 Scope.**

This chapter applies to all statements of contributions required by Election Law Article, §14-104, Annotated Code of Maryland, to be filed with the State Board.

**.02 Registration.**

A. In General. A person doing public business shall file the registration statement required under §B of this regulation with the State Board within 15 business days after the award of a contract by a governmental entity.

B. Statement Requirements. Except as provided in §D of this regulation, the registration statement shall include the following information:

(1) The identity of the person doing public business;

(2) The business address of the person doing public business;

(3) The name, mailing address, and email address of:

(a) The chief executive officer of the business entity or any person exercising direction or control over the activities of the person doing public business; and

(b) An individual designated as the treasurer or responsible officer authorized to act on behalf of the person doing public business and to file statements of contributions pursuant to Election Law Article, §14-104, Annotated Code of Maryland;

(4) The level of government that awarded the contract, whether municipal, county, or state;

(5) The name of the governmental entity that awarded the contract;

(6) The name and relationship of any business entity or person attributed to or affiliated with the person filing the registration notice that was awarded a contract by a governmental entity; and

(7) The base amount of the consideration to be received by the person doing public business from the governmental entity for the contract.

C. Electronic Filing. The registration notice shall be filed electronically by means of the browser-based software provided by the State Administrator.

D. Omission of Contract. The registration statement may omit:

(1) Contract information if the State Board has approved the person's request to waive the requirement to disclose the contract; or

(2) The base amount of the consideration to be received for the performance of the contract if the person doing public business files, for the entire period of performance of the contract, an affidavit of limited applicable contributions under COMAR 33.20.04.

E. Initial Report. A person doing public business shall file the initial statement of contributions within 15 business days of filing the registration statement.

**.03 Required Contents for a Statement of Contributions.**

The statement of contributions filed by the person doing public business shall include:

A. The name of the candidate to whom the applicable contribution was made or who benefited from the applicable contribution;

B. The name of the political committee affiliated with the candidate or the independent expenditure entity that received the applicable contribution;

C. If known, the elective office sought by the candidate, or if not known, the elective office held by the candidate;

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- D. The aggregate applicable contributions attributed to the filer during the reporting period;
- E. The aggregate applicable contributions to date attributed to the filer during the election cycle in which the applicable contribution was made;
- F. If the applicable contribution was made by a person other than the filer but attributed to the filer, the filer must provide:
  - (1) The name and address of:
    - (a) The individual who made the applicable contribution; or
    - (b) The organization, business entity, union, or other legal entity that made the applicable contribution;
  - (2) The amount of the applicable contribution;
  - (3) The date the applicable contribution was made; and
  - (4) The relationship between the contributor and the filer:
    - (a) If a business entity, whether the contributor is a subsidiary; or
    - (b) If an individual, the name of the contributor's employer, position, and title;
- G. The transaction method of the applicable contribution and any other information on the transaction method required by the State Administrator;
- H. The aggregate amount or value, to date, of applicable contributions made to or for the benefit of each candidate from the contributor for the election cycle in which the statement of contributions is filed;
- I. Unless already provided on the registration statement or exempt under COMAR 33.20.07:
  - (1) The nature and amount of the contract awarded;
  - (2) The name of the governmental entity that awarded the contract; and
  - (3) The name of the business entity or person awarded the contract, if different from the filer; and
- J. If an in-kind applicable contribution, the fair market value of the applicable contribution.

**.04 Filing Requirements.**

A. Filing Method. A statement of contribution shall be filed electronically by means of the browser-based software provided by the State Administrator.

B. Additional Filing Requirements.

- (1) Statements of contributions shall include, in a format approved by the State Administrator, an attestation by the filer, under penalties of perjury, that the contents of the electronic filing are a complete and accurate statement of contributions made and contracts awarded by governmental entities.
- (2) If applicable, statements of contributions shall identify the chief executive officer of the business entity.
- (3) Statements of contributions filed electronically shall include all other information or materials required by the State Administrator.

**Administrative History**

Effective date: August 4, 2014 (41:15 Md. R. 894)  
Regulation .02 amended effective September 12, 2016 (43:18 Md. R. 1018)  
Regulation .03 amended effective September 12, 2016 (43:18 Md. R. 1018)

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**Chapter 03 Electronic Signature Requirements**

Authority: Commercial Law Article, §21-117(a); Election Law Article, §§2-102(b)(4) and 14-109, Annotated Code of Maryland

**.01 Electronic Signature.**

For each electronically filed disclosure statement, the filer shall include an electronic signature on the statement of contribution.

**.02 Acceptance of Electronic Signature.**

A filer shall use any State Board approved password generated by the person doing public business after the person or business entity has registered with the State Board.

**Administrative History**

Effective date: November 24, 2014 (41:23 Md. R. 1377)

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**Chapter 04 Affidavit of Limited Applicable Contribution**

Authority: Election Law Article, §§2-102(b)(4), 14-104, and 14-109, Annotated Code of Maryland

**.01 Scope.**

This chapter applies to the affidavit that, under Election Law Article, §14-104(c)(3), Annotated Code of Maryland, a person doing public business may file in lieu of a statement of contributions.

**.02 Required Contents.**

The affidavit shall include:

- A. The name of the person doing public business;
- B. The name of the governmental entity that the person does public business with;
- C. A statement, under penalty of perjury, that the person doing public business has not:

(1) Made applicable contributions in the cumulative amount of \$500 or more to a candidate or for the benefit of a nonfederal candidate during a reporting period; and

(2) Completed the performance of work on the contract with the governmental entity; and

D. An acknowledgment that the person doing public business is required to either file the next scheduled statement of contributions or file a new affidavit in lieu of that statement.

**.03 Filing.**

The person doing public business shall:

- A. Complete the affidavit using the Internet form provided by the State Board; and
- B. Sign and submit the affidavit using the electronic signature password issued by the State Board.

**Administrative History**

Effective date: February 29, 2016 (43:4 Md. R. 339)

Regulation .02 amended effective September 12, 2016 (43:18 Md. R. 1018)

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**Chapter 05 Determination of the Filer**

Authority: Election Law Article, §§2-102(b)(4), 14-105, and 14-109, Annotated Code of Maryland

**.01 In General.**

A person doing public business must file a registration notice and statement of contributions with the State Board.

**.02 Contract Determination.**

A. Length of Contract. A person is considered doing public business when the total consideration of the contract is \$200,000 or more for the entire period of performance required under the contract.

B. Option Year Renewal. For the purposes of Election Law Article, Title 14, Annotated Code of Maryland, an option year renewal contract is considered a new contract.

C. Contract Modifications. If the contract is modified or any additional funds are appropriated increasing the amount of the contract to \$200,000 or more for the remainder of the period of performance, the person is considered doing public business and shall file a registration notice at the time of the modification or additional funds were approved.

D. Acquisition, Merger, or Change in Ownership.

(1) If a business entity acquires, merges with, or changes ownership or control over another business entity, the controlling business entity is considered the filer for purposes of Election Law Article, Title 14, Annotated Code of Maryland.

(2) Except as provided in §D(3) of this regulation, prior contracts made by the acquired, merged, or newly owned or controlled business entity may not be retroactively attributed to the filer.

(3) Contracts made by the acquired, merged, or newly owned or controlled business entity during a reporting period or existing contracts where the period of performance remains uncompleted will be attributed to the filer.

E. Subsidiary Ownership. If a business entity is a subsidiary of 30 percent or more of another business entity, the immediate parent of the business entity with a contract with a governmental entity is considered the person doing public business.

**.03 Standard for Ownership or Control.**

A. Ownership. For purposes of Election Law Article, §14-105(e), Annotated Code of Maryland, a business entity shall be considered a subsidiary of the person doing public business if owned or controlled by at least 30 percent by the person doing public business of the same individuals or business entities if:

(1) 30 percent or more of the beneficial ownership or equity of each entity is held by the same person or group of persons; or

(2) 30 percent or more of the voting shares or rights, membership, or partnership interests with voting or governing authority, control rights, trust control, or other form of governance or rights authority in each entity is directly or indirectly held or controlled by the same person or group of persons.

B. Control. A person or group of persons is deemed to have direct or indirect control of one or more business entities if the person or group of persons is authorized to make decisions regarding:

(1) Direction and amount of contributions, political spending, or any other political activity on behalf of the business entities; or

(2) Responsibility for day-to-day operation of the business entity or entities.

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**Chapter 06 Contributions**

Authority: Election Law Article, §§2-102(b)(4), 14-105, and 14-109, Annotated Code of Maryland

**.01 Contributions.**

A. **Attributed Contributions.** Any contribution or donation, regardless of the amount, that is made to a political committee or independent expenditure entity by an officer, director, or partner of a business entity doing public business shall be attributed to the business entity for reporting purposes under Election Law Article, Title 14, Annotated Code of Maryland.

B. **Contributions by Other Persons.** Any contribution or donation, regardless of the amount, to a political committee or independent expenditure entity that is made at the suggestion or direction of the business entity, or an officer, director, or partner of the business entity by an employee, agent or other affiliated person of the business entity shall be attributed to the business entity for reporting purposes under Election Law Article, Title 14, Annotated Code of Maryland.

C. **Subsidiary.** Any contribution or donation made to a political committee or independent expenditure entity by a subsidiary of the filer shall be attributed to the filer.

D. **Attributed Contributions for Subsidiary.** Any contribution or donation, regardless of the amount, that is made to a political committee or independent expenditure entity by an officer, director, or partner of a subsidiary of the filer shall be attributed to the filer for reporting purposes under Election Law Article, Title 14, Annotated Code of Maryland.

E. **Other Employees of the Subsidiary.** Any contribution or donation made by an employee, agent, or other affiliated person of the subsidiary, regardless of the amount, to a political committee or independent expenditure entity is attributed to the filer for reporting purposes under Election Law Article, Title 14, Annotated Code of Maryland, if made at the suggestion of:

- (1) The filer, including officers, directors, or partners of the filer;
- (2) The subsidiary of the filer; or
- (3) The officer, director, or partner of a subsidiary of the filer.

F. **Acquisition, Merger, or Change in Ownership.** If a business entity acquires, merges with, or changes ownership or control over another business entity:

(1) Contributions made prior to the acquisition or merger by the acquired, merged, or newly owned or controlled business entity, including by its officers, directors, and partners, will not be attributed to the filer; and

(2) Contributions made during the reporting period by the acquired, merged, or newly owned or controlled business entity, including by its officers, directors, or partners, will be attributed to and reported by the filer.

G. **Contributions Made at the Suggestion or Direction of Directors, Partners, or Officers of a Business Entity.** An act or communication by a director, a partner or an officer of the business entity to an employee, agent, or other affiliated person of the business entity that a reasonable person would understand to be a solicitation or request for a contribution to a political committee affiliated with a candidate or a donation to an independent expenditure entity shall be considered a suggestion for a contribution or donation, and any contribution or donation that results from the suggestion must be reported by the filer.

H. **Email Solicitation.** An officer, director, or partner of a business entity doing public business who initiates, or forwards to an employee, agent or other affiliated person of the business entity, an email solicitation or similar request for a contribution to a political committee affiliated with a candidate or a donation to an independent expenditure entity shall be considered to have made a suggestion for a contribution or donation and any contribution or donation that results from the suggestion must be reported by the filer.

I. **Endorsements.** Acts or communications by officers, directors, or partners of a business entity that endorse a candidate, display public support for a candidacy, or express public support through social media are not, by themselves, suggestions for contributions or donations to a candidate that are attributable to the business entity.

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**.02 Report to Chief Executive Officer or Designee.**

**A. Notice to Employees.**

(1) Except as provided for in §C of this regulation, the chief executive officer or a designee of the chief executive officer of a business entity doing public business shall notify the persons covered under Regulation .01 of this chapter that contributions and donations made from the persons covered must be reported to the chief executive officer or the designee of the chief executive officer no later than 5 business days after the last day of the reporting period.

(2) A business entity that requires the persons covered under this chapter to preclear their contributions through a legal or compliance department shall be deemed to satisfy the notice requirement if the preclearance policy is:

- (a) In writing; and
- (b) Annually reviewed by the covered employees.

**B. Report.** The persons covered under Regulation .01 of this chapter shall report to the chief executive officer or a designee of the chief executive officer of the business entity doing public business any contributions and donations made during the reporting period.

**C. Exemption from Notification.**

(1) The chief executive officer, or the officer's designee, is not required to notify officers, directors, partners, or employees of a subsidiary that does not itself do public business if the business entity doing public business has a written and well publicized policy prohibiting officers, directors, or partners from making contributions or donations for State elections.

(2) The policy must be:

- (a) In writing; and
- (b) Annually reviewed by the covered employees.

(3) The business entity shall provide the State Board a copy of the:

- (a) Written policy;
- (b) The subsidiaries to which the policy applies;
- (c) A description of how the policy is delivered to the covered employees subject to the policy; and
- (d) A statement that the business entity is not aware of any violations of the policy.

(4) The policy must be submitted to the State Board annually, no later than the due date for the first semi-annual statement of contributions filing of that year by the person doing public business.

**Administrative History**

Effective date: September 12, 2016 (43:18 Md. R. 1018)

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**Chapter 07 Waivers**

Authority: Election Law Article, §§2-102(b)(4), 14-104(c)(2) and (3), and 14-109, Annotated Code of Maryland

**.01 Waiver Request — Late Filing Fees.**

A. Availability. A person doing public business may request a waiver of the fees for the late filing of the statement of contributions or affidavit of limited applicable contributions.

B. Requirements.

(1) A request to waive the late fees shall be made in writing and filed with the State Administrator.

(2) The request shall include:

(a) The name, address, and telephone number of the person doing public business;

(b) A detailed statement of the facts underlying or circumstances surrounding why the person doing public business failed to timely file a statement of contributions; and

(c) A history of past compliance activity regarding the filing of the statement of contributions.

C. Consideration and Determination.

(1) With approval of the State Board, the State Administrator may waive the late filing fee for just cause.

(2) The State Administrator may reject a waiver request without notice or hearing.

(3) The decision of the State Administrator on the waiver request shall be in writing.

**.02 Waiver — Initial Statement of Contributions.**

A. Availability. A person doing public business is not required to file an initial statement of contributions if the person doing public business has previously filed statements of contributions covering the transaction period of the initial statement of contributions for that level of government.

B. Updates. The person doing public business shall update the registration statement with any new contracts within 30 business days of the date of the award for that contract.

**.03 Waiver Request — Contract Disclosure.**

A. Availability. A person doing public business may request a waiver of the requirement to file contract information.

B. Requirements.

(1) A request to waive the requirement to disclose contract information shall be made in writing and filed with the State Administrator.

(2) The request shall include:

(a) The name, address, and telephone number of the person doing public business;

(b) A detailed statement of the facts underlying or circumstances surrounding why the person doing public business should not disclose contract information;

(c) Whether the contract information is subject to any exemption under the Public Information Act;

(d) Whether the contract with the governmental entity is with a subsidiary of the person doing public business and the percentage of ownership or control that the requestor has over the business entity with the contract; and

(e) A statement certifying that the requestor has done public business during the reporting period.

C. Consideration and Determination.

(1) With approval of the State Board, the State Administrator may waive the contract disclosure requirement for just cause.

(2) The State Administrator may reject a waiver request without notice or hearing.

(3) The decision of the State Administrator on the waiver request shall be in writing.

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D. Duration. If the State Board approves the waiver request, the waiver shall be valid for 1 calendar year.

**Administrative History**

Effective date: February 29, 2016 (43:4 Md. R. 340)

Regulation .02 repealed and new Regulation .02 adopted effective September 12, 2016 (43:18 Md. R. 1018)

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**Chapter 08 Penalties**

Authority: Election Law Article, §§2-102(b)(4), 14-107, and 14-109, Annotated Code of Maryland

**.01 Late Filing Fee.**

A. **Late Fee Penalty.** The State Board shall assess a late filing fee for a failure to file the statement of contributions required under Election Law Article, §14-104, Annotated Code of Maryland, of \$10 for each day or part of a day that the statement of contributions is overdue.

B. **Maximum Fee.** The maximum fee assessed under §A of this regulation is \$500.

C. **Retention Penalty.** An officer or partner of a business entity doing public business who knowingly and willfully fails to retain records required under Election Law Article, §14-105(g), Annotated Code of Maryland may be subject to a fine not exceeding \$1,000, or imprisonment not exceeding 1 year, or both.

**Administrative History**

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**Chapter 09 Retention**

Authority: Election Law Article, §§2-102(b)(4), 14-105, and 14-109, Annotated Code of Maryland

**.01 Records.**

A. **Records Retained.** The person doing public business who has filed a registration statement shall maintain detailed and accurate records of:

(1) All contracts awarded by governmental entities to the person or attributed to the person that caused the person to be doing public business;

(2) Applicable contributions made by or attributed to the person, including related notifications and policy documents; and

(3) All statements of contributions filed by the person doing public business.

B. **Length of Retention.** The records shall be retained until the earlier of:

(1) 10 years after the creation of the record; or

(2) 4 years after the performance is completed on the last contract that causes the person to be doing public business.

C. **Audit.** The State Board, at its discretion, may audit the records retained by the person doing public business.

**Administrative History**

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