CAMPAIGN GUIDE

Federal Election Commission
UNITED STATES –*of*– AMERICA

Corporations and Labor Organizations

January 2018

About this guide

This guide replaces the January 2007 edition of the *Campaign Guide for Corporations and Labor Organizations*. It summarizes the federal campaign finance laws applicable to corporations, labor organizations and their separate segregated funds as of October 2017.

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Michael Lantz, *Man Controlling Trade*, 1942

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Introduction

This guide was written to help corporations (including incorporated trade associations and membership organizations) and labor organizations comply with the Federal Election Campaign Act and FEC regulations.

This publication provides guidance on certain aspects of federal campaign finance law. It is not intended to replace the law or to change its meaning, nor does this publication create or confer any rights for or on any person or bind the Federal Election Commission or the public. The reader is encouraged also to consult the Federal Election Campaign Act of 1971, as amended (52 U.S.C. 30101 et. seq.), Federal Election Commission regulations (Title 11 of the *Code of Federal Regulations*), FEC Advisory Opinions, and applicable court decisions. For further information, contact:

Federal Election Commission
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800/424-9530 (toll free)
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www.fec.gov

Using this guide

The rules and procedures explained in this guide apply to labor organizations and to all types of corporations, including:

- Incorporated businesses;
- Incorporated membership organizations (including trade associations);
- National banks;
- Corporations without capital stock; and
- Incorporated cooperatives.

Citations

Authorities primarily cited in this guide include the Federal Election Campaign Act, FEC regulations and FEC advisory opinions (AOs). All regulatory citations are to Title 11 of the *Code of Federal Regulations*, Parts 100–116, 300 and 9001– 9039 (2014). Statutory citations are to Titles 26 and 52 of the *United States Code* (U.S.C.). Copies of AOs may be obtained from the FEC's website. In addition, each AO is summarized in the Commission's online news blog, the *Record*.

Getting more help

Advisory opinions

Any person or group requiring a clarification of the election law with regard to an activity that they plan to undertake may request an AO from the FEC. Individuals and organizations involved in the activity specifically addressed in an AO (or in an activity that is materially indistinguishable) may rely on the opinion for legal guidance. AO requests may be addressed to the Office of General Counsel at:

Federal Election Commission
1050 First Street, N.E.
Washington, DC 20463

For more information, consult the FEC's Advisory Opinions brochure at https://www.fec.gov/legal-resources/advisory-opinions-process/.

Toll-free line

Many questions about federal campaign finance law do not require formal advisory opinions. Such questions may be addressed to trained FEC staff members by calling the FEC's Information Division:

- 800/424-9530 (toll-free)
- 202/694-1100 (local)
- 202/219-3336 (TDD)

Hearing-impaired persons may reverse the charges when calling long-distance on the TDD number. Questions may also be submitted by email to info@fec.gov.

Free publications

In addition to this guide, the FEC publishes a series of brochures and other publications on several aspects of campaign finance and the election law. Email or call the FEC for a list of publications currently available, or visit the FEC website. Note that corporations and labor organizations have to comply with other laws outside the FEC's jurisdiction; see appendix G.

FEC website

Visit the FEC's home page at www.fec.gov. Information on the site includes campaign finance statistical data; committee reports for candidates, parties and PACs; FEC news releases; reporting dates; forms and instructions; the *Record* newsletter; brochures, campaign guides and instructional videos.

The FEC website also offers the capability to search the Commission's regulatory database. Users can perform full text searches of Commission advisory opinions (1975-present). In addition, the FEC's Enforcement Query System allows users to search closed enforcement cases by such search criteria as respondent name or case number. SERS, the FEC's Searchable Electronic Rulemaking System, allows searches of completed and ongoing rulemakings, Commission regulations and explanations and justifications. Users can also use SERS to submit comments to ongoing rulemakings.

Compliance with Small Business Regulatory Enforcement Fairness Act of 1996

This guide serves as the small entity compliance guide for corporations and labor organizations, as required by section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

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CHAPTER 1
Getting started

The law

The Federal Election Campaign Act (the Act) generally prohibits corporations (including incorporated trade associations and membership organizations) and labor organizations from using their general treasury funds to make contributions to federal candidates, federal accounts of political party committees, and other political committees (PACs). 52 U.S.C. § 30118(a). They may, however, fund independent expenditures, contribute to political committees established solely to finance independent expenditures (e.g., Super PACs), contribute to the non-contribution accounts of Hybrid PACs, and establish separate segregated funds (SSFs).[1]

The Federal Election Commission (FEC)—the agency that administers and enforces the Act—has prepared this campaign guide to help corporations and labor organizations pursue federal campaign activities within the limits of the law.

COVERED TOPICS INCLUDE

- Registering with the FEC
- Treasurer
- Naming the SSF
- Filling out the statement of organization
- Filing the form
- Amending registration information
- Notification of multicandidate status
- Affiliation
- Operating costs
- Incorporating the SSF
- Compliance with tax laws
- Limited liability companies and SSFs

The SSF

While corporations and labor organizations are generally prohibited from making contributions in connection with federal elections, the Act and Commission regulations permit them to set up political committees, which may raise funds permissible under the Act in order to make contributions to and expenditures on behalf of federal candidates and other committees.

Federal election law refers to a corporate- or labor organization-sponsored political committee as a "separate segregated fund" (SSF), though it is more commonly called a "political action committee" or PAC. (Unless otherwise indicated, the terms "SSF" and "the committee" are used interchangeably in this guide.)

1 See *Citizens United* v. *FEC*, 558 U.S. 310 (2010); *SpeechNow.org* v. *FEC* 599 F.3d 686 (D.C. Cir. 2010) (*en banc*), and *Carey* v. *FEC*, 791 F.Supp.2d 121 (D.D.C. 2011).

As the name implies, money contributed to an SSF is held in a separate bank account from the general corporate or union treasury.

The connected organization

A corporation or union that sponsors an SSF is called the connected organization. The connected organization may use its general treasury funds to pay the establishment, administration, and fundraising costs for the SSF. 114.5(b).

The connected organization may also exercise control over its SSF. 114.5(d). Corporations and unions often adopt bylaws to govern their SSFs, though bylaws are not required under the law and do not have to be filed with the FEC except when requested.

1. Registering with the FEC

Initial registration

Who must register

All SSFs must register with the FEC, regardless of the size of the fund. A committee established exclusively for state and local (i.e., nonfederal) activity, however, does not need to register or file reports with the FEC. 102.1(c). Such a committee may trigger federal registration if it undertakes activities in connection with a federal election. For example, in AO 2003-29 (Fraternal Order of Police), a nonfederal PAC triggered registration by transferring funds to an affiliated federal PAC. See below. See also appendix E, section 1.

When to register

An SSF must register with the FEC within 10 days of the date of its establishment—for example, within 10 days of the date when:

- The board of directors (or comparable governing body) votes to create the SSF;
- Officers are selected to administer the fund; or
- The SSF's initial operating expenses are paid. 102.1(c).

A fund that has been exclusively used for nonfederal activity must register with the FEC as an SSF if it makes contributions or expenditures of any amount in connection with a federal election and will be subject to the limitations and prohibitions of the Act. At that time, the committee must notify donors that the funds will now be used for federal election purposes and offer them the opportunity to receive a refund. Moreover, any contributions from federally impermissible sources may not be included in any cash on hand that is transferred to the committee. See AOs 2003-29 (Fraternal Order of Police), 1985-18 (Michigan Auto Club PAC) and 1982-40 (Ohio Farm Bureau Federation).

Electronic registration

If a committee raises or spends more than $50,000 in a calendar year, or expects to do so, it must file electronically. For more information on electronic filing, see chapter 10, section 5.

Registration form

Like other political committees, SSFs register by filing FEC Form 1, the Statement of Organization. Form 1 is available on the Commission's website or can be obtained from the FEC.

2. Treasurer

Treasurer required

An SSF must appoint a treasurer within 10 days of its establishment and may not raise or spend any funds when there is a vacancy in that office. Only a designated treasurer or assistant treasurer may sign FEC reports and statements. The Commission urges every committee to name an assistant treasurer who may assume the treasurer's duties when the treasurer is unavailable. 102.7(a), (b) and 104.14(a).

Treasurer's duties

The treasurer (or registered assistant treasurer) is responsible for:

- Filing complete and accurate reports and statements on time. 104.14(d).
- Signing all reports and statements. 102.2(a) and 104.14(a).
- Depositing receipts in the committee's designated bank account within 10 days of receipt. 103.3(a).
- Authorizing expenditures or appointing an agent (either orally or in writing) to authorize expenditures. 102.7(c).
- Making "best efforts" to obtain and report the information required by the Act. 102.9(d) and 104.7.
- Monitoring contributions to ensure compliance with the Act's limits and prohibitions. 103.3(b).
- Keeping the required records of receipts and disbursements for three years after the report to which they relate is filed. 102.9(c) and 104.14(b).

Treasurer's liability

Treasurers are personally responsible for carrying out the duties listed above and should understand these responsibilities as well as their personal liability for fulfilling them.
When the Commission brings an enforcement action against a political committee, the treasurer is usually named as a respondent along with the committee itself. The treasurer can be named and found liable in his or her official capacity as a representative of the committee. Also, the treasurer can be named and found liable in his or her personal capacity if he or she knowingly and willfully violated the Act; recklessly failed to fulfill duties specifically imposed by the Act; or intentionally deprived himself or herself of the operative facts giving rise to the violation. [2]

Even when an enforcement action alleges violations that occurred during the term of a previous treasurer, the Commission usually names the current treasurer as a respondent in his or her official capacity.

2 See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 1, 3 (Jan. 3, 2005), available online at https://transition.fec.gov/law/policy/2004/notice2004-20.pdf.

Vacancy in office

A committee cannot raise or spend funds when there is a vacancy in the office of treasurer. For that reason, the Commission urges every committee to name (on its Statement of Organization under "Designated Agent") an assistant treasurer who may assume the treasurer's duties when the treasurer's office becomes temporarily vacant or when the treasurer is unavailable. 102.7(a) and (b). The assistant treasurer should be apprised of any filing requirements and, if the committee files electronically, should obtain an electronic filing password as well. (The committee must report any change in the treasurer's status within 10 days by filing an amendment to the Statement of Organization. 102.2(a)(2). See section 6.)

Committees typically disclose a treasurer's resignation by naming a replacement. The committee informs the FEC of a change in treasurer by filing an amended Statement of Organization, which is signed by the new treasurer. However, in some circumstances a treasurer simply resigns without the appointment of a replacement by submitting a letter of resignation to the FEC. (Electronic filers use Form 99.) The letter's stated purpose is to amend the committee's Statement of Organization to reflect the resignation of the treasurer as of a particular date. See 102.7(a), (b).

3. Naming the SSF

Include full name of sponsor

An SSF's connected organization—often called the sponsoring organization—is the organization that establishes, administers, or financially supports the SSF. 100.6(a). The official name of an SSF must include the full name of the connected organization (including "Inc." or "Corp." if applicable). 102.14(c). In the SSF name, standard abbreviations for "Company," "Association" and similar words are acceptable. The full committee name may also include the acronym "PAC." Thus, an acceptable name for an SSF sponsored by Acme Industries Corp. would be "Acme Industries Corp. PAC." See AOs 2010-16 (EmblemHealth Services Company LLC), 2004-04 (AirPAC), 2002-04 (Pernod Ricard) and AOs cited within.

Joint SSFs

If an SSF is jointly sponsored by two or more organizations, the full names of both organizations must appear in the name of the SSF. See AOs 1988-42 (Atlantic Marine) and 1988-14 (Atlantic Marine).

(If a connected organization has a parent company or subsidiaries, the names of those corporations do not need to be included in the name of the SSF, unless more than one company is sponsoring the SSF. 102.14(c).)

Abbreviated name

An SSF may use a shortened form of its official name on its checks and letterhead. The shortened name must include a clearly recognizable acronym or form of the connected organization's name.

The SSF must include the abbreviated name, along with the full name, on:

- The Statement of Organization;
- All reports and notices filed by the committee; and
- Any disclaimer notices used by the committee in public political advertisements. 102.14(c) and 110.11; AOs 2010-16 (EmblemHealth Services Company LLC), 2004-04 (AirPAC), 2000-34 (SAPPI PAC), 1980-23 (Agricultural and Dairy Educational Political Trust) and 1980-10 (United Telecommunications).

EXAMPLES: In AO 2000-34 (SAPPI PAC), the Commission ruled that SAPPI PAC was an acceptable abbreviation for SAPPI Fine Paper North America/S.D. Warren Company PAC because the acronym "SAPPI" was used in various well-known financial reference sources, thus establishing that it was a clearly recognized acronym by which the connected organization was known. In AO 1980-23 (Agricultural and Dairy Educational Political Trust), "Mid–Am PAC" was not a permissible abbreviation for Mid-American Dairymen, Inc.'s SSF because it did not recognizably identify the sponsoring organization.

4. Filling out the Statement of Organization (Form 1)

Line 1. Committee name, address and contact information

Enter the full, official name of the SSF and its mailing address. (See "Naming the SSF" above.) This address is considered the committee's address of record. In addition, a committee must disclose its website address (if it maintains a site) and up to two email addresses. 102.2(a)(1)(i); 102.2(a)(1)(vii). The FEC sends most communications via email, so it is important to list at least one valid email address on Form 1.

Line 2. Date

When registering for the first time, enter the committee's date of establishment (not the date when the form is filled out). See section 1 above for determining the date of establishment under 102.1(c).

When filing an amended Statement of Organization, enter the date on which the new information took effect (e.g., the date when a new treasurer took office). See 102.2(a)(2).

Line 3. FEC identification number

The FEC assigns an ID number to each new committee upon receipt of its initial Statement of Organization. (This number is used by the FEC for computer indexing and is not the taxpayer identification number required by the Internal Revenue Service. See appendix G for more information on IRS requirements.) Leave this space blank if the committee is registering for the first time. Thereafter, the committee must enter the number on all statements and reports. 102.2(c).

Line 4. Is this statement an amendment?

Check "new" if the committee is registering for the first time. Check "amended" if the committee is updating information. (Amendments are discussed in the next section.)

1-1a: Committee registration

FEC FORM 1

STATEMENT OF ORGANIZATION

Office Use Only

1. NAME OF COMMITTEE (in full) ☐ (Check if name is changed) Example: If typing, type over the lines. 12FE4M5

Critical Reason, Inc. PAC

ADDRESS (number and street) ☐ ◄ (Check if address is changed)

101 Apriori Street

Alexandria (CITY ▲) VA (STATE ▲) 00000 - (ZIP CODE ▲)

COMMITTEE'S E-MAIL ADDRESS ☐ ◄ (Check if address is changed)

creasonpac@creason.com

Optional Second E-Mail Address

pactreasurer@creason.com

COMMITTEE'S WEB PAGE ADDRESS (URL) ☐ ◄ (Check if address is changed)

www.creasonpac.com

2. DATE MM 02 / DD 18 / YYYY 2017

3. FEC IDENTIFICATION NUMBER ▶ C

4. IS THIS STATEMENT [X] NEW (N) **OR** ☐ AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer E. Manuel Kant

Signature of Treasurer *E. Manuel Kant* [Electronically Filed] Date MM 02 / DD 20 / YYYY 2017

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 52 U.S.C. §30109.
ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office Use Only

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-694-1100

FEC FORM 1
(Revised 06/2012)

Line 5. Type of committee

Check box (e), "Separate Segregated Fund." See example 1–1b. If the committee is also a Lobbyist/Registrant PAC, it should so indicate under 5(e). For more information on Lobbyist/Registrant PACs, consult appendix F.

Line 6. Connected organization and affiliated committees

List the names and addresses of the connected organization and any affiliated committees, along with their relationship to the registering committee (i.e., "connected" or "affiliated"). 102.2(a)(1)(ii). See example 1–1c.

Connected organization

In addition to providing the name and mailing address of the connected organization, check the box indicating the type of organization that is sponsoring the SSF—i.e., a corporation, a corporation without capital stock, a labor organization, a membership organization, a trade association or a cooperative (check all boxes that apply).

1–1b: Line 5 (Type of committee)

Political Action Committee (PAC):

(e) [X] This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is a:

[X] Corporation [ ] Corporation w/o Capital Stock [ ] Labor Organization

[ ] Membership Organization [ ] Trade Association [ ] Cooperative

[ ] In addition, this committee is a Lobbyist/Registrant PAC.

(f) [ ] This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (i.e., nonconnected committee)

[ ] In addition, this committee is a Lobbyist/Registrant PAC.

[ ] In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

1–1c: Line 6 (Connected organization and affiliated committees)

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

Critical Reason, Inc.

101 Apriori Street

Mailing Address

Alexandria (CITY) VA (STATE) 00000 – (ZIP CODE)

Relationship: [X] Connected Organization [ ] Affiliated Committee [ ] Joint Fundraising Representative [ ] Leadership PAC Sponsor

Affiliated committees list

List political committees, along with their addresses, that are affiliated with the SSF.

An SSF set up by a parent organization with several subsidiaries or local units must list any SSFs established by those units. The SSF of a subsidiary or subordinate unit, however, only needs to list the

SSFs of the parent organization. It is not required to list other affiliates. 102.2(b)(1)(ii)(A) and (B). More information on affiliation is provided in section 8 of this chapter and chapter 4, section 1.

Line 7. Custodian of records

Enter the name, address and committee position of the individual who has actual possession of the committee's financial records. 102.2(a)(1)(iii). The treasurer, assistant treasurer or another person (such as an accountant or bookkeeper) may serve as the custodian of records. The recordkeeping rules are discussed in detail in chapter 9.

Line 8. Treasurer and assistant treasurer

Provide the name and mailing address of the treasurer. As noted above, the Commission urges all political committees to name an assistant treasurer (or "designated agent"). Only a registered assistant treasurer may perform the treasurer's duties in the treasurer's absence. 102.7(a).

The treasurer's responsibilities are discussed in detail in section 2 of this chapter.

Line 9. Committee depository

List the name and address of each bank where the committee deposits funds. Each political committee shall maintain at least one checking account or transaction account at one of its depositories. 103.2. (One depository is required, although others may be designated as well.) The following institutions may be designated: state banks, federally chartered depository institutions (including national banks) and depositories insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation or the National Credit Union Administration. 103.1, 103.2 and 103.3(a).

Note that affiliated SSFs may not share the same bank account, though they may establish separate bank accounts at the same financial institution. AOs 1986-33 (Metropolitan Mortgage) and 1979-53 (Ownership Campaign).

Signing and dating the form

The treasurer or designated assistant treasurer must sign and date the Statement of Organization. 104.14(a).

5. Filing the form

An SSF must file its Statement of Organization with the FEC within 10 days of establishment. 102.1(c).[3]

3 The statement also must be filed with the filing office of the state in which the committee has its headquarters, unless that state received a waiver from the requirement to maintain copies of FEC statements and reports. 108.1. As of the date of publication, all 50 states, American Samoa and the U.S. Virgin Islands have been granted state filing waivers from the Commission. For more information and for a list of states and territories granted waivers, visit https://transition.fec.gov/pages/statefiling.shtml. See also "Where to file," chapter 10, section 2.

6. Amending registration information

A committee must update the information contained in its Statement of Organization within 10 days after the change. 102.2(a)(2). A committee may have to file an amendment, for example, to report a new treasurer, a new assistant treasurer, a new email address, a change of address or a new depository. The committee must check the box on the Statement of Organization to indicate it's an amendment to its registration. Paper filers have the option to file a letter rather than the form. Paper filers need only include:

- The name and address of the committee (Line 1);
- The date the change took effect (Line 2);
- The FEC ID number (Line 3);
- An indication that the statement is an amendment to the Statement of Organization (Line 4);
- The changed information (appropriate line number); and
- The name and signature of the treasurer (or assistant treasurer) and the date signed. See 102.2(a)(2).

Electronic filers amend their Statement of Organization by resubmitting the entire form. 104.18(f).

7. Notification of multicandidate status

An SSF generally qualifies as a multicandidate committee once it has:

- Been registered with the FEC for at least six months;
- Received contributions from more than 50 persons; and
- Made contributions to five or more federal candidates. 100.5(e)(3).

Once a committee qualifies as a multicandidate committee, the treasurer must file FEC Form 1M, "Notification of Multicandidate Status" within 10 days. 102.2(a)(3). See example 1–2.

As chapter 2, section 4 explains, a qualified multicandidate committee may contribute up to $5,000 to a candidate committee per election (rather than the $2,700 a non-multicandidate committee may currently give). 110.2(b). The multicandidate contribution limits apply as soon as the committee meets the criteria for multicandidate status. When making contributions to candidates, a multicandidate SSF must notify the recipient committee in writing that it has qualified as a multicandidate committee. 110.2(a)(2). For convenience, the statement may be pre-printed on the committee's checks, letterhead or other appropriate materials. The treasurer must also indicate that the committee has qualified as a multicandidate committee on the Summary Page of each report filed (see chapter 11, section 19).

An SSF that is affiliated with a committee that has met these criteria is automatically qualified to share that committee's $5,000 per-candidate limit. AOs 2001-18 (BellSouth), 1997-25 (Hughes Electronics), 1997-13 (USA PAC), 1986-42 (Dart & Kraft) and 1980-40 (Transamerica Corporation PAC). See below and chapter 4, section 1 for more information on affiliation.

1-2: Multicandidate status notification

NOTIFICATION OF MULTICANDIDATE STATUS

(See reverse side for instructions)

This form should be filed after the Committee qualifies as a multicandidate committee.

1. (a) NAME OF COMMITTEE IN FULL Critical Reason, Inc. PAC	
(b) Number and Street Address 101 Apriori Street	2. FEC IDENTIFICATION NUMBER C00000002
(c) City, State and ZIP Code Alexandria, VA 00000	3. TYPE OF COMMITTEE (check one) ☐ STATE PARTY ☒ OTHER

I certify that **one** of the following situations is correct (complete line 4 or 5):

4. STATUS BY AFFILIATION: The committee submitted its Statement of Organization (FEC FORM 1) on 02/20/17 and simultaneously qualified as a multicandidate committee through its affiliation with:

Committee Name: Dogma Co. PAC

FEC Identification Number: C00000001.

5. STATUS BY QUALIFICATION:

(a) Candidates: The committee has made contributions to the five (5) federal candidates listed below (ONLY State party committees may leave this blank.):

	Name	Office Sought	State/District	Date
(i)				
(ii)				
(iii)				
(iv)				
(v)				

(b) Contributors: The committee received a contribution from its 51st contributor on: _____ .

(c) Registration: The committee has been registered for at least 6 months. FEC FORM1 was submitted on: _____ .

(d) Qualification: The committee met the above requirements on: _____ .

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

TYPE OR PRINT NAME OF TREASURER	SIGNATURE OF TREASURER	DATE
E. Manuel Kant	*E. Manuel Kant* [Electronically Filed]	02/20/17

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 52 U.S.C. § 30109.
ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

FE1AN048

For further information contact:
Federal Election Commission, Washington, DC 20463
Toll-free 800-424-9530
Local 202-694-1100

FEC FORM 1M
(Revised 1/2001)

8. Affiliation

Definition

Under FEC rules, affiliation between SSFs results when committees are established, financed, maintained or controlled by the same organization. 100.5(g)(2).

Contribution limits

When two or more committees are affiliated, they share a single limit on the contributions they make to candidates and to other political committees, as well as on the contributions they receive. 110.3(a)(1). (Application of the contribution limits to affiliated committees is explained in chapter 2.) For details on affiliation and its consequences, see chapter 4, section 1.

Automatic affiliation

When SSFs are established by different parts of one organization, they are automatically affiliated. For example:

- An SSF established by a parent corporation is affiliated with an SSF established by a subsidiary corporation. 100.5(g)(3)(i) and 110.3(a)(2)(i).
- An SSF established by a national or international union is affiliated with any SSFs established by local or regional units of the same union. 100.5(g)(3)(ii) and 110.3(a)(2)(ii).
- SSFs established by a federation of national or international unions and the SSFs of the federation's state and local central bodies are affiliated (see further explanation below). 100.5(g)(3)(iii) and 110.3(a)(2)(iii).
- An SSF of a national membership organization (including a national trade association) is affiliated with the SSFs established by its related state and local entities. 100.5(g)(3)(iv) and 110.3(a)(2)(iv).

Circumstances indicating affiliation

When committees are not automatically affiliated under the conditions described above, they may seek an advisory opinion to determine if they are affiliated. The Commission will consider on a case-by-case basis a number of factors in its regulations to determine whether two or more committees are affiliated. 100.5(g)(4) and 110.3(a)(3). See chapter 4, section 1 for more information.

Registration

An SSF must list affiliated political committees on its Statement of Organization, as explained in section 6 of this chapter.

9. Operating costs

Using treasury funds

A connected organization may use its treasury funds, including funds derived from commercial activities or dues payments, to pay the costs of establishing, administering and soliciting contributions to the SSF. 114.5(b).

Treasury money can be used, for example, to pay for office space, phones, salaries, utilities, supplies, bank charges and fundraising activities. See 114.1(b); see also AOs 2006-33 (National Association of Realtors), 1991-36 (Boeing), 1980-50 (United Merchants and Manufacturers, Inc., Manufacturing Division, Committee for Responsible Government) and AOs cited within. There are no dollar limits on these disbursements, and they are not reported to the FEC. See 114.5(e)(1).

The connected organization may either pay these costs directly or establish a separate administrative account to be used solely for the SSF's administrative and fundraising expenses. See AOs 1992-20 (ASHA), 1990-04 (American Veterinary Medical Association) and 1986-13 (Tire Dealers). The funds contained in the administrative account may never be commingled with the SSF's own funds, which are derived solely from lawful contributions. AOs 1981-19 (Louisiana State Medical Society PAC) and 1980-59 (Lawyers Title Insurance).

Trade associations sponsoring SSFs can solicit their members for donations to their administrative accounts under certain circumstances. See appendix C, section 4.

Using the SSF's own funds

Although the law permits the connected organization to pay start-up, administrative and fundraising expenses for an SSF, the committee may use its own funds to pay those costs. See 114.5(b)(3). All disbursements by the SSF for these purposes are reportable as operating expenditures, as explained in chapter 11, section 12.[4]

Note that the connected organization may reimburse the SSF for those operating expenditures, provided that the reimbursement is made within 30 days of the SSF's disbursement. 114.5(b)(3). These reimbursements are reported as "offsets to operating expenditures." See AOs 2000-03 (American Society of Anesthesiologists) and 1983-22 (Northwest Central Pipeline Corporation PAC).

10. Incorporating the SSF

An SSF may incorporate for liability purposes. 114.12(a). Political committees that incorporate only for liability purposes are not considered to be corporations for purposes of the ban on corporate contributions. Note that incorporation of a political committee does not affect the treasurer's potential liability for the committee's compliance with campaign finance law.

4 An SSF paying for such costs should also consult the IRS regarding any applicable tax laws; for more information on contacting the IRS, see appendix G. See AO 1977-19 (Texaco Employees Political Involvement Committee).

11. Compliance with tax laws

An SSF must obtain a federal tax ID number and must comply with all relevant federal and state tax laws. In addition, an SSF may only use its own funds to pay any income tax owed (i.e., the connected organization may not pay such tax as an exempt administrative expense). AO 1977-19 (Texaco Employees Political Involvement Committee). See chapter 4, section 3, and appendix G in regard to tax laws.

12. Limited liability companies and SSFs

An LLC that elects to be treated as a corporation by the Internal Revenue Service (IRS) or that has publicly traded shares will be treated as a corporation under FEC regulations and, therefore, may serve as the connected organization for an SSF. See 110.1(g)(3); AO 2006-02 (Titley). For more information on SSF sponsorship by limited liability companies, see chapter 4, section 2 and appendix D, section 5.

An LLC that elects to be treated as a partnership by the IRS is treated as a partnership under FEC regulations and therefore may generally make contributions and form a nonconnected committee (rather than an SSF). 110.1(g)(2).

LLCs that elect to be treated neither as partnerships nor as corporations by the IRS are treated as partnerships according to FEC regulations. 110.1(g)(2). Regarding LLCs and contribution limits, see chapter 2 of this guide and appendix D.

CHAPTER 2
Understanding contributions

1. What is a contribution?

A contribution is anything of value given, loaned or advanced to influence a federal election. 100.52(a). It is important to understand which receipts and expenditures are considered contributions because:

- Contributions are generally subject to the Act's prohibitions against contributions from certain sources;
- Contributions are generally subject to the Act's limits on the amount of contributions made and received; and
- Contributions made and received by an SSF are also subject to the Act's recordkeeping and reporting requirements.

COVERED TOPICS INCLUDE

In-Kind contributions

Loans

Contributions by spouses

Anonymous contributions

Candidate limits

Corporate and labor contributions

SSF designation

Reattribution

Although corporations and labor organizations are generally prohibited from making contributions in connection with federal elections,[1] their SSFs may. SSFs must view contributions from two different perspectives: they both make contributions and receive them. The Act generally limits the amounts that may be contributed by and to an SSF, and contributions to the SSF from certain sources are prohibited altogether. This chapter describes the different types of contributions and the limits and prohibitions that apply to each type.

2. Types of contributions

The most common types of contributions are:

- Gifts of money;
- Gifts of goods and services (in-kind contributions);
- Loans and guarantees or endorsements of loans; and
- Advances of funds.

1 Pursuant to *SpeechNow.org* v. *FEC* 599 F.3d 686 (D.C. Cir. 2010) (en banc), and *Carey* v. *FEC*, 791 F.Supp.2d 121 (D.D.C. 2011), corporations and labor organizations may make contributions to nonconnected political committees that make only independent expenditures (a.k.a. Super PACs), or to separate accounts maintained by nonconnected political committees for making only independent expenditures (a.k.a. Hybrid PACs).

Gifts of money

A contribution of money may be made by check, cash (currency), credit card or other negotiable instrument. 100.52(c). See also AOs 1999-22 (Aristotle Publishing), 1995-09 (NewtWatch), 1999-01 (Greene), 1990-04 (American Veterinary Medical Association) and 1978-68 (Seith for Senate Committee). But no SSF (or other political committee) may accept cash contributions exceeding $100 from any person. 110.4(c)(1).

In-kind contributions

Definition

Goods and services offered free of charge or at less than the usual and normal charge result in an in-kind contribution. Similarly, when a person pays for services on the committee's behalf, the payment is an in-kind contribution. 100.52(d)(1) and 100.111(e)(1). (Note, however, that a connected organization's payment of the SSF's administrative and fundraising expenses is exempt. See section 10 of this chapter.) An expenditure made by any person or committee (including an SSF) in cooperation, consultation or concert with, or at the request or suggestion of, a candidate's campaign or a party committee is also considered an in-kind contribution to the candidate or party. 109.20(a). See chapter 5, sections 3 and 4.

Value

Goods (such as equipment, supplies, facilities and mailing lists) are valued at the price the item or facility would cost if purchased or rented at the time the contribution is made. Services (such as advertising, printing or consultant services) are valued at the amount that would have been paid under the prevailing commercial rate at the time the services are rendered. See 100.52(d)(2) and 100.111(e)(2).

The value of an in-kind contribution counts against the same contribution limit as a gift of money. For example, if an individual donates a computer to an SSF, the value of the contribution equals the ordinary market price of the computer at the time of the contribution. To avoid exceeding any contribution limits, this amount must be aggregated with any other (in-kind or monetary) contribution the individual made to the SSF during the calendar year.

Discounts

Discounts are not contributions if they are offered in the ordinary course of business to both political and nonpolitical clients. AOs 1989-14 (Anthony's Pier 4), 1987-24 (Hyatt), 1986-22 (WREX-TV) and 1985-28 (Evans). If not offered in the ordinary course of business, discounts are considered contributions and are valued at the amount discounted (i.e., the difference between the usual and normal charge and the amount paid by the committee). 100.52(d)(1) and (2).

Notifying recipient

The contributor should notify a recipient committee of the value of an in-kind contribution. The recipient needs this information in order to monitor the contributor's aggregate contributions and to report the correct amount. See 104.8(a).

Proceeds from fundraisers and sales

The entire amount paid to attend a political fundraiser or other political event or to purchase a fundraising item from a political committee is a contribution. 100.53. For example, if an SSF pays $100 to buy a ticket to a campaign's fundraising dinner, the entire $100 is considered a contribution to the campaign committee, even though the meal may have cost $30. Similarly, if the SSF sells tee-shirts for $20 that cost the SSF $5, the purchaser would still be making a $20 contribution to the SSF.

Loans

A loan to a candidate or political committee is a contribution to the extent that it remains unpaid. 100.52(b)(2). Therefore, an unpaid loan, when added to other contributions from the same contributor, must not exceed the contribution limit. Once repaid in full, a loan no longer counts against the contributor's contribution limit. 100.52(b)(2). (However, a loan exceeding the contribution limit is unlawful even if it is repaid in full.) Besides being reported as a contribution, a loan must be continuously reported until it is fully repaid. 100.52(b)(1) and 104.3(d).

Although it is uncommon for an SSF to receive a loan, it may receive a loan of money from any source legally permitted to make a contribution. An SSF may also obtain a loan from a bank. Unlike other loans, bank loans are not considered contributions if they are made in the ordinary course of business and on a basis that assures repayment. 100.82(a) - (e). See chapter 4, section 3 for more information.

Endorsements and guarantees of loans

An endorsement or guarantee of a loan counts as a contribution to the extent of the outstanding balance of the loan. Repayments made on the loan reduce the amount charged against the endorser's contribution limit. Once the loan is repaid in full, the endorsement or guarantee no longer counts against the endorser's or guarantor's contribution limit. If a written loan agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, then individual contributions are calculated by dividing the amount of the loan by the number of persons who have guaranteed or endorsed it. 100.52(b)(3).

Extensions of credit

An extension of credit outside of a creditor's ordinary course of business is considered a contribution. 100.55. If the creditor is incorporated, an extension of credit beyond the ordinary course of business would result in a prohibited contribution.

3. Limits on contributions received by the SSF

$5,000 per year

Under the Act, political committees, individuals and other entities that are not prohibited from making contributions (e.g., partnerships, sole proprietorships and certain LLCs) may contribute a maximum of $5,000 per calendar year to an SSF. 110.1(d). (This limit is the same for contributions received from multicandidate committees and those received from committees that have not yet qualified for multicandidate status.)

Contributions from spouses

Spouses have separate contribution limits to an SSF, even if only one spouse has an income. 110.1(i). A couple may make a joint contribution (part of which would be attributed to each spouse), as explained below.

Joint contributions

A joint contribution is a contribution that is made by more than one person using a single check or other written instrument. Although each individual has a separate contribution limit, joint contributors may combine their contributions, for example, by sending a check for $10,000 to an SSF. When making a joint contribution, each donor must sign either the check or a statement that accompanies the contribution. 110.1(k)(1).

If the check or an accompanying statement of attribution is not signed by each contributor, the entire contribution will be attributed only to the party who signed the check. 104.8(c).

If the check or statement does not indicate how much should be attributed to each donor, the recipient committee must attribute the contribution to each signer in equal portions. 110.1(k). For example, if a committee receives a $1,000 joint contribution signed by two individuals but with no written attribution, the committee must attribute a $500 contribution to each donor.

An SSF may request that a contribution be reattributed, and under certain circumstances, may presumptively reattribute the excessive portion of a contribution. See section 7 below for more information.

Exception: partnerships and LLCs. Contributions from partnerships and certain LLCs are not considered joint contributions but do trigger special attribution requirements. See the sections below and appendix D.

Contributions from partnerships

Partnerships are permitted to make contributions according to special rules. 110.1(e). For further details, see appendix D.

Table 1: Contribution limits for 2017–2018 federal elections

		Recipient				
		Candidate committee	**PAC† (SSF and nonconnected)**	**Party committee: state/district/ local**	**Party committee: national**	**Additional national party committee accounts‡**
Contributor	**Individual**	$2,700* per election	$5,000 per year	$10,000 per year (combined)	$33,900* per year	$101,700* per year, per year
	Candidate committee	$2,000 per election	$5,000 per year	Unlimited transfers	Unlimited transfers	
	PAC: multicandidate	$5,000 per election	$5,000 per year	$5,000 per year (combined)	$15,000 per year	$45,000 per year, per year
	PAC: non-multicandidate	$2,700* per election	$5,000 per year	$10,000 per year (combined)	$33,900* per year	$101,700* per year, per year
	Party committee: state/district/local	$5,000 per election	$5,000 per year	Unlimited transfers	Unlimited transfers	
	Party committee: national	$5,000 per election**	$5,000 per year	Unlimited transfers	Unlimited transfers	

** Indexed for inflation in odd-numbered years.*

†"PAC" here refers to a committee that makes contributions to other federal political committees. Independent-expenditure-only political committees (sometimes called "Super PACs") may accept unlimited contributions, including from corporations and labor organizations.

‡ The limits in this column apply to a national party committee's accounts for: (i) the presidential nominating convention; (ii) election recounts and contests and other legal proceedings; and (iii) national party headquarters buildings. A party's national committee, Senate campaign committee and House campaign committee are each considered separate national party committees with separate limits. Only a national party committee, not the parties' national congressional campaign committees, may have an account for the presidential nominating convention.

***Additionally, a national party committee and its Senatorial campaign committee may contribute up to $47,400 combined per campaign to each Senate candidate.*

Contributions from limited liability companies

Corporation or partnership status

For purposes of contribution limitations and prohibitions, a limited liability company (LLC) is treated either as a corporation or a partnership. An LLC is considered a corporation if:

- It has chosen to file, under Internal Revenue Service (IRS) rules, as a corporation; or
- It has publicly traded shares. 110.1(g)(3).

An LLC is considered a partnership if:

- It has chosen to file, under IRS rules, as a partnership; or
- It has made no choice, under IRS rules, as to whether it is a corporation or partnership.

110.1(g)(2).

If an LLC is considered a corporation, it is generally prohibited from making contributions to political committees, although it is permitted to establish an SSF.[2] (See section 10, "Prohibited Corporate and Labor Contributions.") If an LLC is considered a partnership, it is permitted to make contributions to political committees, but it is subject to the rules for partnerships outlined in appendix D. 110.1(g).

Single member LLC

If a single member LLC does not elect corporate tax treatment, it may make contributions; the contributions will be attributed to the single member, not the LLC. 110.1(g)(4).

Notifying recipient committee

At the time it makes a contribution, an LLC must notify the recipient committee:

- That it is eligible to make the contribution; and
- How the contribution should be attributed among members.

Notification will prevent the recipient committee from inadvertently accepting an illegal contribution. 110.1(g)(5).

$50 limit on anonymous contributions

An anonymous contribution of cash is limited to $50. If the SSF receives a larger anonymous contribution, the excess amount may be used for any lawful purpose unrelated to any federal election, campaign or candidate. 110.4(c)(3).

$100 limit on cash contributions

An SSF may not accept more than $100 in cash from any contributor. 110.4(c)(1). Amounts exceeding $100 must be promptly returned. 110.4(c)(2).

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2 Pursuant to *SpeechNow.org* v. *FEC* 599 F.3d 686 (D.C. Cir. 2010) (en banc), and *Carey* v. *FEC*, 791 F.Supp.2d 121 (D.D.C. 2011), corporations and labor organizations may make contributions to nonconnected political committees that make only independent expenditures (a.k.a. Super PACs), or to separate accounts maintained by nonconnected political committees for making only independent expenditures (a.k.a. Hybrid PACs).

4. Limits on contributions made by the SSF

Contributions to candidates

The limit on contributions from an SSF to a candidate or candidate's committee depends on whether the SSF qualifies as a multicandidate committee.

Contributions from non-multicandidate SSF

During the 2017-18 election cycle, an SSF may contribute up to $2,700 per candidate, per election, unless it qualifies as a multicandidate committee, as explained below. 110.1(b)(1).

Contributions from multicandidate SSF

An SSF that has qualified as a multicandidate committee may contribute up to $5,000 per candidate, per election. 110.2(b)(1). To qualify as a multicandidate committee, an SSF must have:

- Been registered with the FEC for at least six months;
- Received contributions from more than 50 persons; and
- Contributed to five or more federal candidates.

100.5(e)(3).

As to the third qualification, there is no minimum amount that must be contributed to each of the five candidates; the five qualifying contributions may be made over more than one election cycle.

An SSF that is affiliated with another SSF that has met these criteria also qualifies as a multicandidate committee and shares that committee's $5,000 per-candidate limit. 110.3(a)(1). See chapter 4, section 1.

How the candidate limits work

House and Senate candidates

The limits on contributions to House and Senate candidates apply separately to each election in which a candidate participates. In House and Senate races, each primary election, general election, runoff and special election is considered a separate election with a separate limit. (A special election may itself involve separate primary, general and/or runoff elections, each with a separate contribution limit.) In some cases, a party caucus or convention is considered a primary election, as explained below. 100.2, 110.1(j)(1) and 110.2(i)(1). The Commission strongly recommends that SSFs designate their contributions for a particular election. See section 5 below.

Party caucus or convention

A party caucus or convention constitutes a separate election only if it has the authority under state law to select a nominee for federal office. 100.2(e). (Notable examples of these types of conventions are those held in Connecticut, Utah and Virginia.) Otherwise, there is no separate limit for a caucus or convention; it is considered part of the primary process. See AOs 2004-20 (Farrell), 1986-21 (Owens) and 1986-17 (Green).

Candidates who lose in the primary

A candidate is entitled to receive contributions for a particular election only if he or she seeks office in that election. Thus, a candidate who loses the primary (or otherwise does not participate in the general election) does not have a separate limit for the general. See 102.9(e)(3), 110.1(b)(3)(i)(C) and 110.2(b)(3)(i)(B).

Unopposed candidates; elections not held

An SSF may make a contribution to a candidate for a particular election even if:

- The candidate is unopposed in an election; or
- A primary or general election is not held because the candidate is unopposed or received a majority of votes in the previous election; or
- The date on which the election would have been held is considered the date of the election. See 110.1(j)(2)-(4) and 110.2(i)(2)-(4); see also AO 1986-21 (Owens).

Presidential elections

All presidential primary elections held during an election year are considered one election for the purposes of the contribution limits. 110.1(j)(1) and 110.2(i)(1). A multicandidate SSF, therefore, may give only $5,000 to a presidential candidate's primary campaign, regardless of how many separate state presidential primaries the candidate participates in.

In the general election, a multicandidate SSF may contribute $5,000 to a candidate (and a non-multicandidate committee, $2,700) with some exceptions for candidates who have chosen to accept public funding.[3] SSFs may contribute to a publicly funded presidential nominee's "compliance fund." A compliance fund is used solely for legal and accounting expenses incurred in complying with federal law. Gifts to compliance funds are considered contributions and are subject to the per-candidate, per-election limits. 9003.3(a)(1)(i)(B).

Contributions to PACs and party committees

Contributions by SSFs to political committees other than candidate committees are generally subject to calendar-year limits, as explained below.

Contributions to national party committees

An SSF that qualifies as a multicandidate committee may give up to $15,000 per year to a national party committee. A non-multicandidate committee may give up to $33,900 per year to a national party committee during the 2017-18 election cycle. Some political parties have more than one national party committee: The $15,000 or $33,900 limit applies separately to each national committee, House campaign committee and Senate campaign committee. 110.1(c) and 110.2(c).

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3 A contribution to a major party (Republican or Democratic) presidential campaign is not permitted if the candidate chooses to receive general election public funds. 9003.2(a). A person may contribute to a nonmajor party nominee who receives partial general election public financing up to the expenditure limits described in 9003.2(c)(3), but the nominee is otherwise subject to the same contribution limits that apply to House candidates.

Additionally, national party committees may establish accounts to defray certain expenses incurred with respect to presidential nominating conventions, election recounts and other legal proceedings, and headquarters buildings. The contribution limits applicable to these accounts are 300% of the limits on contributions to national party committees. This means that the accounts may accept up to $45,000 per year from multicandidate SSFs and $101,700 per year from non-multicandidate SSFs during the 2017-2018 election cycle. 52 U.S.C. § 30116(a)(1)(B) and (a)(9).

Contributions to delegates and delegate committees

An SSF may make unlimited contributions to a delegate (or an individual seeking to become a delegate) attending a national party convention or to a state, district or local convention held to select delegates to a national convention. Contributions by the SSF to a delegate committee (a committee formed by a group of delegates or a group of people seeking to become delegates) are limited to $5,000 per calendar year. 110.1(m), 110.2(j) and 110.14(d)(1) and (g).

Contributions to other political committees

A multicandidate SSF may make contributions of up to $5,000 per year to any political committee other than a national party committee, as discussed above. 110.2(d). A non-multicandidate committee may make contributions of up to $5,000 per year to another committee and $10,000 to a state party committee and its registered local affiliates. 110.1(d) and 110.1(c)(5).

Application of candidate limits to contribution made to unauthorized committee

If an SSF makes a contribution to a committee not authorized by any candidate, and knows that a substantial portion of the contribution will be contributed to, or spent on behalf, of a particular candidate, the contribution counts against the SSF's per-election limit with respect to that candidate 110.1(h) and 110.2(h).

5. Designation of contributions made by SSF

Designated contributions

The Commission strongly recommends that SSFs, when contributing to candidates, designate their contributions in writing for a particular election (for example, primary or general). 110.1(b)(2)(i). Designated contributions ensure that the contributor's intent is conveyed to a candidate's campaign. Written designations also promote consistency in reporting and thereby avoid the possible appearance of excessive contributions on reports.

How to designate

SSFs designate their contributions made by indicating in writing the specific election to which they intend a contribution to apply. 110.1(b)(2)(i). The designation may be made either on the contribution check

(or other negotiable instrument) or in a signed statement accompanying the contribution. A designation also occurs when the contributing SSF signs a form supplied by the campaign. Only the contributing SSF—not the recipient candidate committee—may designate a contribution for a particular election. 110.1(b)(2)(i) and (b)(4) and 110.2(b)(2)(i) and (b)(4); see also AO 1990-30 (Helms).

Effect of designating vs. not designating

A designated contribution counts against the SSF's contribution limit for the election that is named. An undesignated contribution automatically counts against the SSF's limit for the candidate's next election. 110.1(b)(2)(ii) and 110.2(b)(2)(ii). For example, an undesignated contribution made after the candidate has won the primary but before the general election applies toward the contribution limit for the general election.

Therefore, if an SSF wishes to make a contribution for any election other than the next one, the contribution must be designated in writing, as explained below.

When designation is required

Future elections

A written designation is required when an SSF wants a contribution to apply toward a future election other than the next one. For example, an SSF may make a contribution to a candidate's general election campaign before the primary election has taken place, but the SSF's check (or an accompanying statement) must specifically indicate that it is for the general in order to count toward the general election limit.

Past elections (debt retirement)

When making a contribution to retire a candidate's debts from a past election campaign, an SSF must designate the contribution for the appropriate election. The candidate committee may accept the contribution only if the campaign has net debts outstanding with respect to the designated election on the day it receives the contribution. The SSF must also be certain that the contribution, when aggregated with other contributions from the SSF for that same election, does not exceed the applicable per-election limit. See 110.1(b)(3)(i)-(iii) and 110.2(b)(3)(i) and (ii).

6. Date contribution is made vs. date of receipt

The date a contribution is made and the date the contribution is received are significant for purposes of the contribution limits and for reporting. It is important to understand the distinction.

Date contribution is received

The date of receipt is the date the recipient committee (or a person acting on the committee's behalf) actually receives the contribution. See 102.8(a). This is the date used by the recipient committee for reporting purposes.

Date contribution is made

The date a contribution is made is the date the contributor relinquishes control over it. 110.1(b)(6). For example:

- A hand-delivered contribution is considered made on the date it is delivered by the contributor to the committee. 110.1(b)(6).
- A mailed contribution is made on the date of the postmark. 110.1(b)(6). If a committee wishes to rely on a postmark as evidence of the date a contribution was made, it must retain the envelope or a copy of it. 110.1(l)(4).
- An in-kind contribution is made on the date that the goods or services are provided by the contributor. 110.1(b)(6).
- A contribution made via the Internet is considered made on the date the contributor electronically authorizes the transaction. AO 2012-35 (Global Transaction Services Group, Inc.); 1995-09 (NewtWatch).
- An earmarked contribution is considered made on the date the contributor forwards it to the conduit or intermediary. AO 2006-30, n. 5 (ActBlue). (The conduit must inform the campaign of the date the contribution was made when it forwards the contribution.) See appendix E for more information.

Effect of date made for contributions made by SSF

Designated contributions

A candidate may accept a designated contribution if it is made before the designated election, regardless of whether the candidate has outstanding debts from that election. However, a designated contribution is subject to the net debts outstanding rule, described above, if it is made after the election for which it is designated. See 110.1(b)(3)(i)-(iii) and 110.2(b)(3)(i) and (ii).

Undesignated contributions

An SSF may make an undesignated contribution on or before the day of the election regardless of whether the candidate has debts, even if the candidate does not receive the check until after the election has passed. See “Determining the date made” below. An undesignated contribution made after the election has passed, however, must be applied to the next election. 110.1(b)(2)(ii) and 110.2(b)(2)(ii).

Effect of date made for contributions received by SSF

The date made is significant for determining which calendar year contribution limit applies. For instance, if a contribution to the SSF is postmarked 12/3/2017 but received on 1/3/2018, the contribution would count against the contributor’s 2017 calendar year limit. In that instance, the SSF should retain a copy of the postmark to document the date made. See 110.1(l)(4).

7. Handling excessive contributions made to the SSF

Depositing questionable contributions

If an SSF receives a contribution that appears to be excessive, the committee may have to refund it to the donor. Within 10 days, the treasurer must either return the questionable check to the donor or deposit it. 103.3(a) and (b)(3). Once the contribution is deposited, the treasurer must:

- Avoid spending the questionable funds by keeping enough money in the committee's account to cover all potential refunds.
- Keep a written record explaining why the contribution may be illegal and include this explanation on Schedule A if the contribution has to be itemized before its legality is established.
- If a check appears to exceed a contributor's annual limit, seek a reattribution of the excessive portion, following the instructions below, or return it.
- If a check appears to come from a prohibited source, confirm its legality, as explained below, or return it. 103.3(b)(1) and (3)-(5).

Excessive contributions: reattributions

Presumptive reattribution

In some cases, an SSF may correct an excessive contribution by presumptively reattributing the excessive portion as described below.

When an SSF receives an excessive contribution made via a written instrument with more than one individual's name imprinted on it, but with only one signature, the SSF may attribute the permissible portion to the signer. The SSF may make a presumptive reattribution of the excessive portion to the other individual whose name is imprinted on the written instrument without obtaining a second signature, so long as the reattribution does not cause the contributor to exceed any other contribution limit. 110.1(k)(3)(ii)(B)(1).

Within 60 days of receipt of the contribution, the treasurer must notify the contributors of how the contribution was reattributed and that the contributors may request a refund of the excessive portion of the contribution if it was not intended to be a joint contribution.
110.1(k)(3)(ii)(B)(2), (3).

Requested reattribution

In other situations where a presumptive reattribution is not permitted, the treasurer may request a reattribution from the contributor by asking:

- Whether the contribution was intended to be a joint contribution from more than one person; or, alternatively,
- Whether the amounts attributed to participants in a joint contribution should be adjusted. (The amount is split equally between the donors unless they indicate a different division in writing.) 110.1(k)(3)(ii)(A)(1), (2).

In either case, the treasurer must inform the contributor that he or she may instead request a refund of the excessive portion. The treasurer should also inform donors that a reattribution must, within 60 days of the treasurer's receipt of the contribution, be signed by each participating contributor and provided to the treasurer. 110.1(k)(3)(ii)(A).

Receive reattribution or make refund

A contribution is properly reattributed if the treasurer receives a statement signed by all contributors indicating the amount attributable to each donor. 110.1(k)(2), (3)(ii)(B). The treasurer must obtain the proper reattribution or refund the excessive portion within 60 days of the receipt of the original contribution. 103.3(b)(3).

EXAMPLE: A multicandidate SSF receives a $6,000 check that is drawn on a joint account but signed by only one account holder. The treasurer deposits the contribution and seeks a reattribution by asking the account holders whether they intended the contribution to be a joint one, partially attributable to the second account holder, or whether the treasurer should refund the excessive $1,000. Within 60 days of receiving the original contribution, the treasurer receives a statement, signed by both contributors, reattributing $1,000 to the second account holder. The committee may now keep the full $6,000.

If the SSF had not received the reattribution, the treasurer would have had to refund the excessive amount within the 60-day period.

Retain records

A committee must retain copies of reattributions for three years. 102.9(c) and (f); 110.1(l)(3) and (6). Rules for reporting reattributions are explained in chapter 11, section 6.

8. Remedying an excessive contribution made by the SSF

Redesignation of contributions made by SSF

A candidate committee may ask an SSF to redesignate a contribution (or a portion of it) for a different election. Redesignation permits the donor to remedy an excessive contribution so that the excessive portion counts against a different election limit. 110.1(b)(5).

An SSF may comply with a request for redesignation by returning a signed statement redesignating the contribution. The candidate committee must receive the redesignation within 60 days of its receipt of the original contribution. Otherwise, the committee must refund the excessive portion to the SSF. 110.1(b)(5)(ii) and 110.2(b)(5)(ii).

The SSF may always request a refund from the candidate committee instead of providing the redesignation. 103.3(b)(3), 110.1(b)(5)(ii)(A)(1) and 110.2(b)(5)(ii).

Redesignation by recipient committee

When a non-multicandidate committee makes an excessive contribution to a candidate's authorized committee, the recipient committee may "presumptively redesignate" excessive contributions to the general election if the contribution:

- Is received before that candidate's primary election;
- Is not designated in writing for a particular election;
- Would be excessive if treated as a primary election contribution; and
- As redesignated does not cause the contributor to exceed any other contribution limit.

110.1(b)(5)(ii)(B)(1)-(4).

Also, an undesignated excessive contribution received after the primary, but before the general election may be automatically applied to the primary if the campaign committee has more net debts outstanding from the primary than the excessive portion of the contribution. See the explanation and justification for 110.1(b)(5)(ii)(C) at 67 Fed. Reg. 69931 (November 19, 2002), available at http://sers.fec.gov/fosers/showpdf.htm?docid=3182.

Note that multicandidate committees do not have the option of automatic redesignation.

9. Affiliation and contribution limits

Two or more affiliated committees are treated as a single committee for the purposes of the contribution limits. This means that all contributions made or received by several affiliated committees count against the same limits. 110.3(a)(1).

Affiliation and multicandidate status

Because affiliated committees are treated as one committee for the purposes of the limits, two or more affiliated committees may collectively satisfy the requirements for multicandidate committee status. AO 1980-40 (Transamerica Corporation PAC).

Monitoring limits

To facilitate reporting and to avoid exceeding contribution limits, affiliated SSFs should set up a centralized recordkeeping system to ensure that contributions made and received by all the affiliates comply with the limits.

The treasurers of each affiliate are responsible for monitoring contribution limits. 103.3(b).

10. Prohibited corporate and labor contributions

General treasury funds

Corporations and labor organizations may not use their general treasury funds to make contributions to their SSFs or candidates and they are generally prohibited from using their treasury funds to

make contributions to other types of political committees.[4] 114.2(b). Officers of corporations and labor organizations are prohibited from consenting to the making of a prohibited corporate or labor contribution. 114.2(e).

In addition, national banks and federally chartered corporations may not make contributions in connection with any U.S. election, federal, state or local.[5] 114.2(a) and (b). See also AO 1997-19 (CoreStates).

Commingling of funds

Corporations and labor organizations may not commingle their treasury funds with the funds of their SSFs. See 114.5.

Any corporate or labor funds intended to pay the administrative expenses of an SSF must be paid directly to vendors or deposited in a special administrative account used only to pay the SSF's establishment, solicitation and administration costs. See 114.5(b) and "SSF establishment, administration and fundraising costs," below.

As an exception to the commingling prohibition, when a connected organization functions as a collecting agent for its SSF (e.g., when collecting contributions via payroll deduction), it may temporarily deposit contributions in a general account before transmitting them to the SSF. 102.6(c)(4). See chapter 3, section 15.

Reimbursements of contributions

A connected organization may not reimburse individuals who make contributions to an SSF or another political committee. 114.5(b)(1). See also 110.4(b) and AO 1986-41 (Air Transport).

Compensation for services

If a corporation or labor organization pays for personal services rendered to a political committee or candidate, a contribution results. 100.54. See also chapter 2. Note, however, two exceptions to this general rule:

SSF establishment, administration and fundraising costs

A corporation or labor organization may pay expenses associated with setting up, administering and raising money (i.e., operating expenditures) for its own SSF. 114.5(b). Also, organizations affiliated with the connected organization (e.g., corporate subsidiaries) may help to pay the administrative costs of the SSF. AOs 1997-13 (USA PAC), 1996-26 (FTD Association) and 1983-19 (AMAX).

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4 Pursuant to *SpeechNow.org* v. *FEC* 599 F.3d 686 (D.C. Cir. 2010) (en banc), and *Carey* v. *FEC*, 791 F.Supp.2d 121 (D.D.C. 2011), corporations and labor organizations may make contributions to nonconnected political committees that make only independent expenditures (a.k.a. Super PACs), or to separate accounts maintained by nonconnected political committees for making only independent expenditures (a.k.a. Hybrid PACs).

5 The prohibition does not apply to referendum-related activities. See *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765 (1978).

Legal and accounting services

Under the exception for administrative costs described above, a corporation or labor organization (or an affiliated organization) may pay the legal and accounting expenses on behalf of its own SSF. 114.1(b).

A corporation or labor organization may provide a party committee with free legal and accounting services without those costs being contributions to the recipient committee. The person rendering the services must be a regular employee of the corporation or labor organization paying for the services. The activity may not further the election of any candidate. 100.85; 114.1(a)(2)(vi).

Free legal and accounting services may also be provided to authorized candidate committees, or any other political committee, for the limited purpose of helping those committees comply with the Act and FEC regulations, without those costs being contributions to the recipient committee. The individual providing the legal and accounting services must be a regular employee of the corporation or labor organization paying for the services. 100.86; 114.1(a)(2)(vi).

Use of corporate/labor facilities and resources

Under limited circumstances, corporations and labor organizations may allow their food services and mailing lists to be used for fundraising purposes in connection with a federal election without being considered contributions to the recipient committee, and they may direct their employees to work on these fundraisers, provided the corporation or labor organization receives advanced payment of the fair market value of the goods or services and otherwise complies with FEC regulations. This concept is explained further in chapter 6, section 3. 114.2(f)(2)(i)(C), (E).

Commercial transactions

Although federal law generally prohibits contributions by corporations, the Commission has looked at certain factors to determine whether commercial activities result in a prohibited contribution when rendered by a corporation. These factors include: (1) whether the activity is engaged in by the vendor for genuinely commercial purposes and not for the purpose of influencing an election; (2) whether the sales of any merchandise involve fundraising activity for candidates or solicitation of political contributions; (3) whether the items are sold at the vendor's usual and normal charge; and (4) whether the purchases are made by individuals for their personal use. AOs 2008-10 (VoterVoter.com), 1994-30 (Conservative Concepts / Pence) and 1989-21 (Create-a-Craft). Other factors considered in determining whether a business entity is conducting bona fide commercial activities include whether the entity is (1) owned, controlled or affiliated with a candidate or political committee; (2) regularly conducts the type of activity involved; and (3) follows industry standards and usual and normal business practices. See Matters Under Review (MURs) 5474 and 5539.

Extensions of credit

A corporate vendor may extend credit to a political committee in the ordinary course of business and under substantially similar terms offered to a nonpolitical committee. However, it may not extend credit for a longer period of time than is normally practiced in the creditor's trade. 116.3.

If a political committee fails to pay a debt owed to a corporate vendor within the time specified by the vendor, a prohibited contribution by the vendor may result if the vendor fails to make a commercially reasonable attempt to collect a debt from a political committee. 100.55.

An extension of credit alone may result in a prohibited contribution if the terms of the credit were not substantially similar to similar extensions of credit by the vendor to nonpolitical clients. 100.55 and 116.3(b).

Any settlement of a debt between a creditor and a political committee for less than the full amount owed must comply with the debt settlement procedures prescribed by FEC rules. 100.55. See chapter 12.

Discounts

If a corporation or labor organization sells goods or services to a political committee at a price below the usual and normal charge, a prohibited contribution results in the amount of the discount. See 100.52(d)(1). A reduced price is not considered a prohibited discount, however, if it is offered by the vendor as a regular business practice to political and nonpolitical clients alike. See, e.g., AO 1989-14 (Anthony's Pier 4).

As an exception to this general rule on discounts, vendors of food and beverages may offer discounts of up to $1,000 per election on food and beverages sold to candidate committees (and up to $2,000 per calendar year to party committees), provided the charge is at least equal to the cost to the food/beverage vendor. 100.78 and 100.138. Food and beverages provided to an SSF would not fall within this exception.

11. Other prohibited contributions

Federal government contractors

Federal government contractors are prohibited from making contributions or expenditures in connection with a federal election.[6] 115.2. The prohibition applies to:

- A partnership with a government contract;
- An individual under contract with the federal government; and
- Sole proprietors with government contracts. 115.4 and 115.5.

The prohibition begins when the request for proposals are sent out or the negotiations have begun (whichever is earlier) and ends when performance under a contract is completed or negotiations have terminated (whichever is later). 115.1(b). Employees of federal contractors and spouses of individuals who are federal contractors are not affected by this provision and may make otherwise lawful contributions from their personal funds. 115.5 and 115.6.

6 However, corporations and labor organizations that are government contractors may establish separate segregated funds. 115.3. See also AO 1985-23 (Goldman, Sachs).

Foreign nationals

Federal political committees and candidates, including an SSF, may not solicit or accept a contribution from a foreign national. Federal law prohibits contributions, donations, expenditures and disbursements solicited, directed, received or made directly or indirectly by or from foreign nationals in connection with any election federal, state or local. 110.20(b), (c). Furthermore, it is a violation of federal law to knowingly provide assistance to foreign nationals in the making of contributions, donations, expenditures, independent expenditures and disbursements in connection with federal and nonfederal elections. 110.20(h)(i)(2). This prohibition includes, but is not limited to, acting as a conduit or intermediary for foreign national contributions and donations. 110.20(h).

Definition of foreign national

A foreign national is:

- An individual who is (1) not a citizen of the United States and (2) not lawfully admitted for permanent residence (as defined in 8 U.S.C. §1101(a)(20)); or
- A foreign principal, as defined in 22 U.S.C. §611(b). Section 611(b) defines a foreign principal as an entity organized under the laws of a foreign country or having its principal place of business in a foreign country. The statute specifically includes foreign governments, political parties, partnerships, associations and corporations.[7]
  22 U.S.C. §611(b); 110.20(a)(3).

An immigrant to the United States is eligible to make a contribution if the individual has a "green card" indicating that he or she has been lawfully admitted for permanent residence. See 8 U.S.C. §1101(a)(20); 110.20(a)(3)(ii).

Domestic subsidiaries of foreign corporations

In advisory opinions, the Commission has said that a United States corporation that is a subsidiary of a foreign corporation may make contributions to nonfederal candidates (to the extent permitted by state law) and may establish an SSF to make contributions to federal candidates when:

- The foreign parent does not finance these activities (such as the payment of the SSF's establishment, administration or fundraising costs) through the subsidiary; and
- No foreign national (including the foreign parent) participates in the operations or administration of the committee (such as by appointing officers) or in any decisions to make contributions or expenditures in connection with any federal or nonfederal election. See 110.20(i). See also AOs 2009-14 (Mercedes-Benz USA/Sterling), 2006-15 (TransCanada), 2000-17 (Extendicare), 1999-28 (Bacardi-Martini), 1995-15 (Allison Engine PAC) and the AOs cited within.

7 Corporations and labor organizations that qualify as foreign principals are prohibited from making contributions in connection with state and local elections even in states where corporate and labor contributions would otherwise be permitted.

Determining nationality of contributor

A committee receiving a contribution of foreign currency or from a foreign address should take the following minimally intrusive steps to ensure that the contributions it received did not come from foreign nationals:

- Ensure that public political ads and solicitations directed to audiences outside the U.S. contain a summary of the foreign national prohibition of 52 U.S.C. § 30121.
- Make further inquiry into the nationality of the contributor if the committee receives a contribution postmarked from any non U.S. territory.
- Make further inquiry into the nationality of the contributor if the committee receives a contribution indicating that either the bank or the account owner has a foreign address. AO 2016-10 (Parker), 1998-14 (Douglass).

In all of the above instances, if the contribution is submitted along with credible evidence (e.g., a copy of a valid U.S. passport) that the contributor is a U.S. citizen, a U.S. national or a permanent resident alien, no further inquiry need be made. However, if the committee has actual knowledge that the contributor is a foreign national, it may not rely on these documents as a defense. 110.20(a)(7).

The use of any surname on a contribution check (or similar instrument) would not, by itself, give any reason to inquire as to the person's nationality. AO 1998-14 (Douglass).

Contributions in the name of another

A contribution made by one person in the name of another is prohibited. 110.4(b). Similarly, a corporation is prohibited from using bonuses or other means of reimbursing employees for their contributions. 114.5(b)(1).

A trade association may not pay additional compensation to its employees to enable them to make contributions to the SSF, federal candidates, and other political committees. See AO 1986-41 (Air Transport).

12. Handling prohibited contributions

Questionable source

If a committee treasurer deposits a contribution that appears to come from a prohibited source, he or she has 30 days to:

- Confirm the legality of the contribution; or
- Refund the contribution.

103.3(b)(1).

As evidence of legality, the treasurer should obtain a written statement from the contributor explaining why the contribution is legal. Alternatively, the treasurer may obtain an oral explanation by telephone and keep a record of the conversation. 103.3(b)(1).

Contributions from incorporated practices of professional members

In advisory opinions, the Commission has permitted a membership organization, under certain circumstances, to use corporate contributions to pay for the expenses of operating the organization's SSF. In these cases, individual members who had established corporations for their professional practices attempted to make contributions to the SSF from their corporate practice accounts. The SSF deposited these corporate contributions (which would otherwise have been prohibited) to the connected organization's general treasury account or a separate administrative account for the SSF. (See "Operating Costs" in chapter 1.) See AOs 1992-20 (ASHA) and 1990-04 (American Veterinary Medical Association).

When depositing SSF contributions into an administrative account under these circumstances, the committee may wish to inform contributors of this use of their funds and give them an opportunity to ask for a refund.

Late discovery of prohibited contribution

If the treasurer discovers that a previously deposited contribution came from a prohibited source, he or she must refund the contribution within 30 days of making the discovery. This situation might arise, for example, if the treasurer learned that a past contribution was made by a foreign national. 103.3(b)(2). See also 110.20.

If the SSF does not have sufficient funds to refund the contribution to the donor when the illegality is discovered, the treasurer must use the committee's next receipts. 103.3(b)(2).

CHAPTER 3
Fundraising for the SSF

This chapter outlines the general rules that apply to all SSFs and connected organizations when soliciting contributions to the SSF. Additional rules apply specifically to trade associations; see appendix C.

1. Rules for SSF solicitations

The following rules for SSF solicitations are explained in this section:

- Contributions to the SSF must be voluntary;
- Special notices must be included;
- Only a limited class of individuals may be solicited;
- Solicitation of the general public is prohibited; and
- All contributions and records must be forwarded by collecting agents and others in a timely manner.

COVERED TOPICS INCLUDE

Required notices on solicitations

"Best efforts" rules

Restricted class definitions

TABLE: Who may be solicited?

The "one-third" rule

Collecting agents

2. Voluntary contributions only

Contributions to an SSF must be voluntary; that is, they must meet the following conditions:

No use of force or threats

Contributions may not be secured by the use or threat of physical force, job discrimination or financial reprisal. 114.5(a)(1).

No fees or dues

An SSF may not use dues or fees obtained as a condition of membership or employment in the connected organization, even if the dues or fees are refundable upon request. 114.5(a)(1). See also AO 1987-23 (Electro PAC).

No commercial activities

The SSF may not use money obtained as the result of a commercial transaction. 114.5(a)(1).

No knowing acceptance of prohibited or excessive contributions

An SSF may not accept contributions from persons who are prohibited by law from making contributions. 114.2(d).

An SSF also may not accept contributions of more than $5,000 per calendar year from any one contributor. 110.9.

Information on handling contributions that appear to be illegal can be found in chapter 2, sections 7 (excessive) and 12 (prohibited).

3. Required notices on solicitations

Certain notices are required on all solicitations (oral or written) undertaken by the SSF or individuals working on behalf of the SSF, as outlined below.

Statement of political purpose

Each time the SSF or the connected organization solicits individuals for contributions, the solicitees must be informed of the SSF's political purpose. 114.5(a)(3). For example, in AO 2006-17 (Berkeley), the Commission approved a statement that noted that the SSF was "for the benefit of political candidates and activities on a state and national level" that supported the industry of the connected organization. See also Matter Under Review (MUR) 5681.

Statement of right to refuse to contribute

Along with the political purpose of the SSF, each solicitation must inform solicitees of their right to refuse to contribute without reprisal. 114.5(a)(4). Note that it is not sufficient merely to say that a contribution to the SSF is "voluntary." See AO 1998-19 (CUNA). See also AOs 2003-06 (PSE), 1997-25 (Hughes Electronics) and MURs 5681 and 5337.

Suggesting a contribution amount

An SSF or connected organization may wish to suggest to a potential contributor that he or she give a specified amount. When making such a suggestion, the solicitation must also say that:

- The suggested amount is only a suggestion and is not enforceable;
- More or less than the suggested amount may be given (i.e., no minimum contribution can be specified); and
- The amount given by the contributor, or the refusal to give, will not benefit or disadvantage the person being solicited. 114.5(a)(2) and (5).

(SSFs and their connected organizations may offer premiums or other incentives to contributors who give specified minimum amounts. See section 10.)

"Best efforts" rules

When making solicitations, SSFs and their treasurers must make "best efforts" to obtain and report the name, address, occupation and employer of each contributor who gives more than $200 in a calendar

year. In order to show that the committee has made "best efforts," solicitations must specifically request that information and inform contributors that the committee is required by law to make its best efforts to obtain and report it. 104.7. For details, see "Treasurer's best efforts" in chapter 9, section 5.

IRS notice requirements

Section 6113 of the Internal Revenue Code requires political committees whose gross annual receipts normally exceed $100,000 to include a special notice on their solicitations to inform solicitees that contributions are not tax deductible. There are substantial penalties for failure to comply with this provision. Contact the IRS for more information. (See appendix G).

"Paid for by" disclaimer not required

Because SSF solicitations are directed to a restricted class, and not to the general public, they do not need to carry a disclaimer notice concerning who paid for the solicitation and whether it was authorized by a candidate. 110.11(f)(2).

4. Limited solicitees

An SSF or connected organization may solicit only a restricted class of persons associated with the connected organization. See 114.5(g); 114.7; 114.8(c)-(g). The general public may not be solicited. See sections 5-8 below.

An SSF may accept an unsolicited contribution that is otherwise lawful, but the committee may not inform individuals outside the restricted class that unsolicited contributions are acceptable. 114.5(j). Providing that information amounts to a solicitation. See AO 1983-38 (DuPont Good Government Fund).

Accidental or inadvertent solicitation

If an SSF or connected organization accidentally or inadvertently solicits a person not eligible for solicitation, no violation will result if the SSF or connected organization:

- Makes its best efforts to comply with the restrictions on who may be solicited; and
- Corrects the method of solicitation immediately.

114.5(h).

5. Corporations: solicitable class

Restricted class

A corporation or its SSF may solicit its restricted class at any time. The restricted class of a corporation consists of:

- The corporation's executive and administrative personnel;

- The stockholders; and
- The families (i.e., immediate household residents)[1] of the above two groups.

An SSF may also solicit, at any time, the members of the restricted class of any parent, subsidiary, branch, division or affiliate of the connected organization. 114.1(j); 114.5(g)(1).

Executive and administrative personnel

Who is included

Executive and administrative personnel include employees who are paid on a salary (rather than hourly) basis and who have policymaking, managerial, professional or supervisory responsibilities. 114.1(c). The restricted class generally includes individuals who:

- Devote the majority of their work week to executive or administrative duties involved in running the corporation's business (e.g., plant, division and section managers, officers and executives); or
- Follow the recognized professions, such as lawyers, physicians, nurses and engineers.

114.1(c)(1)(ii).

The following groups might also qualify as solicitable personnel:

- Consultants and commissioned employees, if they have policymaking, managerial or supervisory responsibilities and if the organization deducts federal income tax from their paychecks under the Internal Revenue Code. 114.1(c)(3). AO 1999-20 (EQUI-PAC).
- Members of a board of directors who are not shareholders or employees but who receive regular compensation. AO 1985-35 (Weirton). See also AO 2010-12 (Procter & Gamble).
- Executive and administrative personnel of franchisees, licensees and agents. See AOs 1992-07 (H&R Block), 1990-22 (Blue Cross/Blue Shield), 1988-46 (Collins Foods) and 1985-31 (CIGNA PAC).
- Executive and administrative personnel of a partnership or LLC controlled by, or controlling, a corporation or its dominant shareholders. See AOs 2004-32 (Spirit), 2001-18 (BellSouth) and 1989-08 (Wagner & Brown).
- Corporate managers that exercise the type of managerial discretion and independent judgment as executive and administrative employees. See AOs 2010-04 (Wawa), 2012-02 (Wawa, Inc.).

None of the individuals listed above are automatically solicitable. SSFs should consult the cited advisory opinions and, if appropriate, request an advisory opinion addressing their relationship with the particular individuals they wish to solicit. See the introduction to this guide for information on how to request an advisory opinion.

Also, consult the Fair Labor Standards Act (29 CFR §541) and the regulations issued pursuant to that Act for guidelines regarding whether individuals have policymaking, managerial, professional or supervisory responsibilities. 114.1(c)(4).

1 See AO 1980-102 (Fru-Con Corporation PAC); 1990-18 (Oahu FCU). See also 1983-48 (Cablevision Systems).

Stockholders

Who is included

In order to be considered a solicitable stockholder, a person must have:

- A vested beneficial interest in the stock;
- The power to direct how the stock will be voted, if it is voting stock; and
- The right to receive dividends.

114.1(h).

Employee stockholders

Individuals who participate in an employee stock ownership plan (ESOP) are solicitable as stockholders, as long as they have the rights listed in the previous paragraph.

In cases where participants' dividends are automatically reinvested under the ESOP, participants are solicitable only if they actually withdraw stock or have the right to withdraw at least one share of stock without a suspension of rights or penalty. See AOs 1998-12 (Ashland PAC), 1996-10 (USX PAC), 1994-36 (SAIC) and 1994-27 (Consumers Power Company).

Who is not included

- Professional employees represented by a labor union. See AOs 2004-23 (U.S. Oncology) and 1988-11 (NATTS PAC).
- Lawyers, consultants and other personnel employed by firms retained by the corporation and who are not employees of the corporation. AO 1984-55 (Amerifirst Federal Savings and Loan).
- Members of the board of directors who are not also executive and administrative personnel and who receive no compensation. AO 1977-18 (Proprietary Industry PAC).
- Salaried foremen and others who supervise hourly employees.
- Former or retired personnel.

114.1(c)(2).

Exception: If any of the persons mentioned above are stockholders or family members of stockholders, then they would be included in the restricted class. 114.5(g)(1).

Expanded class

Twice a year, a corporation or its SSF may solicit employees who are not in the restricted class, such as professionals represented by a labor union. Twice-yearly solicitations may also extend to the families of those workers. 114.6(a). See appendix B for more information on twice-yearly solicitations.

6. Labor organizations: solicitable class

Restricted class

A labor organization or its SSF may solicit its restricted class at any time. The restricted class includes the union's members, its executive and administrative personnel and the families of both groups. 114.5(g)(2); 114.1(j).

Note that a member of a local union is also considered a member of:

- Any national or international union that the local union belongs to; and
- Any labor federation to which the local, national or international union belongs.

114.1(e)(4).

For more information on affiliation between labor organizations, see chapter 4, section 1.

Expanded class

Twice in each calendar year, a labor organization or its SSF may solicit nonmember employees of a corporation where members of the union are employed (including executive and administrative personnel, stockholders and the families of both groups). The union or the SSF may also solicit the union's own nonexecutive and nonadministrative personnel who are not members and their families on a twice-yearly basis. 114.6(b); AO 1979-50 (Public Affairs Council).

Special rules apply to twice-yearly solicitations. See appendix B.

7. Membership organizations: solicitable class

Restricted class of membership organization

A membership organization or its SSF may solicit its restricted class at any time. The restricted class includes:

- Noncorporate members (such as individuals and partnerships) of the organization;
- The organization's executive and administrative personnel; and
- The families of both groups. 114.7(a) and (b).[2]

Definition of membership organization[3]

A membership organization is a trade association, a cooperative, a corporation without capital stock or a local, national or international labor organization that meets the following qualifications:

2 Unlike trade associations, other incorporated membership organizations may not solicit contributions from incorporated members' stockholders and executive and administrative personnel, or the families of such individuals. AO 2005-17 (American Crystal Sugar); See 114.7(a).

3 For purposes of internal communications, the definition of membership organization is broader than it is for solicitations. See "Corporate and labor communications to the restricted class," chapter 8, section 1.

- It is composed of members who have the authority to administer the organization according to the organization's bylaws;[4]
- Its bylaws state the qualifications for membership;
- It makes its bylaws available to its members;
- It expressly solicits persons to become members;
- It expressly acknowledges new members by, for example, sending a membership card or including the member's name on a newsletter list; and
- It is not organized primarily for the purpose of influencing the nomination for election, or the election, of any individual to federal office.

114.1(e)(1). See AOs 2008-21(CME Group, Inc.) and 2007-16 (American Kennel Club).

Definition of member

Regular member

A member of a membership organization is an individual or other entity that:

- Satisfies the requirements for membership as specified by the membership organization;
- Affirmatively accepts the organization's invitation to become a member; and
- Maintains a relationship with the organization in one of the following ways:
    - It has a significant financial attachment, such as a significant investment or ownership stake;
    - It pays dues at least annually as predetermined by the organization; or
    - It has a significant organizational attachment, which is demonstrated by annual affirmation of membership and direct participatory rights in the governance of the organization, for example:
        - The right to vote directly or indirectly for at least one individual on the membership organization's highest governing board;
        - The right to vote directly for organization officers;
        - The right to vote on policy questions where the highest governing body is obligated to abide by the results;
        - The right to approve the organization's annual budget; or
        - The right to participate directly in similar aspects of the organization's governance.

114.1(e)(2). See also AOs 2008-21 (CME Group, Inc.), 2007-16 (American Kennel Club), 2000-04 (NAFCU) and 1999-40 (NRECA).

The Commission may determine, on a case-by-case basis through the advisory opinion process, the membership status of persons who do not meet the above requirements but who have a relatively enduring and independently significant financial or organizational attachment to the membership organization (e.g., students, lifetime members and retirees). 114.1(e)(3); see also AOs 2003-13 (OPHTHPAC) (students) and 1999-06 (Rural Letter Carriers) (retirees).

4 Bylaws includes any formal organizational document.

Table 2: Who may be solicited[a]

	By corporation	By labor organization	By incorporated membership organization[c]	By incorporated trade association
At any time[b]	Executive and administrative personnel and families stockholders and families	Executive and administrative personnel and families	Executive and administrative personnel and families	Executive and administrative personnel and families
				Non-corporate members and families
		Members and families	Non-corporate members and families	With prior approval, corporate members' executive and administrative personnel, stockholders and families of both
Twice yearly[d]	Non-executive and non-administrative personnel and families	Non-executive and non-administrative personnel and families	Non-executive and non-administrative personnel and families	Association's non-executive and non-administrative personnel
		In corporations that employ members of the labor organization, non-member employees, stockholders and families of both		

a. A connected organization or its SSF may also solicit the executive and administrative personnel, stockholders and members (and the families of those persons) of the connected organization's subsidiaries, branches, divisions, affiliates and state or local units.

b. The restricted class for communication purposes is different. See chapter 8 for more information.

c. These rules apply, as appropriate, to corporations without capital stock and incorporated cooperatives.

d. Individuals who may be solicited at any time may also be included in twice-yearly solicitations.

Multitiered organizations

When an organization has a national federation structure or has affiliates at several levels (e.g., national, state, regional, local), a person who qualifies as a member of one affiliate will also qualify as a member of all affiliates within that organization. 100.134(i) and 114.1(e)(5); AOs 2005-14 (AKFCF), 2002-11, n. 2 (Mortgage Bankers), and 1998-19 (CUNA). See also 100.5(g)(2).

State law inapplicable

Whether or not an organization has members (for purposes of federal campaign finance law) will be determined by FEC regulations and not by the definitions of state law. 114.1(e)(6).

Expanded class

Twice a year, a membership organization or its SSF may solicit the organization's non-executive and non-administrative personnel and their families. 114.6(a). See appendix B for more information.

8. Trade associations: solicitable class

Definition of trade association

A trade association is defined as a membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind ordinarily carried on for profit, and no part of the net earnings of which inures to the benefit of any member. 114.8(a). See also appendix C regarding federations of trade associations.

As explained in the previous section, a trade association is a type of membership organization. 114.1(e)(1). As a result, its restricted class for solicitation purposes includes:

- Noncorporate members (such as individuals and partnerships) of the association;
- The association's executive and administrative personnel;
- Executive/administrative personnel and stockholders of member corporations (with prior approval (See appendix C)); and
- The families of all three groups. 114.7(a) and (c).

As with other membership organizations, members of a trade association must fit the definition of "member" in order to be in the solicitable class. See "Definition of member" in the previous section.

Corporate members of trade associations

As noted above, a trade association or its SSF must receive prior approval from a member corporation in order to solicit that member's restricted class. 114.8(d). See appendix C for more information about trade association solicitations and the prior approval process.

Assuming it fits the definition of a membership organization (see section 7 of this chapter), a trade association may solicit its noncorporate members and its own executive and administrative personnel at any time. See 114.1(e)(1) and 114.7(e).

Expanded class

Twice a year, a trade association or its SSF may solicit the association's non-executive and non-administrative personnel and their families. See 114.6(a) and appendix B for more information.

9. What constitutes a solicitation

It is important to know when a communication constitutes a solicitation in order to know whether the required notices (see section 3) and restricted class requirements (see sections 4-8) have been triggered.

A straightforward request for contributions is a solicitation. However, a communication about the SSF could also constitute a solicitation if it:

- Publicizes the SSF's right to accept unsolicited contributions from any lawful contributor;
- Provides information on how to contribute to the SSF; or
- Encourages support for the SSF.

AOs 1984-55, n. 2 (Amerifirst Federal Savings and Loan), 1979-66 (Associated General Contractors PAC) and 1979-13 (Raymond International Inc. Employees' PAC).

What is not a solicitation

In advisory opinions, the Commission has concluded that a communication concerning the SSF is not a solicitation if it:

- Does not encourage support for the SSF; and
- Does not facilitate the making of contributions to the SSF.

See, e.g., AOs 2003-14 (Home Depot), 2000-07 (Alcatel USA), 1991-03 (TEX/CON), 1988-02 (Chicago Board of Options Exchange II), 1983-38 (DuPont Good Government Fund) and 1982-65 (Union Carbide). See also AOs 1999-06 (Rural Letter Carriers) and 1979-13 (Raymond International Inc. Employees' PAC).

10. Solicitation methods

The most common methods of soliciting SSF contributions from the restricted class are described below. SSFs may solicit funds using any otherwise legal method of fundraising; however, no matter which method is used, the rules specific to all SSF solicitations (see section 1) must be observed. See 114.5. Moreover, the required recordkeeping information on contributors must be obtained when accepting contributions, as explained in chapter 9.

Oral solicitations

Oral SSF solicitations, for example those done through a speech, a meeting or a telephone or in-person conversation, may be made only to members of the restricted class (and not to anyone else). See sections 4-8 above. The speaker must include all of the requisite notices in his or her remarks (see section 3). Literature about the SSF may be offered when requesting contributions. See, e.g., AOs 1995-14 (OMSPAC) and 1981-41 (International Association of Amusement Parks and Attractions).

Solicitations by mail

The SSF or connected organization may also mail its requests for contributions. A pre-addressed, stamped return envelope may be included with the solicitation. However, the mailed solicitation materials may only be sent to members of the restricted class and must include all requisite notices. See 114.5(a)(5) and (g). See sections 3-8 above.

Solicitations in publications

An SSF or its connected organization may solicit contributions through a publication that is directed only to members of the restricted class (provided that the requisite notices are included). If a connected organization's publication is circulated to persons outside the restricted class, the organization may generally not include an SSF solicitation in that publication. See 114.5(g)(1) and AO 1979-13 (Raymond International Inc. Employees' PAC).

EXCEPTION: A solicitation in a publication that is circulated outside the restricted class may be permissible under the following conditions:

- The article includes an explicit caveat stating that contributions will be screened and those from persons outside the restricted class will be returned;
- The SSF must actually implement this return policy; and
- Both the number and the percentage of unsolicitable persons receiving the publications are incidental or de minimis as compared to the entire circulation.[5] See, e.g., AO 1999-06 (Rural Letter Carriers).

An article about the SSF published in a publication could constitute a solicitation if it:

- Publicizes the SSF's right to accept unsolicited contributions from any lawful contributor;
- Provides information on how to contribute to the SSF; or
- Encourages support for the SSF.

For example, an article that commends employees who have contributed to the SSF is considered a solicitation because it encourages support. See AO 1979-13 (Raymond International Inc. Employees' PAC).

5 The Commission has said in advisory opinions that up to three percent of the circulation (representing 1,000 persons outside the restricted class) was incidental, whereas 10 percent of the circulation (representing 8,000 persons outside the restricted class) was not. See AOs 1994-21 (APhA-PAC), 1980-139 (Agway), 1979-50 (Public Affairs Council), and 1978-97 (National Association of Postal Supervisors).

When an article in a publication is not a solicitation

As noted in section 9, a communication concerning the SSF is not a solicitation if it:

- Does not encourage support for the SSF; and
- Does not facilitate the making of contributions to the SSF.

See AOs 2003-24 (NCTFK), 2000-07 (Alcatel USA), 1991-03 (TEX/CON), 1988-02 (Chicago Board of Options Exchange II), 1983-38 (DuPont Good Government Fund), 1982-65 (Union Carbide), 1980-65 (National Tire Dealers and Retreaders Association) and 1979-66 (Associated General Contractors PAC).

If an article would not be considered a solicitation, then it may be circulated outside the restricted class to the general public. In such an article, an SSF or its connected organization could:

- Announce the existence of the SSF and explain the legal requirements that apply to its activities;
- Provide information about how much the SSF has raised, the number of contributors and the number of candidates supported; and
- Identify federal candidates who have been supported by the SSF, as long as the communication does not suggest that support for the SSF would help elect or defeat those candidates.

Online solicitations

Internet or intranet web pages

A connected organization or the SSF may maintain a website or an intranet page that provides information about the SSF, including information about how to inquire further about the SSF. AOs 2000-10 (America's Community Bankers) and 2000-07 (Alcatel USA). In such cases, the following rules regarding the restricted class apply:

- The SSF must confine any solicitation to areas of the website accessible only to the restricted class via a password. Note that a universal password is permissible, provided it is only distributed to members of the restricted class. AO 2006-03 (Whirlpool).
- The SSF must ensure that any part of the website accessible to those outside the restricted class includes a statement that federal law prohibits soliciting contributions from outside the restricted class and that such contributions will be returned to the donor; and
- The SSF must closely monitor contributions to prevent the receipt of contributions from outside the restricted class.

AOs 2006-03 (Whirlpool), 2000-10 (America's Community Bankers), 2000-07 (Alcatel USA) and 1995-33 (Coastal Employee Action Fund).

As many contributions made online are made via credit card, the SSF and its connected organization must screen and vet contributors to ensure that online contributions come from permissible sources. See AOs 1999-36 (Campaign Advantage), 1999-09 (Bradley for President) and 1999-03 (Microsoft PAC). The date of the contribution is considered to be the date the contribution was authorized by the contributor. AO 1995-09 (NewtWatch).

Email solicitations

The SSF or its connected organization may maintain an email listserv (i.e., electronic mailing list) to send SSF solicitations via email to members of the restricted class. All of the requisite notices must be incorporated into such an email. AO 2000-07 (Alcatel USA); 114.5(a)(5).

Solicitations at conventions or meetings

Connected organizations may make solicitations at a convention or meeting. For example, an SSF may solicit contributions from a booth at a convention, provided that:

- The booth is not publicized prior to the convention other than to members of the restricted class;
- The booth's signs inform contributors of the solicitation restrictions;
- The connected organization maintains a list of individuals in the restricted class; and
- Funds are not accepted from individuals who are not solicitable.

AOs 1995-14 (OMSPAC), 1978-83 (Construction Equipment PAC) and 1978-17 (CABLEPAC).

An impermissible solicitation will occur, even if unintended, when an organization provides information beyond the restricted class on how to contribute to its SSF or when it encourages support of the SSF. AOs 1979-66 (Associated General Contractors PAC) and 1979-13 (Raymond International Inc. Employees' PAC).

A pre-meeting mailing that mentions an SSF fundraising event or a booth is a solicitation. A sign saying "Ask Us for Information About the PAC Fundraiser" or informing attendees about a fundraising event is also a solicitation. AOs 1976-96 (Savings Bankers Non-Partisan Political Action Committee) and 1976-27 (BreadPAC).

Additional rules apply to trade associations with corporate members conducting solicitations; see appendix C.

Matching contributions with gifts to charity

A connected organization may encourage contributions to the SSF by pledging to match all or a portion of a contributor's gift to the SSF with a donation to charity. The employee or member making the SSF contribution may designate a charity to receive the matching gift from the connected organization, but he or she may not personally receive any financial or tangible benefit (such as a tax deduction or a premium from the recipient charity) as a result of the connected organization's gift. AOs 2015-02 (Grand Trunk Western Railroad Illinois Central Railroad PAC), 2003-39 (CUNA), 2003-33 (Anheuser-Busch), 2003-04 (Freeport-McMoRan) and AOs cited within.

Note that the connected organization may make charitable donations to match contributions to its SSF from both the restricted class and other employees (during special "twice-yearly solicitations" — See appendix B) as long as all regulations are followed for soliciting the two groups.

11. Fundraising events and special promotions – the "one-third rule"

This section describes additional rules applicable to special events and promotions commonly used to raise money for an SSF, including:

- Golf tournaments;
- Raffles;
- Silent auctions;
- Special prizes or recognition events for contributors of a certain amount;
- Concerts; and
- Any other fundraising event or promotion using prizes or entertainment as an inducement to make a contribution to the SSF.

Basic rules apply

Organizations using these events must follow the general solicitation rules described in section 1. This means that only the restricted class may be invited to participate in an SSF fundraising event or promotion. Moreover, any invitation to participate must incorporate the special notices described in section 3.

Price paid = contribution amount

The full price of a fundraising item purchased (such as a t-shirt, a ticket to a fundraising event or a chance at a raffle) counts as the purchaser's contribution, even if part of the price paid is used to defray the costs of the fundraising program. 100.53.

Use of treasury funds

Fundraising events

A corporation or labor organization may generally use its treasury funds to pay all costs associated with fundraising events, such as dinners, luncheons, receptions, dances and concerts. However, a portion of the costs of entertainment (other than food and drink) paid by the connected organization may need to be reimbursed by the SSF. See the 'one-third rule,' below. AO 1980-50 (UM&M PAC). 114.5(b)(2).

Promotional items, entertainment and raffles

A connected organization and its affiliates may also provide tangible premiums to encourage SSF contributions, through raffles and other promotions involving prizes or entertainment. The aggregate cost of the prizes or entertainment, however, may not be disproportionately numerous or valuable in comparison with the contributions raised by the promotion. 114.5(b)(2). If the cost of the prizes or entertainment offered is high in comparison with the amount of money raised, then the SSF will have to reimburse the connected organization for a portion of the cost of the prize or entertainment, as explained below. See AOs 2003-33 (Anheuser-Busch) and 1995-17 (National Association of Realtors).

An SSF may not accept prizes or entertainment donated by corporations other than the connected corporation or its affiliates. See, for example, AO 1991-23 (Retail Druggists). However, a trade association may accept donated prizes and entertainment from its members for SSF fundraising events. See appendix C for details.

Reimbursement

The "one-third rule"

A connected organization may provide its SSF with prizes and entertainment to encourage contributions, however, the aggregate costs of the prizes and entertainment may not be disproportionately valuable compared to the amount of contributions raised. FEC rules provide the one-third rule as a reasonable standard for deciding whether an SSF must reimburse the connected organization for fundraising costs. According to the one-third rule, an SSF must reimburse that portion of the cost of prizes or entertainment that exceeds one-third of the amount raised in contributions. 114.5(b)(2). See AOs 2003-33 (Anheuser-Busch), 1999-31 (Oshkosh), 1995-17 (National Association of Realtors), 1989-18 (AICSPAC) and 1981-07 (Democratic Republican Independent Voter Education PAC).

For example, a trade association spends $300 in treasury funds to purchase a TV set as a raffle prize. Sales of raffle tickets raise $600 in SSF contributions. Since one-third of the amount raised ($200) is less than the cost of the prize ($300), then the SSF should reimburse the association for the $100 difference.

On the other hand, if the SSF raises $900 in contributions, then one-third of that amount ($300) is equal to what the association spent on the prize, so no reimbursement is necessary.

Determining cost and time period of events

The fair market value of prizes or entertainment used in a fundraising event must be used for the purposes of calculating whether reimbursement is needed under the one-third rule. See AO 1995-17 (National Association of Realtors).

In the case of an ongoing event (for example, prizes awarded to certain contributors over several months during a fundraising drive), the SSF must assign an ending date for the event and use that date to determine how much was raised during the event. AO 1999-31 (Oshkosh).

When the "one-third rule" does not apply

The one-third rule applies only to fundraising with promotional items, prizes and entertainment (other than food and drink) that have been paid for by the connected organization, its affiliates and, in the case of trade associations, its members. It does not apply to the other types of SSF fundraising activity discussed in this chapter. See AOs 1980-50 (UM&M PAC) and 1979-72 (BUILD PAC). The one-third rule also does not apply when the SSF purchases the prize or entertainment with contributions made to the SSF. AO 1995-17 (National Association of Realtors).

12. Payroll deduction

An organization's payroll deduction system can be used to collect contributions to its own SSF and any affiliated SSF.

The SSF of a labor organization representing a corporation's employees may use the corporation's payroll deduction system, as explained in section 13 of this chapter.

The SSF of a trade association may use a member corporation's payroll deduction system, so long as the corporation has given its prior approval for solicitations by that trade association, as explained in appendix C. See 114.2(f)(4)(i), 114.5(k)(1), 114.8(e)(4); and AOs 2003-06 (PSE) and 1991-19 (GTE).

A connected organization collecting contributions to an SSF through a payroll deduction system will be a collecting agent, described further in section 15. 102.6(b)(1)(ii)-(iv), (c).

Solicitations via payroll deduction may only be directed to members of the SSF's restricted class (described in sections 4-8) and all requisite notices (described in section 3) must be included.

Written authorization required

In a payroll deduction plan, an employee authorizes the periodic deduction of SSF contributions from his or her paycheck. A written authorization for the deductions must be obtained before making the deductions. The SSF is advised to retain a copy of the written authorization for three years from the date of the report disclosing the employee's last deduction. Other evidence of authorization, such as records of the transmittal of funds from employers or collecting agents in the form of spreadsheets, wire transfer records or other written electronic records will satisfy the recordkeeping requirement for payroll deduction authorization.[6] (See "No reverse checkoff," below.) The employee may revoke the authorization at any time. 102.6(c)(6); AOs 2000-15 (CUNA New York), 2000-11 (Georgia-Pacific), 1999-31 (Oshkosh), 1999-06 (Rural Letter Carriers), 1999-03 (Microsoft PAC), 1997-25 (Hughes Electronics) and 1996-42 (Lucent Technologies).

Electronic signatures

Electronic signatures may be used by employees to authorize the deduction of contributions from their pay, and the connected organization or the SSF may confirm the employees' request via email subject to the following conditions:

- An employee must be able to use the electronic signature or a written signature to revoke or modify the amount of the authorization at any time; and
- A record of the electronic signature, including verification that the signature came from a particular employee, must be maintained in a retrievable form available to the Commission in the event of an audit or investigation. See AOs 2001-04 (MSDW PAC) and 1999-03 (Microsoft PAC).

6 Although signed authorization forms often serve as the best documentation of authorization, they are not the only adequate form of proof for meeting the recordkeeping requirements. See Statement of Policy regarding Recordkeeping Requirements for Payroll Deduction Authorization, 71 Fed. Reg. 38513 (Jul. 7, 2006), available online at https://www.fec.gov/help-candidates-and-committees/fundraising-for-ssf/payroll-deduction-ssf/.

No reverse checkoff

When collecting SSF contributions, a connected organization may not use a reverse checkoff plan—i.e., a collection system whereby the contributions are automatically deducted from an individual's paycheck without his or her prior approval. Such a system results in an involuntary contribution, even if the individual can subsequently request a refund of the amount deducted. See, e.g., AO 2001-04, n.4 (MSDW PAC). See generally 114.5(a)(1).

Combined dues and solicitation payments

Under a payroll deduction or checkoff plan, an individual may simultaneously authorize deductions of membership dues or fees and SSF contributions. 102.6(c)(3). The rules governing such combined payments are explained in section 14 below.

Trade association SSFs

A trade association may use payroll deduction to collect contributions from the association's own executive and administrative personnel. 114.2(f)(4)(i). Also, corporate members may use a payroll deduction system to collect contributions for the SSF of a trade association. 114.8(e)(4). Permissible solicitation and collection methods for trade associations are discussed in appendix C.

13. Corporate collection methods used by labor organizations

General rule

Any lawful method of soliciting and collecting SSF contributions (such as payroll deduction) that is used by a corporation may also be used by a labor organization that represents the corporation's employees. 114.5(k) and (l), 114.9(e)(4). Moreover, upon written request by a labor organization, a corporation and its subsidiaries must provide the union with the same method used by the corporation for soliciting and collecting contributions for its own SSF or for a trade association's SSF. 114.5(k) and 114.8(e)(4).

Reimbursement

A corporation must provide its solicitation and collection system to a labor organization at a cost sufficient only to reimburse the corporation for the expenses incurred in doing so. 114.5(k); 114.8(e)(4). The reimbursement may not be waived, since that would result in the corporation's absorption of the labor organization's solicitation costs—a prohibited contribution. See, e.g., AO 1979-21 (Communications Workers of America COPE PCC). The Commission has approved a labor organization's advanced payment of solicitation and collection costs to a corporation rather than reimbursement. AO 1981-39 (Square D).

Exception

If neither a parent corporation nor its subsidiaries sponsor an SSF, they are not required to make any solicitation or collection method available to any labor organization, though a corporation may agree to make some system available at cost. 114.5(k)(4).

14. Combined dues/solicitation statements

Combined payments

A connected organization may include a solicitation for contributions to an SSF in a bill for another payment, such as a bill for membership dues or a conference registration fee. 102.6(c)(2). The contributor may write a single check to cover both the dues (or other fee) and the contribution to the SSF. The check must be drawn on the contributor's personal checking account or on a nonrepayable corporate drawing account of the contributor. 102.6(c)(3); AOs 1999-40 (NRECA) and 1997-09 (Chicago Board of Trade). Under the collecting agent rules described below, a connected organization may separate the dues from the SSF contribution, then forward the amount intended as an SSF contribution to the SSF.

Basic rules apply

Organizations using a combined dues/solicitation statement must follow the general solicitation rules described in section 1. This means that only those individuals who are in the restricted class may be solicited for an SSF contribution. Moreover, any invitation to participate must incorporate the special notices described in section 3. The design of the solicitation materials must distinguish between the required dues or fees and the suggested voluntary SSF contribution. Individuals may not designate a portion of their dues or fees for the SSF. See AOs 1999-40 (NRECA), 1990-04 (American Veterinary Medical Association), 1987-17 (Texas Farm Bureau), 1987-06 (American Chiropractic) and 1985-12 (American Health Care).

15. Collecting and forwarding contributions – collecting agents

Anyone or any entity who raises money for an SSF must forward the required recordkeeping information to the SSF along with the collected contributions. 102.6(c)(4) and (5). Individual contributions of $50 or less must be forwarded within 30 days; contributions exceeding $50 must be forwarded within 10 days. 102.8(b).

The information that must be obtained for the committee's records varies, depending on the amount of each individual contribution. See chapter 9 for complete instructions.

Who is a collecting agent

A collecting agent is an organization or committee that collects and transmits contributions to one or more SSFs to which the collecting agent is related. 102.6(b)(1). The following types of organizations may function as collecting agents:

- The SSF's connected organization;
- A parent, subsidiary, division, branch or local unit of the connected organization; and
- An affiliated committee (federal or nonfederal). 102.6(b)(1).

In addition, a local, state, national or international union belonging to a federation of unions (such as the AFL-CIO) may act as a collecting agent for the federation's SSF. Also, local, state or national chapters of membership organizations may serve as collecting agents for the national organization's SSF. 102.6(b)(1)(i)-(iv). See also AOs 2003-39 (CUNA) and 1998-19 (CUNA).

As long as the collecting agent does not engage in other activities for the purpose of influencing a federal election, it has no registration or reporting obligations with the FEC. 102.6(b)(2). Nonetheless the collecting agent must:

- Comply with the solicitation restrictions explained earlier in this chapter;
- Forward the contributions to the SSF on time; and
- Keep records on contributors and provide the information to the SSF for disclosure purposes. See 102.6(c).

Who is not a collecting agent

The special collecting agent rules described in this section do not apply to the following:

- Individuals
- Partnerships, or
- Commercial fundraising firms.

102.6(b)(3).

While these persons are not considered collecting agents, they must still observe the forwarding deadlines described at the beginning of this section when they accept contributions on behalf of an SSF. They also may not commingle SSF contributions with their own funds. 102.8 and 102.15.

SSF's responsibility

Regardless of whether the SSF uses the connected organization or another committee as its collecting agent, the SSF remains responsible for seeing that the agent follows the rules for soliciting and depositing contributions and forwarding records. The SSF is also responsible for reporting the contributions. 102.6(c)(1).

Solicitations by collecting agents

Lawful contributions only

Like any person who solicits contributions for an SSF, a collecting agent may solicit only those individuals who are eligible for solicitation under the law (i.e., the restricted class described in sections 4-8 of this chapter) and must comply with the other rules on solicitations explained in sections 1-3 of this chapter. 102.6(c)(2).

Payment of solicitation expenses

A collecting agent may pay the expenses of soliciting and transmitting contributions to the SSF. These payments are not considered contributions or expenditures and do not need to be reported unless the collecting agent is a registered political committee. 102.6(c)(2)(i). AO 2000-04 (NAFCU).

Reimbursements

If the SSF pays for the solicitation costs or other expenses which the collecting agent may pay as an administrative expense, the collecting agent may reimburse the SSF, but the reimbursement must be made within 30 days. 102.6(c)(2)(ii) and 114.5(b)(3).

Solicitation materials

Collecting agents using combined payments to collect SSF contributions must ensure that their solicitation materials contain the required notifications described in section 3 of this chapter. 102.6(c)(2).

Transmitting funds

Checks payable to the SSF must be forwarded directly to the SSF by the collecting agent. In the case of cash contributions, the collecting agent may transmit the contributions to the SSF in the form of money orders or cashier's checks made out to the SSF. 102.6(c)(4)(i) and (ii)(D).

In many cases, however, the collecting agent receives a contribution intended for the SSF as part of a larger receipt (for example, as part of a payroll deduction or combined dues/solicitation) and must separate the amount intended as a SSF contribution from other funds it receives in that check or payment. To do this, the collecting agent may temporarily deposit the funds, as described below, in order to separate the funds intended for the SSF and to transmit those funds in a timely manner.

Depositing funds temporarily

Checks made out to the collecting agent and cash contributions may be temporarily deposited in any one of three types of accounts:

Transmittal account

A collecting agent may establish a transmittal account used solely for the deposit and transmittal of contributions collected on behalf of the SSF. If any expenditures are made from the account, other than transfers to the SSF or its affiliated committees, the account automatically becomes a campaign depository of the SSF and all of the account's activity will have to be disclosed. 102.6(c)(4)(ii)(A).

Collecting agent's account

A collecting agent may also use its own account for the temporary deposit and transmittal of contributions to the SSF. The agent must keep separate records of all receipts and deposits that represent contributions to the SSF. (Recordkeeping rules are discussed in chapter 9.) Cash contributions must be deposited separately so that separate deposit slips are retained in the committee's records. 102.6(c)(4)(ii)(B).

Nonfederal account

A collecting agent may deposit and temporarily hold SSF contributions in an account established for state and local political activities (i.e., a state or local PAC). A collecting agent holding SSF contributions in a nonfederal account must keep separate records of all receipts and deposits of SSF contributions. 102.6(c)(4)(ii)(C).

Retaining records

A collecting agent must retain all records of SSF contribution deposits and transmittals for three years and must make the records available to the Commission upon request. 102.6(c)(6).

The SSF must keep records of all transmittals of contributions received from collecting agents for three years. 102.6(c)(6). The SSF must also keep written authorization for electronic deductions for three years from the date of the report disclosing the last deduction. 102.9(c) and AO 1999-03 (Microsoft PAC).

Reporting

The SSF is responsible for reporting contributions collected through the collecting agent. The funds are reported as contributions from the original donors rather than as a transfer from the collecting agent. If a contribution must be itemized, the SSF treasurer must report, as the date of receipt, the day the collecting agent received the contribution. See 102.6(c)(7) and 102.8(b)(2). In the case of payroll deductions, the date of receipt is the date that the contribution is deducted, not the date the SSF receives the money. AOs 2000-11 (Georgia-Pacific) and 1999-03 (Microsoft PAC).

Merely acting as a collecting agent does not cause an unregistered organization to become a political committee with registration and reporting obligations under the Act. However, if an unregistered collecting agent engages in other activities that would cause it to become a political committee (such as making contributions to candidates), then it must register and report as a political committee. See, e.g., AOs 2003-29 (Fraternal Order of Police) and 1984-31 (First Bank & Trust).

CHAPTER 4
Managing the SSF

This chapter explains FEC regulations and rulings that apply to the day-to-day issues, beyond committee fundraising and supporting candidates, that may arise when managing an SSF. It includes guidance on areas such as affiliation between SSFs, interaction between SSFs and other types of committees and involvement in nonfederal elections. It also describes financial transactions other than contributions made or received, such as loans, transfers and investment income. Finally, it explains internal controls that the committee should implement in order to safeguard its finances.

1. Affiliation

As explained in chapter 1, section 8, affiliation between SSFs results when committees are established, financed, maintained or controlled by the same organization. 100.5(g)(2) and 110.3(a).

Contribution limits

When two or more committees are affiliated, they share a single limit on the contributions they make. A single limit also applies to the aggregate contributions a person makes to committees affiliated with each other.[1] 110.3(a)(1). See also AOs 2006-12 (IAM), 2001-18 (BellSouth), 1997-25 (Hughes Electronics) and 1995-12 (Independent Bankers). This means that the affiliated SSFs must take into account the contribution history of their formerly affiliated and newly affiliated SSFs. AOs 2000-28 (ASHA) and 1997-25 (Hughes Electronics).

COVERED TOPICS INCLUDE

- Affiliation
- Nonconnected PAC fundraising
- Mergers
- Loan repayments
- SSF must pay taxes
- Using two accounts
- Collecting agent activity
- Minimum controls for safe harbor

EXAMPLE: Prior to becoming affiliated, XPAC (a multicandidate committee) contributed $1,000 to a candidate's general election campaign, while YPAC contributed $250 to the same candidate's general election campaign and $750 to the primary campaign. After becoming affiliated, XPAC and YPAC's additional contributions could not exceed $3,750 for the candidate's general election campaign and $4,250 for the primary campaign. See AO 1985-27 (R.J. Reynolds).

1 Application of the contribution limits to affiliated committees is explained in chapter 2, section 9.

Solicitable class

Additionally, when two or more committees are affiliated, they may solicit each other's restricted class. 114.5(g)(1). See chapter 1; see also AOs 2008-21 (CME Group, Inc.), 2006-12 (IAM) and 1995-12 (Independent Bankers).

Payment of operating costs

Affiliated connected organizations may pay the costs of administering and soliciting contributions to each other's SSFs. AOs 2006-12 (IAM), 1997-13 (USA PAC), 1996-26 (FTD Association) and 1983-19 (AMAX).

Automatic affiliation

When SSFs are established by different parts of one organization, they (and their connected organizations) are automatically affiliated. For example:

- An SSF established by a parent corporation is affiliated with an SSF established by a subsidiary corporation. 100.5(g)(3)(i) and 110.3(a)(2)(i).
- An SSF established by a national or international union is affiliated with any SSFs established by local or regional units of the same union. 100.5(g)(3)(ii) and 110.3(a)(2)(ii).
- SSFs established by a federation of national or international unions and the SSFs of the federation's state and local central bodies are affiliated (see further explanation below). 100.5(g)(3)(iii) and 110.3(a)(2)(iii).
- An SSF of a national membership organization (including a national trade association) is affiliated with the SSFs established by its related state and local entities. 100.5(g)(3)(iv) and 110.3(a)(2)(iv).

Circumstances indicating affiliation

When committees are not automatically affiliated under the conditions described above, the Commission may consider the following factors to determine whether two or more committees are affiliated. 100.5(g)(4)(ii)(A)-(J) and 110.3(a)(3)(ii)(A)-(J). These factors include, but are not limited to, whether one committee or its sponsoring organization:

- Owns a controlling interest in the voting stock or securities of another organization sponsoring a political committee. 100.5(g)(4)(ii)(A) and 110.3(a)(3)(ii)(A). (See, e.g., AO (R.J. Reynolds));
- Has the authority or ability to direct or participate in the governance of another sponsoring organization or committee through its constitution, bylaws, contracts or other rules, or through formal or informal practices or procedures. 100.5(g)(4)(ii)(B) and 110.3(a)(3)(ii)(B). (See, e.g., AOs 2012-12 (Dunkin' Brands) and 2007-16 (American Kennel Club));
- Has the authority or ability to hire, appoint, demote or otherwise control the officers or other decision-making employees or members of another sponsoring organization or committee. 100.5(g)(4)(ii)(C) and 110.3(a)(3)(ii)(C). (See, e.g., AOs 2012-12 (Dunkin' Brands) and 2007-16 (American Kennel Club));

- Has a common or overlapping membership, or common or overlapping officers or employees, with another sponsoring organization or committee, indicating a formal or ongoing relationship between the sponsoring organizations or committees. 100.5(g)(4)(ii)(D)-(E) and 110.3(a)(3)(ii)(D)-(E). (See, e.g., AO (UROPAC));
- Has members, officers or employees who were members, officers or employees of another sponsoring organization or committee, indicating a formal or ongoing relationship or the creation of a successor entity. 100.5(g)(4)(ii)(F) and 110.3(a)(3)(ii)(F). (See, e.g., AO 2002-15 (UROPAC));
- Provides or arranges for the provision of funds or goods in a significant amount or on an ongoing basis to another sponsoring organization or committee, such as through payments for fundraising and administrative costs. 100.5(g)(4)(ii)(G)-(H) and 110.3(a)(3)(ii)(G)-(H). (See, e.g., 2002-15 (UROPAC));
- Had an active or significant role in the formation of another organization or committee. 100.5(g)(4)(ii)(I) and 110.3(a)(3)(ii)(I). (See, e.g., AOs 2007-16 (American Kennel Club) and 2006-12 (IAM)); or
- Makes or receives contributions in a pattern similar to that of another organization or committee, indicating a formal or ongoing relationship between them. 100.5(g)(4)(ii)(J) and 110.3(a)(3)(ii)(J).

Labor federations and member unions

If a union belongs to a national or international federation of labor organizations, the SSF of the member union is not automatically affiliated with the SSF of the federation and the SSFs of other member unions.[2]

Usually, if a union is part of the AFL-CIO, the SSFs of that union's national and state organizations are affiliated with each other, but they are not necessarily affiliated with the SSFs of the national and state divisions of the AFL-CIO.

Affiliation with partnerships, LLCs and nonconnected committees

It is possible for a corporation, union or membership organization to be affiliated with a partnership or LLC, and for a nonconnected committee to be affiliated with a corporate/labor/trade SSF. See section 2 of this chapter for more information.

Registration

An SSF must list affiliated political committees on its Statement of Organization. If it becomes newly affiliated with another political committee, it must amend the Statement of Organization within 10 days. 102.2(a)(2) and (b).

2 *FEC* v. *Sailors Union of the Pacific Political Fund*, 624 F. Supp. 492 (N.D. Cal. 1986) *aff d* 828 F 2d 502 (9th Cir. 1987). See also MUR 1605.

Disaffiliation and spin-offs

Occasionally, the restructuring of an organization can result in two or more affiliated SSFs becoming disaffiliated. The Commission has applied the factors listed above to determine whether two or more committees remain affiliated. Disaffiliation may occur when there is significantly diminished commonality of maintenance, finance and control among the connected organizations of affiliated SSFs. For example, if one corporation spins-off another corporation as a result of corporate restructuring, there is a possibility that the SSFs sponsored by those corporations would not be affiliated after the spin-off. See AOs 2007-12 (Tyco), 2004-41 (CUNA Mutual) and AOs cited within.

Impact of disaffiliation

When organizations become disaffiliated, they may no longer solicit SSF contributions from the restricted class of the other organization. (For example, an organization conducting payroll deduction for an affiliated organization's SSF must cease doing so as of the date of disaffiliation.) If a new SSF is formed, it must obtain express and separate payroll deduction authorization from its eligible employees in order to implement payroll deductions for their contributions. AO 1997-25 (Hughes Electronics).

Also, when organizations disaffiliate, they no longer share contribution limits. When making contributions after disaffiliation, SSFs must take into account the contributions they made prior to disaffiliation. To determine the amount that each SSF may contribute to a candidate after disaffiliation, the SSF must add the amounts given by both SSFs before disaffiliation and attribute that sum to its per-election contribution limit for that same candidate. AO 2000-28 (ASHA) and AOs cited within.

EXAMPLE: If, prior to disaffiliation, XPAC (a multicandidate PAC) gave $2,000 to a candidate for the general election and YPAC gave $1,000 to the same candidate for the same election, then, after disaffiliation, the two PACs may each contribute $2,000 more to that candidate for the general election. See AO 1996-42 (Lucent Technologies).

Mergers

When corporations or organizations merge, their SSFs become affiliated. Newly affiliated SSFs must take into account the contribution history of their formerly affiliated and newly affiliated SSFs. See example above. AOs 1997-25 (Hughes Electronics) and 1985-27 (R.J. Reynolds).

In regard to payroll deduction, a new organization created through the merger of two previously existing corporations may consolidate the two previous SSFs into a new SSF without seeking reauthorizations from employees who had authorized payroll contributions to either of the two SSFs. Before implementing the payroll deduction transfer, the organization must send participants a letter notifying them of the change in SSFs and reminding them of their continuing right to change or revoke a payroll deduction authorization without reprisal. AOs 1994-23 (Northrup Grumman) and 1991-19 (GTE).

Transfers-in from affiliated SSFs

An SSF may receive unlimited transfers of permissible funds from other affiliated SSFs. 110.3(c)(1).

2. SSFs and nonconnected PACs

Nonconnected PAC fundraising for SSF

In AO 2007-27 (ActBlue), the Commission determined that a nonconnected committee may not independently solicit contributions from the general public on behalf of an SSF but may work directly with the SSF to solicit the restricted class of the SSF's connected organization for contributions designated for the SSF. Any costs associated with soliciting the restricted class that are paid by the nonconnected committee must be treated as an in-kind contribution to the SSF.

Nonconnected PAC affiliated with SSF

In situations where a nonconnected PAC became affiliated with an SSF, the Commission determined that the nonconnected PAC could solicit only that SSF's restricted class and had to follow the rules governing SSF solicitations, covered in chapter 3 and also in appendix C, "Solicitations by Trade Associations." Moreover, the SSF, even though affiliated with a nonconnected PAC, could still only solicit the restricted classes of its connected organization (as opposed to the general public). See AOs 1996-38 (ASHA), 1992-17 (Du Pont Merck) and 1989-08 (Wagner & Brown).

Joint venture partnerships/LLCs

Partnerships and LLCs that are treated as partnerships for tax purposes are generally prohibited from serving as the connected organization of an SSF. As an exception to this general rule, however, partnerships that are owned entirely by corporations and affiliated with one of those owners may perform the functions of a connected organization. AOs 2009-14 (Mercedes-Benz USA/Sterling), 2007-15 (GMAC), 2004-42 (Pharmavite) and 2003-28 (Horizon Lines). See appendix D, section 5 for details.

Corporate/union/association employees forming nonconnected PACs

Individuals associated with an incorporated organization may establish a nonconnected PAC. To do so, the individuals must demonstrate that the nonconnected PAC is financially and organizationally independent of the organization by, for example:

- Reimbursing the organization for any use of its office facilities (including office equipment such as computers, telephones and furniture) within a commercially reasonable time and at the usual and normal charge (i.e., the price of those goods in the market from which they would have been purchased at the time of use);
- Paying in advance for any use of organization staff, customer/mailing lists, catering services and any other goods and services that the organization does not supply in the ordinary course of business (AO 1997-15 (Nickalo)); and

- Having a diversified leadership ensuring that individuals affiliated with a particular incorporated entity will not form the majority of the committee's board.

AOs 2000-20 (Committee for Quality Cancer Care), 1997-26 (Association of Metropolitan Sewerage Agencies) and 1997-15 (Nickalo). For more information, see the *Campaign Guide for Nonconnected Committees*.

3. Other receipts

Like transfers from affiliated SSFs, certain SSF receipts are specifically excluded from the definition of contribution and thus are not subject to the amount limits and source prohibitions on contributions. Regardless of whether they are contributions, however, all SSF receipts are reported. Reportable receipts that are not subject to contribution limits include:

Investment, interest and dividend income

In addition to collecting contributions, an SSF may invest its funds. 103.3(a). For example, an SSF may invest contributions it has received in a savings account, money market fund or certificate of deposit. Interest and other earnings (or losses) on invested funds are not contributions but must be reported. See AOs 1981-19 (Louisiana State Medical Society PAC), 1980-39 (Fluor Public Affairs Committee), 1979-19 (Cattleman's Action Legislative Fund).

Registration and reporting

If an investment by an SSF is held in a bank, the bank must be listed as a depository on the committee's Statement of Organization. 102.2(a)(1)(vi); see chapter 1. In addition, special reporting requirements apply to earned interest on invested funds, as explained in chapter 11, section 13.

SSF must pay taxes

An SSF must use its own funds to pay taxes on interest income. Federal and state taxes on SSF funds are not considered administrative expenses payable by the connected organization. AO 1977-19 (Texaco Employees Political Involvement Committee). See also appendix G regarding compliance with tax laws, which are outside the jurisdiction of the FEC.

Loan repayments

While not a contribution, a repayment on a loan that has been made by the SSF must come from a permissible source. 100.52(b)(5). For example, although an SSF may loan money without limit to its connected organization, the organization may not use its general treasury funds to repay a loan to an SSF.

Bank loans

Unlike loans received from other sources, loans to SSFs from banks are not considered contributions, provided that they satisfy the conditions set forth below. See 100.82(a). If a loan fails to meet any of these conditions, then a prohibited contribution from the lending institution results.

A committee may obtain a loan from a bank (including a line of credit), provided that the loan:

1. Bears the bank's usual and customary interest rate for the category of loan involved;
2. Is evidenced by a written instrument;
3. Is subject to a due date or amortization schedule; and
4. Is made on a basis that assures repayment (see below). 100.82(a).

Methods of assuring repayment

A loan is made on a basis that assures repayment if it is obtained using one or more of the following authorized methods of securing the loan. 100.82(e)(1)-(2). A committee may use one of the two methods of securing the loan described below, or a combination of the two, or may seek the Commission's approval for an alternative repayment agreement. See 100.82(e)(3).

Collateral. A loan may be secured using assets of the committee, such as real estate, personal property, negotiable instruments and stocks, among other things. The fair market value of the assets pledged must, on the date of the loan, equal or exceed the amount of the loan and any senior liens. 100.82(e)(1)(i).

The committee must ensure that the bank has a perfected security interest in the collateral (that is, taken steps to legally protect its interest in the collateral in the event that the committee defaults on the loan). 100.82(e)(1)(i).

Guarantees or endorsements. An endorsement or guarantee of a bank loan is considered a contribution by the endorser or guarantor and is thus subject to the Act's contribution limits and prohibitions. 100.82(e)(1)(ii).

Pledge of future receipts

If the committee (via a written agreement with the lending institution) pledges its future receipts as security for the loan, then the amount loaned by the bank may not exceed a reasonable estimate of anticipated receipts, based on documentation provided by the committee (such as cash flow charts or fundraising plans). 100.82(e)(2)(i) and (ii). Future receipts might include, for example, anticipated contributions or interest income. The committee must also set up a separate account for the receipt of funds pledged for the repayment of the loan. The account may be established with either the lending institution or a different depository. If the account is established at a depository other than the lending institution, then the committee must execute an assignment of the account's funds to the lending institution and notify the depository of the assignment. The loan agreement must require the committee to deposit the pledged funds into the account established for this purpose. 100.82(e)(2)(iii) and (iv).

Other methods of assuring repayment

The Commission may, on a case-by-case basis, approve methods of assuring repayment other than those described above. 100.82(e)(3). A committee should request an advisory opinion from the Commission before entering into an alternative repayment agreement.

4. Non-election related disbursements

A political committee that is not an authorized committee of a candidate, including an SSF, may expend its funds as it chooses, as long as it does so for any lawful purpose consistent with the Act and regulations. AOs 1991-21 (Alliance for Representative Government) and 1986-32 (Sino American Coop PAC). SSFs should be aware that such non-election-related disbursements are subject to other laws outside the Commission's jurisdiction (for example, tax laws and lobbying laws).

5. SSF involvement in nonfederal elections

An SSF may expend its funds for nonfederal elections, as permitted by state law. A committee engaging in activities to influence both federal and nonfederal elections has two options under FEC regulations:

- Set up one federal account (an SSF) that supports both federal and nonfederal candidates while reporting all activity to the FEC; or
- Set up two accounts—an SSF for federal elections and a nonfederal account for state and local elections. 102.5(a)(1).

Using one SSF account

A committee may support both federal and nonfederal candidates and committees with one SSF account, but all funds received by the SSF are subject to the prohibitions, contribution limits and solicitation restrictions of the Act. 102.5(a)(1)(ii) and (2).

Reportable nonfederal activity

A registered SSF must file FEC reports for all financial activity of its federal account, including activity that supports nonfederal candidates. See 104.3, 104.10. As explained in chapter 11, section 12, SSF disbursements for nonfederal elections must be reported as "other disbursements" on Line 29 of Form 3X and itemized on Schedule B once they aggregate over $200 to the same candidate, committee or other person in a calendar year. 104.3(b)(3)(ix).

State law applies

Any SSF contribution or expenditure made in connection with a nonfederal election is subject to applicable state law. An SSF should seek guidance from state election officials before engaging in nonfederal campaign activity.

Using two SSF accounts

Alternatively, a committee or connected organization may set up two accounts—an SSF for activity in connection with federal elections and a second account (sometimes referred to as a "state PAC") for activity in connection with nonfederal elections. This option permits the committee to maintain a nonfederal account that has no federal registration or reporting obligations. When conducting an activity that benefits both federal and nonfederal candidates and committees, however, the committee may have to allocate the costs between the two accounts. This means that the committee may pay for at least some of the costs from its federal account and follow specific rules (explained in appendix A) for payment.

Federal account

If two accounts are used, only the federal account (the SSF) has registration and reporting obligations under the Act. 102.5(a)(1)(i) and (2).

Nonfederal account

An account used only for state and local elections is generally not subject to the Act's registration and reporting requirements, nor is it subject to the Act's contribution limits or solicitation rules. (Nevertheless, federal law prohibits nonfederal committees from accepting contributions from foreign nationals, national banks and federally chartered corporations. 110.20 and 114.2(a).) Note, however, that when the SSF and the nonfederal account engage in activities for which payment may be allocated between the accounts, transfers to/from the nonfederal account are reportable. See 104.10 and appendix A.

Transfers from the nonfederal account

The committee may not transfer funds from the nonfederal account to the federal account except under these two circumstances, described below:

- The nonfederal account acting in its capacity as a collecting agent, as described in chapter 3, section 15. 102.6(b)(1) and (2); or
- The nonfederal account transferring the nonfederal share of an allocated expense attributed to both federal and nonfederal elections. 106.6(e).

Collecting agent activity

A nonfederal account may act as a collecting agent for contributions to the federal account and transfer funds raised for the federal SSF without triggering registration requirements. 102.6(b)(1) and (2). See also AOs 2003-29 (Fraternal Order of Police) and 1984-31 (First Bank & Trust). Collecting agent procedures are described in chapter 3, section 15.

Allocated expense payments

A nonfederal account may transfer funds to the federal account to cover the nonfederal portion of expenses benefiting both federal and nonfederal candidates and committees. 102.5(a)(1)(i) and 106.6(e)(1)(i).

For example, the nonfederal account may transfer its allocable share of the expenses for a public communication that supports both a federal and a nonfederal candidate. The transfer must be made according to the rules described in appendix A.

6. Internal controls for SSFs

To help committees comply with the requirements of the Act and simultaneously protect their assets from misappropriation, the Commission has published guidance on best practices and internal controls. While the Act does not require any particular set of internal controls, it does require that committees file accurate and complete disclosure reports. Implementing effective internal controls can help committees meet that requirement because misappropriation of funds or unintentional errors generally lead to the filing of inaccurate disclosure reports. In a policy statement, the Commission created a safe harbor for committees that have specified safeguards in place but nevertheless file incorrect reports due to a misappropriation of committee funds.[3]

The policy statement is not a new legal requirement for political committees; rather, it creates a safe harbor for committees that have the stated internal controls in place at the time of the misappropriation and follow certain post-discovery steps. Committees operating within that safe harbor will not be subject to a monetary fine for filing incorrect reports as a result of the misappropriation. The Commission will also consider it a mitigating factor if a committee uses some, but not all, of the safeguards.

Minimum controls for safe harbor

Each of the following minimum internal controls must be implemented in order for the SSF to qualify for the safe harbor:

- Open bank accounts using the SSF's name and employer identification number[4];
- Have a person other than a check signer or the person handling the committee's accounting review and reconcile bank statements to accounting records and disclosure reports each month prior to filing;
- Authorize checks exceeding $1,000 in writing and/or requiring two signatures for them;
- Require two individuals (identified in writing in the SSF's internal policies) to authorize all wire transfers;
- Place an individual who does not handle accounting and does not have banking authority in charge of receiving incoming checks and monitoring receipts. (This person lists all receipts and places a restrictive endorsement (e.g., "For Deposit Only to the Account of the Payee") on all checks); and
- Use an "imprest" system[5] for petty cash funds.

3 The policy statement is available online at https://www.fec.gov/help-candidates-and-committees/keeping-records/misappropriated-funds/
4 See appendix G regarding the IRS requirements for obtaining an employer identification number.
5 Under an imprest system, the sum of disbursements recorded in the petty cash log since the last replenishment and the remaining cash always equals the stated amount of the fund. When the fund is replenished, the amount of the replenishment equals the amounts recorded since the prior replenishment and should bring the cash balance back to the stated amount. Only one person should be in charge of the fund.

Upon discovery of a misappropriation, a committee must notify the FEC and relevant law enforcement and voluntarily file amended reports to correct any errors resulting from the misappropriation.

Additional recommended internal controls

Beyond the procedures needed to implement the safe harbor, the Commission suggests that committees implement additional safeguards, such as:

- Limiting the number of persons authorized to sign checks;
- Prohibiting facsimile signatures or signature stamps;
- Recording receipts as mail is opened (this is preferably done by someone who is not otherwise part of the committee's accounting function);
- Using a lockbox service to process receipts;
- Mailing checks promptly and directly to payees; and
- Requiring that checks hand-delivered by the SSF be signed for by the person receiving them.

CHAPTER 5
Supporting candidates

1. Contributions

SSFs may make contributions to candidates and to their authorized committees. All contributions to federal candidates during the 2017-18 election cycle are subject to the following limits:

- **$5,000** per candidate, per election, from an SSF that qualifies as a multicandidate committee.
- **$2,700** per candidate, per election, from any other registered SSF.

When making a contribution to a candidate or candidate's campaign, a multicandidate SSF must give the recipient a written notification that it has qualified as a multicandidate committee. 110.2(a)(2). For convenience, the statement may be pre-printed on the committee's checks, letterhead or other appropriate materials. For a complete explanation of the contribution limits and how they work, see chapter 2 and the "Contribution limits" chart in chapter 2, section 3.

COVERED TOPICS INCLUDE

Earmarked contributions

Fundraising for candidates

Supporting nonfederal candidates

Determining coordination

Gifts of money

Monetary contributions exceeding $100 must be made by check or other written instrument drawn on the SSF's account. 103.3(a).

In-kind contributions

In addition to contributing money, an SSF may contribute goods or services to candidates and their committees.[1] Gifts of goods or services are in-kind contributions. 100.52(d)(1). As examples, an SSF makes an in-kind contribution when it:

- Pays for consulting, polling or printing services provided to a candidate committee;
- Contributes office supplies or mailing lists to a campaign;
- Sponsors a fundraising event benefiting a candidate (see "Fundraising for candidates" below); or
- Pays for a campaign advertisement on behalf of a candidate (if the advertisement does not qualify as an independent expenditure). See section 3 of this chapter.

See chapter 2 for information on how to measure the value of an in-kind contribution.

1 An SSF may contribute goods and services only if it has purchased them with its own funds or if an individual (not the sponsoring organization) has lawfully contributed them to the SSF. However, corporations and labor organizations may provide some goods and services that are exempt from the definitions of "contribution" and "expenditure." See chapter 7.

In-kind contributions designated for more than one election

The Commission has advised that in-kind contributions of goods may be designated for more than one election within an election cycle provided that:

- The goods contributed have a long-term useful life expectancy, extending over all the elections for which the contribution was made (e.g. computer equipment);
- The candidate actually runs in all the elections for which the contribution is given; and
- The contributor provides a written, signed designation at the time of the contribution – or provides a proper redesignation within 60 days of the contribution. AO 1996-29 (Cannon).

Allocation among candidates[2]

If an SSF supports more than one federal candidate through an in-kind contribution, the contribution must be allocated among the candidates so that a portion of it counts toward the committee's limit for each candidate. The value attributed to each candidate must be in proportion to the relative benefit each candidate is expected to receive.

EXAMPLE: An SSF sponsors a fundraising gala on behalf of several candidates. The portion of the costs attributed as a contribution to each candidate must be based on the ratio of funds received for each candidate to the total funds received for all the candidates. 104.10 and 106.1(a) and (b).

Earmarked contributions

An SSF may act as a conduit for an earmarked contribution, i.e., a contribution that the individual contributor directs, either orally or in writing, to a clearly identified candidate or candidate's committee through the SSF. 110.6. (The connected organization may never serve as the conduit. 110.6(b)(2)(ii).) An earmarked contribution counts against the original contributor's contribution limits. It does not count against the limits on the SSF's own contributions to the candidate unless the SSF exercises direction or control over the contributor's choice of the recipient candidate or unless the earmarked contribution was solicited by the connected organization. 110.6(d) and 114.2(f)(4)(iii).

See appendix E for more information.

Purchase of fundraising items and tickets

An SSF may purchase tickets to a fundraising event held by a candidate's committee, or it may purchase items sold for fundraising purposes by the committee. The entire amount paid for a ticket or item is considered a contribution. 100.53.

Fundraising for candidates

An SSF may sponsor a fundraising event for a candidate to which the general public is invited and pay for the costs of the event as an in-kind contribution to that candidate, subject to limitations and restrictions. If the SSF collects contributions raised at the event (as opposed to having the campaign collect the

2 See appendix A for information about allocating expenses when supporting both federal and nonfederal candidates.

contributions), then the rules for earmarked contributions, described above, apply. Moreover, if the event originates from an organization's communication to its restricted class, contributions raised by its SSF will count as contributions to both the SSF and the campaign and will also count against the SSF's limit to the candidate. 114.2(f). See chapter 8, section 2, for more information.

Connected organization involvement

To avoid illegal facilitation of contributions by the connected organization (a concept explained in chapter 6, section 3), the SSF must pay the full cost of any resources from its connected organization that it uses, such as staff time, catering arrangements, printing costs, email or mailing list use, and the cost of the meeting room. All such costs must be paid in advance. 114.2(f); See also AOs 1984-37 (AMA) and 1984-24 (Sierra Club).

Reporting

Note that an in-kind contribution is considered to be made on the date that the event is held; however, both the date of the contribution and the date that any related costs are actually paid must be reported by the SSF. See chapter 11, section 11. The SSF should inform the campaign of all costs so that the campaign may properly report the in-kind contribution received.

Disclaimer

The requirements for disclaimers on printed communications authorized by candidates apply. See section 5 of this chapter.

Loans and loan endorsements

An SSF may loan money to a candidate committee, or it may endorse or guarantee a bank loan for the committee. The loan or the amount endorsed or guaranteed counts as a contribution to the extent that the loan remains outstanding. 100.52(b).

EXAMPLE: A multicandidate SSF guarantees half the value of a $10,000 loan from a bank to a candidate's committee, thereby making a $5,000 contribution to the candidate toward the next election. The candidate's committee makes monthly repayments on the loan that reduce the principal owed by $1,000. Those payments reduce the SSF's contribution by $500 each month. As the outstanding balance is reduced, the SSF may make new contributions to the candidate for the same election, as long as the overall $5,000 limit is not exceeded.

Contributions to other committees

In addition to contributing directly to candidate committees, an SSF may support other committees that contribute to candidates, such as party committees or nonconnected political action committees (including leadership PACs). Contributions to these committees do not count against the SSF's contribution limits for a candidate, unless the SSF:

- Gives to an unauthorized single-candidate committee (i.e., a political committee that supports only one candidate but is not authorized by that candidate);
- Knows that a substantial portion of its contribution will be given to or spent on behalf of a particular candidate; or

- Retains control over the funds after making the contribution.

110.1(h) and 110.2(h).

Supporting nonfederal candidates

SSFs may contribute to nonfederal candidates using money they have raised for federal elections. Donations to nonfederal candidates are subject to state and local laws, but the SSF must disclose such donations on its FEC reports. AOs 1986-27 (Alaska Labor) and 1981-18 (Central Bancshares of the South).

See chapter 11, section 12 for more information on reporting donations to nonfederal candidates. SSFs active in both federal and nonfederal elections should also consult appendix A.

2. Public communications

In addition to making direct contributions, an SSF may support (or oppose) candidates by making expenditures for political communications and advertisements.

A public communication is a communication to the general public made by means of:

- Any broadcast, cable or satellite communication;
- Newspaper;
- Magazine;
- Outdoor advertising facility;
- Mass mailing (more than 500 pieces of substantially similar mail within any 30-day period);
- Telephone bank (more than 500 substantially similar telephone calls within any 30-day period);
- An advertisement placed for a fee on another person's website; or
- Any other form of general public political advertising.[3]

100.26, 100.27 and 100.28.

3. Coordinated communications

When an SSF pays for a communication that is coordinated with a campaign or a candidate, the communication is an in-kind contribution subject to limitations and reporting by both the campaign and the SSF.

Coordination defined

Coordinated means made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee or their agents, or a political party committee or its agents.[4] 109.20.

3 The term "general public political advertising" does not include any internet communication except for a communication placed for a fee on another person's website. 100.26.
4 For the purposes of 11 CFR Part 109 only, "agent" is defined at 11 CFR 109.3.

Determining coordination

FEC regulations provide for a three-pronged test to determine whether a communication is coordinated. Under these regulations, a communication must satisfy all three prongs of the test to be considered a coordinated communication (and as a result, count against contribution limits). 109.21(a).

The three prongs of the test consider:

- The source of payment (payment prong);
- The subject matter of the communication (content prong); and
- The interaction between the person paying for the communication and the candidate or political party committee (conduct prong).

Payment prong

A coordinated communication is paid for, in whole or in part, by a person other than the candidate, an authorized committee or a political party committee with whom the communication is coordinated. 109.21(a)(1).

Content prong

A communication that meets any one of these four standards meets the content prong:

- A communication that is an electioneering communication (explained and defined in appendix H)[5];
- A public communication that republishes, disseminates or distributes candidate campaign materials, unless the activity meets one of the exceptions at 109.23(b);
- A public communication that expressly advocates the election or defeat of a clearly identified candidate for federal office; or
- A public communication that:
    - Refers to a clearly identified House or Senate candidate and is publicly distributed in the identified candidate's jurisdiction within 90 days of the candidate's election;
    - Refers to a clearly identified presidential candidate and is publicly distributed during the period starting 120 days before the primary election and ending on the date of the general election;
    - Refers to a political party in a midterm election cycle, is coordinated with a party committee and is publicly distributed within 90 days of a primary or general election;
    - Refers to a political party in a presidential election cycle, is coordinated with a party committee and is publicly distributed during the period starting 120 days before the primary and ending on the date of the general election;
    - Refers to a political party, is coordinated with a House or Senate candidate and is publicly distributed in that candidate's jurisdiction within 90 days of the primary or general election; or

5 By definition, an SSF that makes expenditures for a communication that otherwise fits the definition of an electioneering communication has made a reportable expenditure that will fall under the fourth bullet. See 100.29(c)(3) and 109.21(c)(4)

- Refers to a political party, is coordinated with a presidential candidate and is publicly distributed during the period starting 120 days before the primary until the date of the general election.[6]

109.21(c)(4)(i)-(iv).

Conduct prong

Should the content and payment prongs of the test be satisfied, there still must be some interaction between the SSF and the campaign committee for there to be coordination. The conduct prong identifies the possible types of interactions. A communication that satisfies any one of the conduct standards described below satisfies the conduct prong.

1) Request or suggestion

This conduct standard has two parts, and satisfying either satisfies the standard. The first part is satisfied if the entity creating, producing or distributing the communication does so at the request or suggestion of a candidate, authorized committee, political party committee or agent of any of these. A communication satisfies the second part of the "request or suggestion" conduct standard if the SSF paying for the communication suggests the creation, production or distribution of the communication to the candidate, authorized committee, political party committee or agent of any of the above, and the candidate or political party committee assents to the suggestion. 109.21(d)(1).

2) Material involvement

This conduct standard is satisfied if a candidate, candidate committee, political party committee or an agent of any of these was "materially involved in decisions" regarding any of the following aspects of a public communication paid for by someone else:

- Content of the communication;
- Intended audience;
- Means or mode of the communication;
- Specific media outlet used;
- Timing or frequency of the communication; or
- Size or prominence of a printed communication or duration of a communication by means of broadcast, cable or satellite. 109.21(d)(2).

3) Substantial discussion

A communication meets this conduct standard if it is created, produced or distributed after one or more substantial discussions between the entity paying for the communication, or the person's agents, and the candidate clearly identified in the communication or that candidate's committee, that candidate's opponent or opponent's committee, a political party committee or an agent of the above. A discussion would be "substantial" if information about the plans, projects, activities or needs of the candidate or political party committee that is material to the creation, production or distribution of the communication is conveyed to the person paying for the communication. 109.21(d)(3).

6 For communications that refer to both a party and a clearly identified federal candidate, see 109.21(c)(4)(iv).

4) Employment of common vendor

The conduct standard provides that the use of a common vendor in the creation, production or distribution of a communication satisfies the conduct standard if:

- The person paying for the communication contracts with, or employs, a "commercial vendor" to create, produce or distribute the communication[7]; and
- The commercial vendor, including any officer, owner or employee of the vendor, has a previous or current relationship with the candidate or political party committee that puts the commercial vendor in a position to acquire information about the campaign plans, projects, activities or needs of the candidate or political party committee. This previous relationship is defined in terms of nine specific services related to campaigning and campaign communications. These services would have to have been rendered within 120 days before the purchase or public distribution of the communication; and
- The commercial vendor uses or conveys information about the campaign plans, projects, activities or needs of the candidate or political party committee, or information previously used by the commercial vendor in serving the candidate or political party committee, to the person paying for the communication, and that information is material to the creation, production or distribution of the communication. 109.21(d)(4). See "Safe harbor for use of a firewall," below.

5) Former employee/independent contractor

This conduct standard applies to communications paid for by a person, or the employer of a person, who has previously been an employee or an independent contractor of a candidate's campaign committee or a political party committee during the 120 days before the purchase or public distribution of the communication.

This standard requires that the former employee or contractor use or convey information about the plans, projects, activities or needs of the candidate, the candidate's opponent or political party committee, or information used by the former employee or contractor in serving the candidate, candidate's opponent or political party committee, to the person paying for the communication, and the information is material to the creation, production or distribution of the communication.[8] 109.21(d)(5). See "Safe harbor for use of a firewall" and "Safe harbor for publicly available information," below. See also AO 2016-21 (Great America PAC).

7 The term "commercial vendor" is defined at 116.1(c).

8 A candidate or political party committee would not be held responsible for receiving or accepting an in-kind contribution that resulted only from conduct described in the "Employment of Common Vendor" and "Former Employee/Independent Contractor" sections. 109.21(d)(4) and (5). However, the person paying for a communication that is coordinated because of conduct described in these sections would still be responsible for making an in-kind contribution for purposes of the contribution limitations, prohibitions and reporting requirements of the Act. 109.21(b)(2).

Dissemination, distribution or republication of campaign material

A communication that republishes, disseminates or distributes campaign material only satisfies the first three conduct standards on the basis of the candidate's conduct—or that of his or her committee or agents—that occurs after the original preparation of the campaign materials that are disseminated, distributed or republished.[9] 109.21(d)(6).

Agreement or formal collaboration

Neither agreement (defined as a mutual understanding on any part of the material aspect of the communication or its dissemination) nor formal collaboration (defined as planned or systematically organized work) is necessary for a communication to be a coordinated communication. 109.21(e).

Safe harbor provisions to the conduct prong

Safe harbor for responses to inquiries about legislative or policy issues

A candidate's or political party committee's response to an inquiry about that candidate's or party's positions on legislative or policy issues, which does not include discussion of campaign plans, projects, activities or needs, will not satisfy any of the conduct standards. 109.21(f).

Safe harbor for publicly available information

The standards for substantial discussion, material involvement, use of a common vendor and involvement of a former employee are not satisfied if the information used in creating or distributing the communication was obtained from a publicly available source. Publicly available sources include, but are not limited to:

- Newspaper or magazine articles;
- Candidate speeches or interviews;
- Transcripts from television shows;
- Press releases;
- A candidate's or political party's website; and
- Any publicly available website.

109.21(d)(3).[10]

Safe harbor for use of a firewall

None of the conduct standards is satisfied if the vendor, political committee, former employee or contractor implements a firewall. The firewall must prohibit the flow of information between employees or consultants providing service to the person paying for the communication and those employees or

9 The financing of the distribution or republication of campaign materials, while considered an in-kind contribution by the person making the expenditure, is not considered an expenditure made or a contribution received by the candidate's authorized committee unless the dissemination, distribution or republication of campaign materials is coordinated. Additionally, republications of campaign materials coordinated with party committees are in-kind contributions to such party committees, and are reportable as such. 109.23(a).

10 See also the 2006 explanation and justification for 11 CFR 109.21(d)(3) at 71 Fed. Reg. 33205 (June 8, 2006), available online at http://sers.fec.gov/fosers/showpdf.htm?docid=1229.

consultants providing services to a political party committee or to the candidate who is clearly identified in the communication or to the campaign of the candidate opposing the candidate clearly identified in the communication. The firewall must be described in a written policy statement that is distributed to all employees, consultants and clients affected by the policy. 109.21(h).

Safe harbor for candidate endorsements and solicitations

A federal candidate may endorse or solicit funds for another candidate for federal or nonfederal office in a public communication without the communication being considered a "coordinated communication" with respect to the endorsing or soliciting candidate, so long as the communication does not promote or support the candidate making the solicitation and does not attack or oppose his/her opponent. The safe harbor described in this paragraph also covers candidate solicitations for other political committees (including SSFs) and candidate solicitations for certain tax-exempt organizations as described at 11 CFR 300.65. 109.21(g)(1) and (2).

Solicitations on behalf of a candidate

An expenditure by an SSF for a communication that solicits the public for contributions on behalf of a candidate is an in-kind contribution if the SSF coordinates with the candidate's committee under the rules described above. AO 2003-23 (WE LEAD). See appendix E, "Earmarked Contributions."

4. Independent expenditures

Individuals, corporations, labor organizations and political committees (including SSFs) may support or oppose candidates by making independent expenditures. Independent expenditures are not contributions and are not subject to limits. Compare 109.20(b), 100.16; Part 109.

Defined

An independent expenditure is an expenditure for a communication, such as a website, newspaper, TV or direct mail advertisement that:

- Expressly advocates the election or defeat of a clearly identified candidate; and
- Is not made in consultation or cooperation with, or at the request or suggestion of a candidate, candidate's committee, party committee or their agents. See section 3, "Coordinated communications," above.

100.16(a) and 109.20(a).

Clearly identified candidate

A candidate is "clearly identified" if the candidate's name, nickname, photograph or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference such as "the President," "your Congressman," "the Democratic presidential nominee," "the Republican candidate for Senate in the state of Georgia." 100.17.

Express advocacy

"Express advocacy" means that the communication includes a message that unmistakably urges election or defeat of one or more clearly identified candidate(s). There are two ways that a communication can be considered express advocacy: by use of certain "explicit words of advocacy of election or defeat" and by the "only reasonable interpretation" test. 100.22.

Explicit words of advocacy of election or defeat

The following words convey a message of express advocacy:

- "Vote for the President," "re-elect your Congressman," support the Democratic nominee," "cast your ballot for the Republican challenger for the U.S. Senate in Georgia," "Smith for Congress," "Bill McKay in '16";
- Words urging action with respect to candidates associated with a particular issue, e.g., "vote Pro-Life"/"vote Pro-Choice," when accompanied by names or photographs of candidates identified as either supporting or opposing the issue;
- "Defeat" accompanied by a photograph of the opposed candidate, or the opposed candidate's name, or "reject the incumbent"; and
- Campaign slogan(s) or word(s), e.g., on posters, bumper stickers and advertisements, that in context can have no other reasonable meaning than to support or oppose a clearly identified candidate, for example, "Nixon's the One," "Carter '76," "Reagan/Bush." 100.22(a).

"Only reasonable interpretation" test

In the absence of such "explicit words of advocacy of election or defeat," a communication expressly advocates when, taken as a whole and with limited reference to external events, such as the proximity to the election, it can only be interpreted by a "reasonable person" as advocating the election or defeat of one or more clearly identified candidate(s). 100.22(b).

This test requires advocacy of a candidate that is unmistakable, unambiguous and suggestive of only one meaning (that being the election or defeat of a candidate). 100.22(b)(1).

Note that the author's intent is irrelevant. The test is how a "reasonable" receiver of the communication objectively interprets the message. If reasonable minds could not differ as to the unambiguous electoral advocacy of the communication, it is express advocacy regardless of what the author intended. 100.22(b)(2).

Disclaimer notice required

A communication representing an independent expenditure must display a disclaimer notice. See section 5 later in this chapter for more information.

Allocation among candidates

When an independent expenditure is made on behalf of more than one clearly identified candidate, the SSF must allocate the expenditure among the candidates in proportion to the benefit that each is expected to receive. For example, in the case of a published or broadcast communication, the attribution should be determined by the proportion of space or time devoted to each candidate in comparison with the total space or time devoted to all the candidates. 104.10 and 106.1(a).

Prohibitions apply

While corporations and unions may make independent expenditures, other persons prohibited from making contributions to candidates and political committees are also prohibited from making expenditures, including independent expenditures, in connection with federal elections. Thus, independent expenditures by federal government contractors and foreign nationals are prohibited. 110.20(f) and 115.2(a).

Reporting requirements

SSFs that make independent expenditures must disclose them on Schedule E of their regular FEC report and also as required on 24-Hour and 48-Hour reports. Similarly, corporate and labor organizations that make independent expenditures must disclose them quarterly on FEC Form 5 and also as required on 24-Hour and 48-Hour reports. See chapter 11, section 14, for more information.

5. Disclaimer notices on communications[11]

Any public communication made by a political committee–including communications that do not expressly advocate the election or defeat of a clearly identified candidate or solicit a contribution—must display a disclaimer notice informing the audience of who has paid for the communication and whether or not it has been authorized by a candidate or authorized committee. As explained below, disclaimer notices must also appear on political committees' internet websites and in certain email communications. 110.11(a)(1). Moreover, all independent expenditures require a disclaimer.

Disclaimers not required for restricted class solicitations

Disclaimer notices are not required when the SSF or its connected organization solicits SSF contributions from, or communicates with, its restricted class. 110.11(f)(2).

Wording of disclaimer

A disclaimer notice must contain the full name of the SSF, along with any abbreviated name used to identify the committee or the connected organization. 102.14(c).

11 This section addresses only disclaimer notices required under the Federal Election Campaign Act. It does not address notices required under the Internal Revenue Code with regard to the non-deductibility of certain political contributions. (See 26 U.S.C. §6113.) For more information on those requirements, contact the Internal Revenue Service. See appendix G.

The wording of the disclaimer will vary, depending on whether the advertisement is authorized by a candidate or candidate's committee.

Communications authorized by candidate

Communications authorized by a candidate or candidate's campaign, but paid for by the SSF, must identify the SSF that paid for the communication and that it was authorized by that candidate's committee. 110.11(b)(2).

EXAMPLE: "Paid for by the Lumber Workers' Union PAC and authorized by the John Doe for Congress Committee."

Authorized by multiple candidates

If an advertisement lists several candidates, the disclaimer may state that the advertisement was authorized by the candidates identified in the ad or, if only some candidates have authorized it, by those candidates identified with an asterisk.

EXAMPLE: "Paid for by the XYZ Corporation PAC and authorized by the candidates marked with an asterisk." AOs 2004-37 (Waters) and 1994-13 (Voter Education Project).

Communications not authorized by candidate

Communications paid for by an SSF but not authorized by a candidate or a candidate's campaign, must disclose the full name of the SSF that paid for the communication, as well as its permanent street address, telephone number or website, and also state that the communication was not authorized by any candidate or candidate's committee. 110.11(b)(3).

EXAMPLE: "Paid for by the Fishermen's Union PAC (www.fishunion.org) and not authorized by any candidate or candidate's committee."

Visibility requirements

All disclaimers must be clear and conspicuous regardless of the medium in which the communication is transmitted. A disclaimer is not clear and conspicuous if it is difficult to read or hear, or if the placement is easily overlooked. 110.11(c)(1).

Specific requirements for radio and television communications

In addition to the statement identifying who has paid for and authorized a communication, additional requirements, sometimes referred to as the "stand by your ad" requirements, apply to radio and television communications.

Authorized by a candidate

For radio and television communications authorized by a candidate, the candidate must deliver an audio statement identifying himself or herself and stating that he or she has approved the communication. For example, the candidate could state "My name is John Doe and I approved this message." 110.11(c)(3)(i)

and (ii); see AOs 2004-10 (Metro Networks) and 2004-01 (Bush/Kerr). For a television communication, the disclaimer must be conveyed by:

- A full-screen view of the candidate making the statement; or
- A clearly identifiable photographic or similar image of the candidate that appears during the candidate's voice-over statement. A still picture of the candidate will be considered clearly identifiable if it occupies at least 80 percent of the vertical screen height.

110.11(c)(3)(ii)(A) and (B).

The full "stand by your ad" disclaimer is required regardless of the length or brevity of the radio or television communication. The disclaimer, however, may be delivered by someone other than the candidate when there are specific physical and technological limitations that prevent the candidate from delivering the message. AOs 2007-33 (Club for Growth PAC) and 2004-10 (Metro Networks).

Not authorized by a candidate

For a radio or television communication that is not authorized by a candidate or the candidate's authorized committee, a representative of the SSF paying for the communication must state that the SSF is responsible for the communication. For example, the representative could state, "The Fishermen's Union PAC is responsible for the content of this communication." The full name of the sponsoring SSF's connected organization is also required in the disclaimer. 102.14(c) and 110.11(c)(4)(i).

Additional requirements for television communication disclaimers

Both authorized and unauthorized television communications must contain a similar, clearly readable written statement that appears at the end of the communication. To be clearly readable, the communication must appear for a period of at least four seconds with a reasonable degree of color contrast between the background and the disclaimer statement and must occupy at least four percent of the vertical picture height. 110.11(c)(3)(iii) and (4)(iii). Disclaimers that are printed in black text on a white background, as well as disclaimers that have at least the same degree of contrast with the background color as the degree of contrast between the background color and the color of the largest text used in the communication, will be considered to satisfy the color contrast requirement. 110.11(c)(3)(iii)(C).

Specific requirements for printed communications

Printed communications must contain a printed box that is set apart from the contents of the communication. The print size of the disclaimer in this box must be of sufficient type size to be clearly readable by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement. 110.11(c)(2)(i) – (iii).

The regulations contain a safe harbor that establishes a fixed, 12-point type size as a sufficient size for disclaimer text in newspapers, magazines, flyers, signs and other printed communications that are no larger than the common poster size of 24 x 36 inches. 110.11(c)(2)(i). Disclaimers for larger communications will be judged on a case-by-case basis.

Additionally, the regulations provide two safe harbor examples that would comply with the color-contrast requirement:

- The disclaimer is printed in black text on a white background; or
- The degree of contrast between the background color and the disclaimer text color is at least as great as the degree of contrast between the background color and the color of the largest text in the communication. 110.11(c)(2)(iii).[12]

Multiple-paged document

A disclaimer need not appear on the front page or cover of a multiple-paged document as long as it appears within the communication. 110.11(c)(2)(iv).

Package of materials

Each communication that would require a disclaimer if distributed separately must still display the disclaimer when included in a package of materials. 110.11(c)(2)(v). For example, if a campaign poster is mailed with a solicitation for contributions, a separate disclaimer must appear on the solicitation and on the poster.

When disclaimer is not required

A disclaimer is not required:

- When it cannot be conveniently printed (e.g., on pens, bumper stickers, SMS text messages, campaign pins, campaign buttons and similar small items). 110.11(f)(1)(i); see AO 2002-09 (Target Wireless); but compare 2007-33 (Club for Growth PAC);
- When its display is not practicable (e.g., on wearing apparel, on water towers and in skywriting). 110.11(f)(1)(ii);
- When the item is of minimal value, does not contain a political message and is used for administrative purposes (e.g., checks and receipts). 110.11(f)(1)(iii); or
- In SSF solicitations and communications to the restricted class. 110.11(f)(2).

12 These examples do not constitute the only ways to satisfy the color contrast requirement.

CHAPTER 6
Use of resources and facilities

Under certain circumstances, corporations (including incorporated membership and trade associations) and labor organizations may allow candidates, political committees and individuals to use their resources and facilities in connection with federal elections. This chapter explains rules that apply to the use of facilities in both supporting and fundraising for federal candidates, political party committees and other federal political committees. To ease readability, the discussion that follows relies on examples of the use of resources and facilities to support and raise funds for federal candidates.

This section does not apply to the use of an organization's facilities for the purpose of administering an SSF or raising funds for it. SSFs that are using their connected organization's resources and facilities for fundraising and other events on behalf of candidates and other political committees should consult chapter 5, section 1 and chapter 7, "Fundraising for Candidates."

COVERED TOPICS INCLUDE

- Internet volunteer activities
- Advance payment
- Transportation

1. Individual volunteer activity

Generally, if an individual who works for a corporation or labor organization provides services to a political committee, including a campaign, during paid working hours, the employing corporation or labor organization makes a contribution to the committee. Such contributions are subject to the Act's contribution limits and are prohibited if paid for by a corporation or labor organization. 100.54 and 114.2(b).

Incidental use

An employee or stockholder of a corporation, or a member or official of a labor organization, may make occasional, isolated or incidental use of corporate or labor organization facilities for his or her own individual volunteer activities in connection with a federal election. 114.9(a) and (b). "Occasional, isolated or incidental use" is considered use of facilities for no more than one hour per week or four hours per month, or more than that amount if:

- The activity does not prevent the employee from completing the normal amount of work expected of him or her;
- Does not increase the overhead or operating costs of the corporation or labor organization; and
- Is not performed under coercion. 114.9(a)(2)(i)-(ii) and (b)(2)(i)-(ii).

For example, an employee may use an office phone to make calls that pertain to political volunteer work. If the volunteer activity is limited to incidental use of the facilities, the volunteer does not have to

reimburse the organization for the use of the facilities, and only must reimburse the organization to the extent that his or her activity increased the corporation/labor organization's overhead or operating costs. 114.9(a)(1) and (b)(1).

This safe harbor does not apply when the employee is asked by a superior to do the volunteer work as a part of his/her regular duties. 114.2(f)(2)(i)(A). See "Use of staff," below.

Activity exceeding incidental use

When the individual's use of facilities exceeds incidental use, the individual must, within a commercially reasonable time, reimburse the corporation/labor organization for the usual and normal rental charge for facility use. Such reimbursement is considered an in-kind contribution from the individual and must be reported by the benefiting campaign or political committee. 100.52 and 114.9(a)(3) and (b)(3).

Internet volunteer activities

General exception

An uncompensated individual or group of individuals may engage in certain voluntary internet activities for the purpose of influencing a federal election. These exempted activities would not result in a "contribution" or an "expenditure" under the Act and would not trigger any registration or reporting requirements with the FEC. This exemption applies to individuals or groups of individuals acting with or without the knowledge or consent of a campaign or a political party committee. 100.94 and 100.155. Exempted internet activities include, but are not limited to, sending or forwarding electronic mail, providing a hyperlink to a website, creating, maintaining or hosting a website and paying a nominal fee for the use of a website.

Use of employer's computer and internet access

A corporation or labor organization may permit its employees, shareholders, officials and members to use its computer and internet facilities for individual volunteer internet activity, without making a prohibited contribution. The individual volunteer must comply with the corporation or labor organization's internal policies for computer and internet use, and must complete the normal amount of work for which the employee is paid, or is expected to perform.[1] Also, the activity must not increase the overhead or operating costs of the organization, and the activity must not be coerced. The organization may not condition the availability of the internet or the computer on their being used for political activity or for support for or opposition to any particular candidate or political party. 114.9(a)(1) and (2)(ii), (b)(1) and (2)(ii).

Not exempt: paid web communications

If a person, group or political committee pays a fee to place a communication on another person or entity's website, the communication is considered general public political advertising, and thus qualifies as a public communication. 100.26. As such, it may require a disclaimer and may be a contribution and/or expenditure. See 110.11(a).

1 See the explanation and justification for 114.9(a)(1) and (b)(1) at 70 Fed. Reg. 18589, 18611 (April 12, 2006), available online at http://sers.fec.gov/fosers/showpdf.htm?docid=776, in which the Commission explained, "...corporations and labor organizations may permit use of their facilities for political activities to the extent these facilities are available for other non-work-related purposes."

2. Use of facilities and resources by persons other than individual volunteers

Any person (including any individual, group or political committee), other than the individual volunteers described in section 1 above, who makes any use or rental of the facilities and resources of a corporation or labor organization in connection with federal elections must pay the organization according to the rules described below. Otherwise, the use may result in a prohibited contribution from the corporation or labor organization.

Facilities

If an individual, group or political committee uses the facilities of a corporation or labor organization for activity in connection with a federal election, the user must reimburse the organization within a commercially reasonable time and at the usual and normal rental charge. 114.9(d). (In the case of a political committee sponsored by the organization providing the facilities, that payment must be made to the connected organization in advance in order for the political committee to avoid receiving a prohibited contribution from the organization. See, for example, AO 2012-15 (American Physical Therapy Association). Use of facilities may include, for example, the use of telephones, office furniture or computers.

Meeting rooms

Usual and normal rental rate

Generally, any person (including an individual or political committee) who uses a corporation or labor organization's meeting rooms must reimburse the corporation or labor organization the usual and normal rental charge, within a commercially reasonable time. 114.9(d).

Provided by organization's political committee

As with the use of other facilities, if the corporation or labor organization's own SSF pays for the room as an in-kind contribution, that payment must be made in advance to avoid a prohibited contribution from the organization. See AO 2012-15 (American Physical Therapy Association) and "Advance payment for resources used" below.

For free or at a discount

A corporation or labor organization may make its meeting rooms available to a political committee or a candidate for free or at a discount under the following conditions:

- The corporation or labor organization customarily makes its meeting rooms available to civic and community groups;
- The corporation or labor organization makes the rooms available to other candidates or political committees upon request; and
- The corporation or labor organization makes the rooms available to the candidates or political committees on the same terms given to other groups (i.e., for free or at a discount if those are the terms offered to other groups). 114.13.

Production of campaign materials

Any person using corporate/labor organization facilities to produce materials in connection with a federal election must reimburse the corporation or labor organization within a commercially reasonable period of time for the usual and normal charge for producing those materials in the commercial market. 114.9(c).

3. Use of resources in fundraising

General prohibition

A corporation or labor organization is prohibited from collecting funds or otherwise facilitating contributions in connection with federal elections (other than for the organization's own SSF). It may, however, conduct certain activities that are permitted in FEC regulations.

Restricted class events and programs[2]

Under the exemptions at 114.3(c)(2) permitting candidate and party representative appearances before the restricted class (summarized in section 2 of the next chapter), the corporation or labor organization may allow a candidate or party representative to solicit its restricted class at an event without the related costs for the event counting as a contribution. The candidate or party representative may also collect funds at the appearance. However, corporate or labor organization staff are prohibited from collecting funds for the campaign or party committee, with a limited exception discussed below. 114.2(f) and 114.3(c)(2)(ii) and (iii).

Collection of funds

An exception to the general prohibition on corporate or labor organization staff's collection of funds at a candidate's or party committee's fundraising event, or other fundraising program, exists in cases where the fundraiser is limited to the restricted class and the funds collected are treated not only as contributions to the candidate or party, but also as contributions both to and from the SSF of the corporation/labor organization. 114.2(f)(2)(iii) and (4)(iii). In this case, the event may not raise funds in excess of the SSF's candidate contribution limit ($5,000 for a multicandidate PAC). Alternatively, the campaign may collect the funds. See chapter 8, section 2.

Events beyond the restricted class[3]

General prohibition

A corporation or labor organization may not sponsor a fundraising event for a campaign or political committee if individuals who are beyond the restricted class will be present, nor may corporate or labor organization staff collect funds for a candidate or political committee. 114.2(f). The rules described

2 The restricted class consists of the individuals who are in the organization's restricted class for communications purposes. See the chart in chapter 8.
3 See chapter 8 for a chart of the restricted class for communications purposes. Persons not listed in that chart would be considered "beyond the restricted class."

below regarding candidate fundraisers apply to fundraising activities for parties and other political committees as well.

Exception: event sponsored by corporate/labor SSF

A corporation or labor organization may, however, make its facilities and resources available to its SSF for the SSF to sponsor fundraising events, subject to the advance payment rules discussed in this chapter and in chapter 11, section 11. Because the organization's SSF may make communications to the general public using the funds it has raised, it may sponsor fundraising events for candidates and invite outside individuals and political committees. 114.5(i). All related costs paid for by the SSF, including staff time, mailing, room rental and catering charges, count as an-kind contribution to the candidate. 100.52(d). As with other uses of corporate/labor facilities and resources, the SSF must pay in advance for any use of corporate/labor staff, rooms, equipment, food service or mailing lists. See below. If the SSF collects and forwards the contributions, it must treat and report those contributions as earmarked contributions. See 110.6, 114.2(f)(3)(ii) and appendix E.

Use of corporate/labor staff, mailing lists and food services for events beyond the restricted class

A corporation or labor organization may allow its food services and mailing lists to be used for candidate fundraisers only if it receives payment in advance at the fair market value for the goods or services. 114.2(f)(1) and (2)(i)(C) and (E). Likewise, a corporation or labor organization may direct its personnel to work on these fundraisers only if the corporation or labor organization receives advance payment for the fair market value of these services, and only so long as employees are not coerced into providing on-the-job fundraising services. 114.2(f)(2)(i)(A) and (iv). In all cases, however, advance payment (by a source that may legally make a contribution or expenditure, such as the benefiting political committee or the organization's SSF) is required in order to avoid a prohibited contribution by the organization. FEC regulations specifically require advance payments for:

- The services of corporate or labor personnel directed to carry out candidate fundraising activities as part of their job (114.2(f)(2)(i)(A));
- The use of the organization's list of clients, customers, vendors or other persons outside the restricted class for purposes of soliciting contributions or distributing invitations (114.2(f)(2)(i)(C)); and
- The use of catering or other food services arranged for or provided by the corporation or labor organization (114.2(f)(2)(i)(E)).

If a corporation is providing the services (such as catering or personnel) in its ordinary course of business as a commercial vendor, payment does not have to be made in advance as long as: (1) the payment is at the usual and normal charge, and (2) the payment schedule conforms to normal business practice. Otherwise, a prohibited contribution results. 100.52(d)(1) and (2) and 114.2(f)(1); see also 116.3 and AOs 1994-33 (VITEL) and 1991-18 (New York Democrats).

Collection of funds

As with restricted class only events, corporate or labor organization staff may not collect contributions at the event, unless the funds collected are treated not only as contributions to the candidate, but also as contributions both to and from the SSF of the corporation/labor organization. 114.2(f)(2)(iii) and (4)(iii). Alternatively, the campaign may collect the funds.

Note that the guidelines regarding collection of funds apply not only to funds collected at candidate events, but also to funds for federal candidates collected at other times and to funds collected for other types of political committees for whom corporate and labor organization staff collect funds.

Advance payment for resources used

In advance

"In advance" means before the services or resources are provided.

Permissible sources

Any person who is not otherwise prohibited from making a contribution in connection with a federal election (e.g., an individual, PAC or campaign) may make the advance payment. For example, the candidate, the organization's SSF, the party or an individual may make the advance payment.

Effect on contribution limits and reporting

Payments by any other person (other than the benefiting committee) will be considered in-kind contributions to the benefiting committee, subject to limits and reporting requirements. Thus, if the advance payment is made by any other source, such as the corporation or labor organization's SSF or an individual, the benefiting committee must report it as an in-kind contribution received. An SSF must report an in-kind contribution made. 104.3(a) and (b).

Use of corporate/labor name or trademark

A corporation or a labor organization may not use the corporation or labor organization's names, trademarks or service marks to facilitate the making of contributions to a federal political committee, and a federal political committee may not knowingly accept or receive such facilitated contributions. For example, impermissible corporate facilitation would occur if a campaign were to recognize the corporate (or labor) employers of individual contributors in connection with a fundraising event. These restrictions do not apply to the use of a name as part of the name of a political committee. 114.2(d) and (f); see AO 2007-10 (Reyes).

4. Transportation

The Honest Leadership and Open Government Act of 2007 (HLOGA) (Pub. L. No. 110-81, 121 Stat. 735) amended the Federal Election Campaign Act to restrict campaign-related travel on non-commercial aircraft. This section incorporates those amendments and summarizes the rules for travel payments.

Generally, an SSF may pay for campaign-related travel on behalf of the SSF as an operating expenditure. The connected organization may also pay the costs for travel on behalf of its SSF as an exempt administrative expense. See AO 1991-36 (Boeing). However, a prohibited contribution usually results if an organization without an SSF pays for the costs of campaign-related travel for an individual, and a campaign traveler does not reimburse the organization for the use of its transportation.

Commercial transportation

If a candidate or any other person traveling on behalf of a campaign or other political committee uses commercial transportation, such as a commercial airline or charter service, or another means of commercial transportation, the committee must pay the usual and normal charge for that service to avoid receiving an in-kind contribution from the service provider. See 100.52(a) and (d).

Non-commercial air transportation

If a campaign traveler[4] uses an aircraft that is not operated for commercial service, such as a corporate or labor-organization-owned aircraft that is operated exclusively for the private travel of the organization's executives and their guests, the travel must comply with HLOGA.

Travel on behalf of SSF

The connected organization may pay the costs incurred by an individual traveling on behalf of its SSF as an exempt administrative expense. See AO 1991-36 (Boeing).

Travel on behalf of House candidates and House leadership PACs

House candidates, individuals traveling on behalf of House candidates, their authorized committees, or the leadership PACs of House candidates are generally prohibited from engaging in non-commercial campaign travel on aircraft.[5] 100.93(c)(2). This prohibition cannot be avoided by payments to the service provider, even if the payments derive from the personal funds of a House candidate.

Presidential, vice presidential and Senate candidate travel

Candidates for president, vice president and the Senate must pay the pro rata share of the fair market value for non-commercial flights. 100.93(c)(1). The pro rata share is determined by dividing the fair market value of the normal and usual charter fare or rental charge for a comparable aircraft of comparable size by the number of campaign travelers flying on behalf of any candidates on the flight.[6] The pro rata share is calculated based on the number of candidates represented on a flight, regardless of whether the individual candidate is actually present on the flight. A candidate is represented on a flight if a person is traveling on behalf of that candidate or the candidate's authorized committee.

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4 Commission regulations define the term "campaign traveler" as any individual traveling in connection with an election for federal office on behalf of a candidate or political committee, and candidates who travel on behalf of their own campaigns. The term campaign traveler also includes any member of the news media traveling with a candidate. Candidates are only considered campaign travelers when they are traveling in connection with an election for federal office. This term does not include Members of Congress when they engage in personal travel or any other travel that is not in connection with an election for federal office. 100.93(a)(3)(i).

5 This prohibition does not apply when the travel would be considered an expenditure by someone other than the House candidate, the House candidate's authorized committee or the House candidate's leadership PAC (for example, if the House candidate were traveling on behalf of a Senate candidate instead of on behalf of his or her own campaign).

6 The term "comparable aircraft" means an aircraft of similar make and model as the aircraft that actually makes the trip, with similar amenities as that aircraft. The Commission's regulations interpret HLOGA to include helicopters when determining "comparable aircraft." 100.93(a)(3)(vi). See also Campaign Travel, 74 Fed. Reg. 63953-54 (Dec. 7, 2009), available at http://sers.fec.gov/fosers/showpdf.htm?docid=9965.

Travel on behalf of leadership PACs of presidential, vice presidential and Senate candidates

For non-commercial travel on behalf of the leadership PACs of Senate, presidential and vice president candidates, the reimbursement for that travel is the responsibility of the committee on whose behalf the travel occurs. The reimbursement rates are as follows:

- The lowest unrestricted and non-discounted first-class airfare in the case of travel between cities served by regularly scheduled first-class commercial airline service;
- The lowest unrestricted and non-discounted coach airfare in the case of travel between a city served by regularly scheduled coach commercial airline service, but not regularly scheduled first-class commercial airline service, and a city served by regularly scheduled coach commercial airline service (with or without first-class commercial airline service); or
- The normal and usual charter fare or rental charge for a comparable commercial aircraft of sufficient size to accommodate all campaign travelers and security personnel, if applicable, in the case of travel to or from a city not served by regularly scheduled commercial airline service. 100.93(c)(3).

To avoid the receipt of an in-kind contribution, the committee must reimburse the service provider no later than seven calendar days after the date the flight began. 100.93(c).

Travel on behalf of other political committees

The reimbursement rate structure for campaign travelers who are traveling on behalf of political party committees, SSFs, nonconnected committees and certain leadership PACs is the same reimbursement rate structure described above under "Travel on behalf of leadership PACs of Senate, presidential and vice presidential candidates." 100.93(c)(3).

Non-commercial transportation other than air travel

For non-commercial travel via other means, such as limousines and all other automobiles, trains and buses, a political committee must pay the service provider (or the organization that paid must be reimbursed) the normal and usual fare or rental charge for a comparable commercial conveyance of sufficient size to accommodate all campaign travelers, including members of the news media traveling with a candidate and security personnel, if applicable. Payment (or reimbursement) for the travel must be made within 30 days from the receipt of the invoice, but no more than 60 days following the date the travel commenced. 100.93(d).

Government conveyances

Candidates and representatives of political committees may make campaign travel via governmental conveyances, such as government aircraft, subject to specific reimbursement requirements. Candidates, their authorized committees or House candidate leadership PACs must reimburse the federal, state or local government entity providing the aircraft at either of the two following rates:

- "Per candidate campaign traveler" reimbursement rate, which is the normal and usual charter fare or rental charge for a comparable aircraft of sufficient size to accommodate all of the campaign travelers. The pro rata share is calculated by dividing the normal and usual charter fare or rental charge by

the number of campaign travelers on the flight that are traveling on behalf of candidates, authorized committees or House candidate leadership PACs, including members of the news media, and security personnel. No portion of the normal and usual charter fare or rental charge may be attributed to any other passengers, except for members of the news media and government-provided security personnel, as provided in 100.93(b)(3). 100.93(e)(1)(i); or

- "Private traveler reimbursement rate," as specified by the governmental entity providing the aircraft, per campaign traveler. 100.93(e)(1)(ii).

For campaign travelers who are traveling on government aircraft, but are not traveling with or on behalf of a candidate, candidate's committee, or House candidate leadership PAC, the reimbursement must be equal either to the lowest unrestricted and non-discounted first-class commercial airline service that is geographically closest to the military airbase or other location actually used, or, for all other travel, the applicable rate from among the rates specified in 100.93(c)(3). 100.93(e)(2).

Members of the news media who are traveling with a candidate on government aircraft and security personnel not provided by a government entity must be included in the number of campaign travelers for the purposes for identifying a comparable aircraft of sufficient size to accommodate all campaign travelers.

A political committee must reimburse the governmental entity providing the conveyance within the time frame specified by the governmental entity. 100.93(e)(1).

CHAPTER 7
Other uses of corporate and union funds

In addition to the communications described in chapter 8, a corporation (including an incorporated trade association or membership organization) or labor organization may use its treasury funds for other election-related activities. These activities are not considered contributions or expenditures, and they are not reportable by the organization that conducts them. Listed below are descriptions of these activities along with pertinent guidelines.

COVERED TOPICS INCLUDE

- Donations for party office building
- Employee participation plans
- Promotional arrangements

1. Legal and accounting services

A corporation or labor organization may offer free legal and accounting services to candidate committees, party committees and other political committees while still paying the attorney or accountant who is providing the services, as long as:

- The corporation or labor organization paying the attorney or accountant who is performing the services is that person's regular employer;
- The corporation or labor organization does not hire additional employees to render the services or to enable the regular employees to provide the services;
- Any services to candidate committees and other nonparty political committees are provided only for the purpose of helping them comply with the federal election campaign laws; and
- Any services provided to political party committees are not attributable to activities that directly further the election of a designated candidate or candidates for federal office. 100.85, 100.86 and 114.1(a)(2)(vi) and (vii).

Because recipient committees must report the value of donated legal and accounting services, the corporation or labor organization should provide committees with the following information: the amount paid for the services, the date they were performed and the name of each individual performing them. 104.3(h). (This regulation does not limit the legal and accounting services that a connected organization may provide to its SSF for administrative and fundraising purposes under the exceptions described in chapter 1, section 9 and chapter 2, section 10.)

2. Donations to nonfederal candidates and committees

A corporation or labor organization may make donations from its treasury funds to nonfederal candidates and to organizations not involved in federal elections, if permitted by state law. However, foreign nationals are prohibited from making contributions or expenditures in connection with state and local elections. 110.20

3. Donations for party office building

A corporation or labor organization may donate money or anything of value to a state or local party committee specifically for the purpose of constructing or purchasing a state or local party office building. 114.1(a)(2)(ix). These building fund donations are not considered contributions or expenditures and are not subject to limits or prohibitions, other than the prohibition against donations from foreign nationals. 100.84, 100.144, 110.20(d), 114.1(a)(2)(ix) and 300.35(a).

This exemption does not apply to national party committees. See 100.56, 100.114 and 300.12(d). Also, the building fund exemption does not cover expenditures for rent, operating costs, property taxes or other administrative expenses incurred by a party committee. See AO 2001-12 (Democratic Party of Wisconsin) and AOs cited within.

4. Corporate food/beverage vendor discounts

An incorporated vendor of food and beverages may sell food and beverages at a discount, but not lower than cost, to a candidate's campaign or to a political party committee. The cumulative value of such discounts (i.e., the difference between the normal charge and the amount paid by the committee) may not exceed $1,000 per candidate, per election, or $2,000 annually on behalf of all political committees of the same party. 100.78, 100.138 and 114.1(a)(2)(v). Vendor discounts given in the ordinary course of business to political and nonpolitical customers alike, however, are not subject to these limits. See AO 1989-14 (Anthony's Pier 4).

5. Employee participation plans

A corporation or labor organization may set up a political giving program for its employees. These programs are often called employee participation plans or trustee plans and operate under different rules than a SSF, as described below.

What the plan involves

The corporation or labor organization pays the costs of establishing and administering separate bank accounts for participating employees. Any individual employee who wishes to participate diverts part of his or her payroll funds into a separate account in his or her name, from which he or she makes contributions.

Guidelines for establishing plan

An employee participation plan must conform to the following guidelines:

- The corporation or labor organization must make the plan available to all its employees.
- Although the corporation or labor organization may distribute information about the plan, it may not exert pressure on employees to participate.

- The employee must exercise complete control and discretion over the disbursement of his or her funds with no direction or control from the corporation or labor organization.
- The corporation or labor organization may not be identified when contributions are transmitted to candidates or political committees.
- The administrator of the plan (e.g., a bank or trustee) may provide the corporation or labor organization with periodic reports on the plan's activity. However, reported information is limited to the following: the total number of participants, the combined total of funds in all accounts and the total amount of contributions made to all candidates and committees combined.

114.11.

6. Donations by businesses and unions for presidential conventions

Individuals, businesses (including banks and other corporations), labor organizations and other organizations may promote and support a national presidential nominating convention through donations to a host committee or municipal fund in the city hosting the convention in accord with the rules described below.

Businesses (including banks and other corporations), labor organizations, other organizations and individuals may donate funds or make in-kind donations to a convention host committee or municipal fund for the following purposes:

- To promote the suitability of the city as a convention site;
- To welcome convention attendees (e.g., by providing information booths, receptions, tours or the promotional items described below);
- To facilitate commerce (e.g., by providing convention attendees with shopping or entertainment guides, samples, maps, pens, pencils or other items of de minimis value);
- To defray the host committee's administrative expenses (e.g., salaries, rent, travel or liability insurance);
- To provide the national committee use of an auditorium or convention center and to provide related services (e.g., construction of podiums, press tables, camera platforms, lighting and electrical systems; offices; office equipment; and/or decorations);
- To defray the cost of local transportation services (e.g., by providing buses and automobiles);
- To defray the cost of law enforcement services;
- To defray the cost of using central housing and reservation services;
- To provide hotel rooms at no charge or a reduced rate on the basis of number of rooms actually booked for the convention;
- To provide accommodations and hospitality for committees of the parties responsible for choosing the sites of the conventions; and
- To provide other similar convention-related facilities and services.

9008.52(b).

7. Donations by commercial vendors for presidential conventions

Discounts, samples and promotional arrangements with national committees and host committees

Under limited circumstances described below, commercial vendors may provide goods and services in connection with the presidential nominating convention, without the value counting as either a contribution or an expenditure.

Discounts provided to national committees and host committees

Commercial vendors may provide goods and services to the national convention committee and host committees at a discount or for free if this arrangement is made in the ordinary course of business. "In the ordinary course of business" means:

- The vendor has an established practice of providing such discounts to nonpolitical clients; or
- The reduction is consistent with an established practice of the vendor's trade or industry.

Permissible discounts include standard volume discounts and reduced rates for corporate, governmental or preferred customers. 9008.9(a) and 9008.52(a).

Samples and items provided to national committees and host committees

Commercial vendors (including banks) may provide items of de minimis value at nominal or no charge. For example, samples, discount coupons, maps, pens, pencils, tote bags or other items may be distributed to convention attendees. 9008.9(c) and 9008.52(a).

Discounts and samples: no reporting

Discounts and items of de minimis value as described above do not have to be reported. 9008.9(a) and (c).

Promotional arrangements

Commercial vendors also may, in the ordinary course of business, provide the convention committee and the host committee with goods and services in exchange for promotional consideration. The value of these goods and services may not exceed the commercial benefit reasonably expected to be derived from the promotional opportunity the convention presents. 9008.9(b) and 9008.52(a).

An example of a promotional consideration would be an arrangement in which an automobile manufacturer loaned cars to the Democratic and Republican parties for use at their national nominating conventions. In return, the manufacturer could advertise the cars as the official cars of the Democratic and Republican conventions. See AO 1996-17 (General Motors). (Note, however, that these arrangements are not limited to manufacturers recognized by the party or host committee as "official providers," but also include a variety of promotional arrangements.)

Reporting promotional arrangements

The convention and host committees must disclose, as a memo entry, any promotional arrangements with commercial vendors in its FEC reports. 9008.9(b)(4) and 9008.53.

CHAPTER 8
Corporate and labor communications to the restricted class

When a corporation or labor organization communicates with its restricted class, it may issue express advocacy communications and solicitations for candidates and parties. It may also coordinate its communications with the candidate or party. Communications to the restricted class include, but are not limited to the examples listed below. See generally 114.3.

1. Restricted class

Corporations and labor organizations

For purposes of making communications, the restricted class of corporations and labor organizations includes the same people who may be solicited for contributions to the corporation or labor organization's SSF. 114.1(j). See chart in this section and chapter 3.

Trade associations and incorporated membership organizations

For purposes of making communications, the restricted class of a trade association or an incorporated membership organization, or an incorporated cooperative or corporation without capital stock, differs from the restricted class for solicitation purposes. In the case of communications by such organizations, the restricted class is composed of:

- Individual noncorporate members and their families;
- Unincorporated members (e.g., partnerships and LLCs that are treated as partnerships for tax purposes);
- The individual corporate representatives with whom the trade association or membership organization normally conducts the association's/organization's activities (See 114.8(h) (trade associations) and AOs 1997-22 (Business Council of Alabama) and 1996-21 (Business Council of Alabama) (incorporated membership organizations)); and
- Executive and administrative personnel and their families. 114.7(h) and 114.8(h) and (i).

COVERED TOPICS INCLUDE

Types of communication

Allowing media coverage

Voter registration and GOTV drives

When reporting is required

Paid for by the SSF

Table 3: Definition of restricted class for communications

	Corporations	Labor organizations	Membership organizations	Trade associations
Solicitation for SSF	Executive and administrative personnel and families	Executive and administrative personnel and families	Executive and administrative personnel and families	Executive and administrative personnel and families
				Noncorporate members and families
	Stockholders and families	Members and families	Noncorporate members and families	With prior approval, corporate members' executive and administrative personnel and families
Express advocacy communication or solicitation for candidate or party	Same as above	Same as above	Executive and administrative personnel and families	Executive and administrative personnel and families
			Noncorporate members and families	Noncorporate members and families
			Individuals, representing corporate members, with whom the organization normally conducts business	Individuals, representing corporate members, with whom the association normally conducts business

2. Types of communications

Candidate and party appearances before the restricted class

Location of appearance

The corporation or labor organization may allow a candidate or party representative to appear at a meeting, convention, via a teleconference or at some other function of the corporation or labor organization. 114.3(c)(2)(i) and AO 2007-14 (ABC/NFIB/NRA).

Express advocacy

Both the candidate or party representative and the corporation or labor organization may expressly advocate the election or defeat of the candidate, other candidates or the party. See 114.3(a) and (c).

Coordination with the candidate

A corporation or labor organization may confer with the candidate or party representative on the structure, format and timing of the appearance.[1] 114.3(a)(1).

Solicitations

The candidate or party representative may solicit and accept contributions from the restricted class before, during or after the appearance. 114.3(c)(2)(ii). This includes giving out telephone numbers and addresses, and leaving campaign materials and mailing envelopes at the appearance site.[2] The corporation or labor organization may also suggest that its restricted class make contributions to a candidate or party, but may not collect any contributions before, during or after the meeting. 114.3(c)(2)(iii); see chapter 6, section 3, for more information.

In addition to soliciting contributions to be sent directly to the candidate or party, a corporation or labor organization may solicit contributions earmarked for a particular candidate. These earmarked contributions must be collected by and forwarded through the SSF of the corporation or labor organization and must be considered contributions both to and from the SSF. The contribution will count, therefore, against the limits of both the contributor and the SSF. 114.2(f)(2)(iii). For information on SSF solicitation and collection of earmarked contributions, see chapter 5, section 1 and appendix E.

Presence of people outside of the restricted class

The corporation or labor organization may allow, to a limited degree, the attendance of the following individuals who are outside of the restricted class:

- Employees who are outside the restricted class but who are necessary to administer the meeting;
- Other guests who are being honored, are speaking or are participating in the event; and
- News media (see "Allowing media coverage," below). 114.3(c)(2)(i) and (iv).

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1 However, coordination with the candidate/party representative may compromise the independence of future communications (such as independent expenditures or electioneering communications) to individuals beyond the restricted class by either the corporation, labor organization or its SSF. See 114.2(c), 114.3(a)(1) and 109.21.

2 See the explanation and justification for 114.3(c)(2) at 60 Fed. Reg. 64266 (December 14, 1995), available online at www.fec.gov/law/cfr/ej_compilation/1995/1995-23_Express_Advocacy_Indep_Exp_and_Coordination.pdf#page=8.

Appearances by other candidates or party representatives

The corporation or labor organization may grant or deny other candidates and parties the opportunity to appear, as the organization desires. 114.3(c)(2)(i).

Allowing media coverage

If the corporation or labor organization allows more than one candidate for the same office to appear and permits the media to cover the appearance of one candidate, it must permit media coverage of the other candidate(s) for that office as well. Similarly, if one party's representative is permitted media coverage, then an appearance by any other party's representative must also be permitted media coverage. 114.3(c)(2)(iv).

Candidate and party appearances before all employees and their families

Who may attend

A corporation or labor organization may sponsor candidate or party representative appearances that are attended by all members of the restricted class (including their families), as well as all other employees and their families, other honored guests, speakers, participants and the news media (if invited). 114.4(b)(1) and (e). See AO 2007-14 (ABC/NFIB/NRA).

Location of appearance

The corporation or labor organization may allow the appearance at a meeting, at a convention or at some other function of the corporation or labor organization. 114.4(b)(1) and (2). Alternatively, the appearance may take the form of a teleconference. AO 2007-14 (ABC/NFIB/NRA).

Express advocacy

The candidate may expressly advocate his or her election, but the corporation or labor organization may not, nor may it encourage its employees to do so. Such express advocacy by the corporation or labor organization to an audience beyond the restricted class will result in a prohibited contribution to the candidate or party. 114.4(b)(1)(v) and (b)(2)(ii).

Coordination with the candidate

The corporation or labor organization may coordinate with the candidate/party representative concerning the timing, structure and format of the appearance, and on the candidate's position on issues. Coordination regarding the campaign's plans, projects and needs, however, will result in a prohibited in-kind contribution. 109.21, 114.2(c) and 114.4(b)(1)(vii).

Solicitations

A corporation (including its SSF or any employee) or labor organization (including its SSF, any official, member or employee) may not solicit, direct or control contributions in conjunction with any candidate or party appearance before those outside the restricted class. 114.4(b)(1)(iv) and (b)(2)(i).

While attending the event, the candidate or party representative may solicit but may not accept contributions before, during or after the appearance. The candidate or party representative may, however, leave envelopes and campaign materials for members of the audience. 114.4(b)(1)(iv) and (b)(2)(i).

Equal opportunity

The organization also must allow other candidates for the same office to appear, if they request to do so. The following guidelines apply:

- If a candidate for the House or Senate is allowed to make an appearance, all other candidates for that seat must be given a similar opportunity upon request. 114.4(b)(1)(i).
- If a presidential or vice presidential candidate is allowed to make an appearance, all candidates for that office meeting the pre-established objective criteria for candidate debates under 110.13 must be given a similar opportunity upon request. 114.4(b)(1)(ii).
- If representatives of a political party are allowed to make an appearance, representatives of all political parties that either had a candidate on the ballot in the last general election, will have a candidate on the ballot in the next general election or are actively engaged in placing a candidate on the ballot in the next general election must be given a similar opportunity upon request. 114.4(b)(1)(iii).
- Candidates should be provided with similar amounts of time and similar locations as other candidates are provided. 114.4(b)(1)(vi).

Distribution of publications to restricted class

A corporation or labor organization may distribute election related publications (e.g., print, broadcast, video, email and web-based) to its restricted class.

Express advocacy

A corporation or labor organization may distribute publications to its restricted class on any subject. This includes publications expressly advocating the election or defeat of a clearly identified candidate or a party's candidate. 114.3(a). See "Endorsements" in the next section.

Coordination with candidate or political party

The corporation or labor organization may discuss campaign issues at length with the candidate or political party; however, discussion concerning how to contour a communication for the benefit of the campaign would constitute coordination and may jeopardize the independence of future corporate/labor organization communications to individuals beyond the restricted class. 109.21 and 114.2(c). See also AO 1996-01 (Trial Lawyers of America).

Solicitation

The publication may solicit contributions for a candidate or a party. The rules for soliciting contributions from the restricted class through a publication are the same as those for soliciting during a candidate appearance before the restricted class. See "Candidate and party appearances before the restricted class" above. 114.2(f)(4)(ii).

Content

The views communicated in the publication must be those of the corporation or labor organization and must not be a republication or reproduction of the candidate's campaign materials including broadcasts and written or graphic materials. The corporation or labor organization may, however, use brief quotations from candidate materials and speeches that demonstrate the candidate's position as part of the corporation's or labor organization's expression of its own views. 114.3(c)(1)(ii).

Endorsements

A corporation or labor organization may announce its candidate endorsement at an appearance by a candidate or party representative before, or in a publication sent to, its restricted class (no more than a de minimis number of copies of the publication that includes the endorsement may be distributed beyond the restricted class). These communications may be coordinated with candidates. 114.4(c)(6)(iii); 114.3(a). For examples, see AOs 1997-22 (Business Council of Alabama), 1996-21 (Business Council of Alabama) and 1996-01 (Trial Lawyers of America).

3. Voter registration and Get-Out-the-Vote drives

Express advocacy

A corporation (including a trade association or incorporated membership organization) or labor organization may conduct voter registration and get-out-the-vote (GOTV) drives urging its restricted class to register with a particular party or to vote for a particular candidate. 114.3(c)(4)(i).

Transportation

The corporation or labor organization may provide transportation to the place of registration or to the polls in connection with the voter registration or GOTV drive. 114.3(c)(4)(i).

Phone banks

A corporation or labor organization may establish and operate phone banks to communicate with its restricted class, urging them to register and/or vote for a particular candidate or to register with a particular political party. 114.3(c)(3).

Exemption for nonpartisan drives

Under 114.3(c)(4)(ii), a voter registration or GOTV drive aimed at the restricted class will not be considered contributions or expenditures if the drive is nonpartisan.[3] However, if the drive does not qualify as nonpartisan, then the expenditure must not be coordinated with a candidate or party committee or it will result in a prohibited contribution. 114.3(c)(4)(iii).

3 A drive is nonpartisan if it is conducted so that information and other assistance regarding registering or voting, including transportation and other services offered, is not withheld or refused on the basis of support for or opposition to particular candidates or a particular political party. 114.3(c)(4)(ii).

4. Reporting communications to the restricted class

Paid for by corporation/labor organization

When reporting is required

When a corporation, labor organization, trade association or incorporated membership organization pays for express advocacy communications that are directed to the restricted class, it (rather than the SSF) must report the payments on FEC Form 7, once the payments exceed $2,000 for any election (primary or general). 104.6(a). The payments are not considered contributions but instead are reported as "Communications Costs." Note that costs for communications that do not expressly advocate and costs for communications that expressly advocate but that are "primarily devoted to subjects other than express advocacy" need not be reported. 114.3(b), 100.134(a), and 104.6(a). See, e.g., AO 2011-04 (AIPAC).

Frequency of filing

FEC Form 7 is filed during calendar years in which a regularly scheduled general election is held, beginning with the first reporting period during which the aggregate costs for any election exceed $2,000. 104.6(b). For purposes of aggregation, the term "election" means two separate processes (primary and general) to which the $2,000 threshold is applied separately, as well as any special or run-off election. 104.6(a)(1) and (2). The corporation or labor organization must continue to file quarterly and pre-general election reports if it makes additional disbursements for express advocacy communications in connection with the same primary, general, special or run-off election. 104.6(b).

Content of report

For each communication the report must contain:

- The type of communication (e.g., direct mail, email, appearance, telephone);
- The date(s) of the communication;
- The candidate's name, office sought and whether the communication was for a primary or a general election (or run-off or special);
- Whether the communication was in support of, or in opposition to, a particular candidate; and
- The cost of the communication.

104.6(c).

Paid for by SSF

If the organization's SSF pays for a communication to the restricted class, the payment is not considered a contribution. Nevertheless, the SSF must include it on its regular FEC report, by categorizing it as an "other disbursement" on Line 29. See AO 2000-03 (American Society of Anesthesiologists) for additional reporting information. (An SSF paying for a communication to the restricted class should cite this advisory opinion on the report.)

CHAPTER 9
Keeping records

The Act requires that records be kept for all of the SSF's contributions received and disbursements made. 52 U.S.C. 30102(c)-(d). Recordkeeping is the responsibility of the treasurer, even if the SSF appoints someone else to keep records of the committee's activity. 102.9. The recordkeeping requirements for an SSF are explained below.

1. Three-year retention of records

Treasurers of SSFs are responsible for keeping copies of each statement and report, along with original back-up records (such as bank statements, paid invoices, etc.) for three years after the report or statement is filed. 52 U.S.C. 30102(d). The SSF must also retain for three years a full-size photocopy or digital image of each check or written instrument by which a contribution of $50 or more is made or received. The SSF must make these records available to the Commission for inspection upon request. See 102.9(a)(4) and 104.14(b)(2) and (3).

COVERED TOPICS INCLUDE

- Recording contributions
- Contributions of $50 or less
- Forwarding contributions
- Recording disbursements
- Credit card transactions
- Treasurer's best efforts

2. Recording receipts

Records needed for reporting

With respect to receipts, the Act requires reporting of all receipts, but requires recordkeeping only for contributions. Nevertheless, an SSF must keep records for all types of receipts in order to comply with the reporting requirements of the Act and FEC regulations. See 104.14(b). The committee must maintain the following information for contributions of any amount and should maintain these records for other receipts:

- Amount received;
- Date of receipt; and
- Name and address of source.

100.12 and 102.9(a)(1).

See section 3 for additional information required when recording contributions.

Date of receipt

The "date of receipt" of a contribution is the date on which a person receiving the contribution on behalf of the SSF obtains possession of it. This is the date used for recordkeeping and reporting. The date of receipt may be earlier than the date the SSF treasurer receives the money, since a person collecting contributions has several days in which to forward them to the treasurer. (See "Forwarding contributions," below.) 102.8(b).

Payroll deduction receipts

The date of receipt for a payroll deduction contribution is the date the funds are withheld from an employee's paycheck. AOs 2000-11 (Georgia-Pacific) and 1999-33 (MediaOne PAC). To comply with the record retention policy, an SSF must maintain a record of each authorization signed by an employee for three years after the last report disclosing a contribution by that employee. While the Commission recommends that SSFs retain the original payroll deduction authorization forms, other forms of documentation, including spreadsheets, wire transfer records or other electronic or written records, are acceptable. See 75 Fed. Reg. 38513 (Jul. 7, 2006), available online at https://www.fec.gov/help-candidates-and-committees/fundraising-for-ssf/payroll-deduction-ssf/.

Credit card receipts

When the committee receives contributions through credit card charges, the date of receipt is the date on which the committee receives the contributor's authorization to charge the contribution. The treasurer should retain a copy of the authorization form in the committee's records. See, e.g., AOs 2007-30 (Dodd), 1995-09 (NewtWatch), 1991-01 (Deloitte & Touche PAC) and 1990-04 (American Veterinary Medical Association).

Text message receipts

The date of receipt for contributions sent by text message is the date the contributor "opts-in," or confirms that he or she intends to make the contribution, and certifies his or her eligibility. For more information on contributions by text, see AO 2012-17 (Red Blue T LLC, ArmourMedia, Inc., and m-Qube, Inc.).

In-kind contributions

The date of receipt for an in-kind contribution is the date the goods or services are provided to the committee, even if the contributor pays the bill for the goods or services after they are provided. See 110.1(b)(6).

Deposit of receipts

The treasurer of the SSF is required to deposit all receipts within 10 days of the treasurer's receipt, with the exception of any contribution that is returned to the contributor within that same time frame. (See "Forwarding Contributions," in the next section.) 103.3(a) and AO 1992-29 (Holtzman); but see AOs 2000-11 (Georgia-Pacific) and 1999-33 (MediaOne PAC).

3. Recording contributions

Total contributions

Records must show figures for total contributions received. 102.9(a).

Identifying contributors

Contributions of $50 or less

The Commission recommends two possible accounting methods that satisfy recordkeeping requirements for contributions of $50 or less:

- Keep the same records as those required for contributions that exceed $50 (amount, date of receipt and contributor's name and address); or
- In the case of small contributions collected at a fundraising event (such as gate receipts, cash contributions, etc.), keep a record of the name of the event, the date and the total amount of contributions received on each day of the event. AOs 1981-48 (Muskegon County Republican Party) and 1980-99 (Republican Round-up Committee).

Contributions exceeding $50

Records must identify each contribution exceeding $50 by noting the:

- Amount;
- Date of receipt; and
- Contributor's name and address.

102.9(a)(1).

Furthermore, SSFs must maintain either a full-sized photocopy or digital image of each check or written instrument by which a contribution of more than $50 is made. 102.9(a)(4).

Contributions aggregating over $200

For each contribution that exceeds $200, either by itself or when added to the contributor's previous contributions made during the same calendar year, records must identify each contribution by the:

- Amount;
- Date of receipt; and
- Contributor's full name and address, occupation and employer.

100.12 and 102.9(a)(2).

If a person has already contributed an aggregate amount of over $200 during a calendar year, each subsequent contribution, regardless of amount, must be recorded and identified in the same way. 102.9(a)(2).

Contributions by text message

Recipient committees are solely responsible for ensuring that contributions sent by text messages are lawful under the Act and Commission regulations. Committees should work with the text messaging application provider to collect the name, address, occupation and employer of individuals making

contributions that aggregate over $200 in a calendar year. Committees must return or refund any contribution that comes from a prohibited source. For more information on contributions by text, see AOs 2012-17 (Red Blue T LLC, ArmourMedia, Inc., and m-Qube, Inc.), 2012-26 (Cooper for Congress, ArmourMedia, Inc., and m-Qube, Inc.), 2012-28 (CTIA - The Wireless Association), 2012-30 (Revolution Messaging, LLC).

Contributions from political committees

Although SSFs may not solicit other political committees (see chapter 3), they may receive unsolicited contributions from political committees. 114.5(j) and 114.7(j). Records must identify each contribution from a political committee, regardless of amount, by noting the amount, date of receipt and the name and address of the contributing political committee. 102.9(a)(3).

Forwarded contributions

A person who collects SSF contributions (including payroll deductions) must forward to the committee treasurer the contributions and the required records within certain time periods:

- Contributions of $50 or less (and the required records) must be forwarded within 30 days of receipt.
- Contributions exceeding $50 (and the required records) must be forwarded within 10 days of receipt.

102.8(b). For more information on collecting contributions for SSFs, see chapter 3, section 15.

Possibly illegal contributions

As explained in chapter 2, section 12, when a committee has reason to question the legality of a contribution, it has specific time frames in which to clarify whether the contribution is permissible. While investigating a contribution, the committee must keep a written record noting the basis for concern for each deposited contribution that:

- Requires a written reattribution from the contributor (see chapter 2, section 9); or
- Requires confirmation that it is not from a prohibited source (see chapter 2, section 12). 103.3(b)(5).

See chapter 2, sections 7 and 12, for more information on the committee's responsibility to determine the legality of possibly illegal contributions.

4. Recording disbursements

The SSF's records must show figures for total disbursements by the SSF. 102.9(b).

Disbursements made by committee

All disbursements (except those made from a petty cash fund) must be drawn by check or similar draft on the committee's campaign depository, or must be made by wire or electronic transfer (including automatic clearing house (ACH) debits) from the committee's campaign depository. 102.10 and 103.3(a); see AOs 1999-36 (Campaign Advantage), 1993-04 (Cox), 1989-26 (Bond) and 1982-25 (Sigmund).

Petty cash disbursements

The SSF may maintain a petty cash fund for small disbursements. A written record of petty cash disbursements must be kept if a petty cash fund is maintained. Payments from petty cash to one person for any one purchase or transaction may not exceed $100. 102.11.

Recording disbursements

All disbursements

The SSF must keep a record of each disbursement, including:

- Date;
- Amount;
- Name and address of the payee; and
- Purpose (a brief but specific description of why the disbursement was made).[1]

102.9(b)(1).

Disbursements exceeding $200

For each disbursement of more than $200, the SSF must keep a receipt, invoice or canceled check (in addition to the information listed above). 102.9(b)(2).

Disbursements for a federal candidate

An SSF must keep the following additional records on contributions and expenditures made on behalf of candidates, regardless of the amount spent:

- Date;
- Amount;
- Office sought by the candidate, including the state and congressional district (102.9(b)(1)(iii)); and
- Election for which disbursement was made (to facilitate reporting).

For all contributions made, an SSF must maintain either a full-size photocopy or digital image of each check or written instrument by which a contribution of $50 or more is made. 102.9(a)(4).

Credit card transactions

For all expenditures made using a credit card, the SSF must retain a monthly billing statement or customer receipt for each transaction as well as the canceled check used to pay the account. 102.9(b)(2)(ii).

Credit union checks or share drafts

Carbon copies of share drafts or checks drawn on credit union accounts may be used as records, provided the monthly account statement (showing that the draft or check was paid by the credit union) is also retained. 102.9(b)(2)(iii).

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1 A list of acceptable/unacceptable descriptions of "purpose" was published in a policy statement at 75 Fed. Reg. 887 (January 9, 2007). This notice and an updated list of unacceptable "purpose" statements are available online at https://www.fec.gov/help-candidates-and-committees/purposes-disbursement/

Transfers to affiliated SSFs

Records must identify each transfer of funds made to an affiliated SSF, regardless of amount, by the date and amount of the transfer and the name and address of the recipient committee. 104.3(b)(3)(ii).

Documenting disbursements

If a treasurer fails to receive a receipt, invoice or canceled check (required for disbursements exceeding $200), he or she must make at least one written effort per transaction to obtain a duplicate copy of the needed documentation. 102.9(d).

5. Treasurer's best efforts

SSFs and their treasurers must make best efforts to obtain and maintain (and ultimately report) the information required by law with respect to itemized receipts (and disbursements). When reporting information is incomplete, the committee and the treasurer will be in compliance with the law if they can demonstrate that they used "best efforts" in trying to obtain, maintain and report the needed information. 102.9(d) and 104.7(a). The criteria for making "best efforts" vary, depending on the type of transaction.

Contributor information

If an individual who has contributed more than $200 during the calendar year fails to provide the required recordkeeping information (i.e., name, mailing address, occupation and employer), the committee must be able to show that it made "best efforts" to obtain, maintain and report that information. To demonstrate "best efforts," the committee must be able to show that it requested the information—first, in the solicitation materials that prompted the contribution and, second, if the information is not obtained, in a follow-up request. 104.7(b)(1) and (2). Furthermore, if the requested information is not received until after the contribution has been reported, the committee must report the information using one of the procedures described under "File amendments if necessary," below. 104.7(b)(4).

Solicitation materials[2]

To satisfy the "best efforts" standard, the solicitation must include a statement explaining that the SSF is required to use its best efforts to obtain and report certain information from the contributor. 104.7(b)(1)(i)(A). This statement is referred to as the "best efforts notification." Two examples are listed below:

> "Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and the name of employer of individuals whose contributions exceed $200 in a calendar year"; or

2 Any contribution which is reported by a committee with all required contributor information will meet the reporting requirements, whether or not the committee asked for the information or used the language specified under "Solicitation materials." See the explanation and justification published with the final rule, 58 Fed. Reg. 57725, 57727 (October 27, 1993), online at http://sers.fec.gov/fosers/showpdf.htm?docid=67524.

> "To comply with federal law, we must use our best efforts to obtain, maintain and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed $200 per calendar year."

The request for the information and the best efforts notification must be clear and conspicuous. If the committee's solicitations include response materials, the best efforts notice and the request for the contributor information must be placed on these materials. The notice will not be considered to be "clear and conspicuous" if:

- The notification is printed in smaller type than the solicitation and response materials;
- The printing is difficult to read; or
- The notification is placed where it can be easily overlooked.

104.7(b)(1).

Follow-up request within 30 days

If the contributor does not provide sufficient reporting information when making a contribution, the committee must make at least one request for the information after the contribution is received. This follow-up request must be made for any solicited or unsolicited contribution that exceeds the $200 threshold and lacks the necessary information (see "Contributions aggregating over $200" in section 3 of this chapter).

The request must be made within 30 days of receipt of the contribution; it may not include an additional solicitation or material on any other subject, but it may thank the contributor. The follow-up request may be made orally or in writing, but a written request must be accompanied by a pre-addressed postcard or envelope for the response. Requests made by telephone must be documented in a memorandum. 104.7(b)(2). A political committee may also, in certain circumstances, use email to request missing contributor information. AOs 1999-17 (Bush Exploratory Committee) and 1995-09 (NewtWatch). Committees must retain records of follow-up requests. 102.9(d).

Use of information from prior records and the connected organization

If the contributor does not respond to the follow-up request, the committee must disclose any information it possesses in its contributor records, fundraising records or prior reports filed during the same two-year election cycle or any in contributor information maintained by the connected organization. 104.7(b)(3).

File amendments if necessary

If requested information about a contribution is received after the contribution has been disclosed on a report, the committee must either:

- File a Schedule A with its next regularly scheduled report, containing memo entries listing all contributions for which new contributor information has been received; or
- File amendments to the original reports.

In either case, the entries must cross-reference the prior reports to which they relate. However, the committee is only required to submit the information for contributions received during the current two-year election cycle. 104.7(b)(4). See “Filing amendments” in chapter 11, section 20, for instructions on filing amendments.

CHAPTER 10
Filing FEC reports

As explained in chapter 1, an SSF must register within 10 days of its establishment, regardless of how much money it raises or spends. 102.1(c).

Once the committee has registered, the SSF must begin to file reports of receipts and disbursements according to the schedules described in this chapter. The first report filed by an SSF must disclose any financial activity that took place prior to registration. 104.3(a) and (b).

COVERED TOPICS INCLUDE

- Election year filing
- Electronic filing
- 12-Day pre-primary reports
- Administrative fines
- Special elections
- Obtaining a password
- Sale and use restrictions

1. Treasurer's duties

General

As noted in chapter 1, the treasurer of an SSF has the following responsibilities regarding filing FEC reports:

- Signing and filing complete, accurate reports and statements on time. 102.2, 104.14(a) and (d).
- Making "best efforts" to obtain and report required information. See chapter 9, section 5, for more information. 102.9(d) and 104.7.
- Keeping the required records of receipts and disbursements. 102.9(c) and 104.14(b).
- Continuing to file required reports until the committee has filed, and the Commission has approved, a termination report, as explained in chapter 12. 102.3(a).

In the treasurer's absence, only an assistant treasurer designated on the SSF's Statement of Organization may sign reports and assume the treasurer's duties. See 102.7(a). No contributions or expenditures may be accepted or made at a time when there is a vacancy in the office of treasurer and no designated assistant treasurer is available to assume the treasurer's duties. 102.7(b). See chapter 1 for information on appointing an assistant treasurer.

2. Where to file

Committees must file all reports and statements simultaneously with the appropriate federal and state offices.

Filing with the federal government

SSFs generally file all reports and statements with the FEC. 105.4. However, quarterly reports of independent expenditures supporting or opposing Senate candidates must be filed with the Secretary of the Senate. 104.4(e)(i).

State filing

All 50 states and most territories participate in the FEC's state filing waiver program; therefore, SSFs no longer have to file copies of their federal reports and statements with any state office with the exception of the territories of Guam, Northern Mariana Islands and Puerto Rico.[1]

3. When to file reports

Report on time

Committee treasurers must file reports on time. 104.14(d). The Commission cannot grant extensions to reporting deadlines. Filing reports late or not at all may result in enforcement action, including administrative fines. General rules on when to file reports are outlined below. The FEC sends more detailed information to treasurers via email shortly before reports are due. For this reason, it is especially important to list a current email address on the committee's Statement of Organization. Additionally, the *Record*, the FEC's newsletter, publishes reporting announcements, as does the FEC's website, https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.

Election year filing

Election years are years in which there are regularly scheduled federal elections (i.e., even-numbered years). During an election year, an SSF must file on either a quarterly or a monthly filing schedule. 104.5(c)(1).

Quarterly filing

An SSF that opts to file quarterly must file a minimum of five (and possibly more) reports during an election year:

- April quarterly
- July quarterly
- October quarterly
- Post-general
- Year-end;
- Pre-election reports (when required).

1 For elections in Guam, Northern Mariana Islands and Puerto Rico, an SSF must file a report with the appropriate authority if it supports House or Senate candidates running in an election in that territory, maintains its headquarters in that territory and supports presidential candidates; or supports a presidential candidate whose headquarters are based in that territory. See 108.2, 108.3 and 108.4. https://transition.fec.gov/pages/statefiling.shtml.

Three quarterly reports

Under the quarterly schedule, an SSF must file three quarterly reports, due respectively on the 15th of April, July and October. A quarterly report covers activity that occurred after the closing date of the previous report filed through the end of the calendar quarter (i.e., through March 31, June 30 and September 30).

The Commission will waive a quarterly report if a pre-election report (see below) is due between the 5th and the 15th of the month following the close of the calendar quarter. 104.5(c)(1)(i)(C). Committees should check with the FEC to verify whether a report has been waived.

12-day pre-primary reports[2]

An SSF must file pre-primary reports only if the committee has made previously undisclosed contributions or expenditures in connection with a primary election.

The report, due 12 days before the election, covers activity from the close of books of the most recent report filed through the 20th day before the primary election. The FEC must receive the report at least 12 days before the election—unless it is sent by registered, certified or overnight mail,[3] in which case the report must be postmarked no later than the 15th day before the election. 104.5(c)(1)(ii).

Primary election dates vary from state to state, so a quarterly filer might have to file several pre-primary reports if the SSF contributes to primary candidates in several states. Filing dates for each state's primary election are published early in each election year in the *Record* and posted on the FEC website (www.fec.gov).

The FEC does not automatically send committee treasurers notices and forms for pre-primary election reports. The treasurer is responsible for determining whether the SSF must file a pre-primary election report.

12-day pre-general election report

An SSF must file a pre-general election report covering activity from October 1 through the 20th day before the general election if the committee makes contributions or expenditures (including independent expenditures in connection with the general election) during that period. The pre-general report must be received by the FEC no later than the 12th day prior to the general election—unless sent by registered, certified or overnight mail in which case the report must be postmarked no later than the 15th day before the election. 104.5(c)(1)(ii).

2 This section also applies to special and runoff elections, and to conventions that have the authority to select the nominee. Note that in those states in which the party caucus or convention has authority to select a nominee or has authority to select a nominee and is held in addition to the primary, pre-election reports must be filed for the caucus or convention if a quarterly-filing SSF has made previously undisclosed contributions or expenditures in connection with the caucus or convention.
3 Overnight mail includes priority mail having a delivery confirmation, or express mail having a delivery confirmation or an overnight delivery service with an on-line tracking system. 100.19(b)(1)(i).

Table 4: SSF filing schedule

	Report	Filing Date
Quarterly (election years only)	12-day pre-primary	*
	First quarterly	April 15
	Second quarterly	July 15
	Third quarterly	October 15
	12-day pre-general	**
	30-day post-general	**
	Year-end	January 31
Semiannual (nonelection years only)	Mid-year (January through June)	July 31
	Year-end (July through December)	January 31
Monthly	February (covering January)	February 20
	March (covering February)	March 20
	April (covering March)	April 20
	May (covering April)	May 20
	June (covering May)	June 20
	July (covering June)	July 20
	August (covering July)	August 20
	September (covering August)	September 20
	October (covering September)	October 20
	November (covering October)***	November 20
	December (covering November)***	December 20
	12-day pre-general***	***
	30-day post-general***	***
	Year-end	January 31

** Filing dates vary from state to state, according to the primary election dates in each state. Filing dates for all states are announced each election year in the Record.*

*** Filing dates vary from year to year, according to the date of the general election. The general election is always held the Tuesday following the first Monday in November.*

**** A monthly filer files November and December monthly reports only during a nonelection year. During an election year, a monthly filer files pre- and post-election reports instead of the November and December reports.*

30-day post-general election report

There is no requirement for post-primary reports, but an SSF must file a post-general election report 30 days after the general election, regardless of activity. A post-general report covers activity that occurred after the closing date of the last report through the 20th day after the general election and is due 30 days after the election. 104.5(c)(1)(iii).

Year-end report

A year-end report, covering activity from the close of the post-general report through December 31, is due on January 31 of the following year.

Monthly filing

SSFs contributing to federal candidates in several states may find it easier to file monthly reports, since monthly filers do not have to file pre-primary reports or special election reports.

During an election year, a report covering each month from January through September is due on the 20th of the following month. The last monthly report, covering September, is filed October 20. The committee also files a 12-day pre-general election report and a 30-day post-general election report (see the chart for information on filing dates). Finally, the committee files a year-end report on January 31 of the next year. 104.5(c)(3)(ii).

Changing filing schedule

During an election year, an SSF may change its filing schedule from quarterly to monthly (or vice versa). The treasurer must first notify the FEC in writing before making such a change. Electronic filers must file the request electronically. After notification to the FEC, the SSF must then file its next required report under its new filing frequency.

A committee may change its filing schedule only once per calendar year. 104.5(c).

Special reports of independent expenditures

An SSF may have to file special reports of independent expenditures in addition to the regular reports. See chapter 11, section 14, for more information.

Non-election year filing

Non-election years are years in which there are no regularly scheduled federal elections (i.e., odd-numbered years).

Semi-annual reports for quarterly filers

During a non-election year, committees that file quarterly during election years automatically switch to a semi-annual reporting schedule. Two semi-annual reports are required:

- The mid-year report, covering activity from January 1 through June 30, must be filed by July 31; and
- The year-end report, covering activity from July 1 through December 31, must be filed by January 31 of the following year.

104.5(c)(2)(i).

Monthly reports

During non-election years, monthly filers must file reports covering each month's activity on the 20th of the following month. The first monthly report, covering January, is due February 20; the final monthly report covers November and is due December 20. The committee reports December's activity in the year-end report, due the following January 31. 104.5(c)(3).

Changing filing schedule

An SSF that filed monthly reports during the election year continues to file monthly during the non-election year. However, the committee may change to a semi-annual filing schedule if it first notifies the FEC of that change in writing (committees filing electronically must file this notification electronically). After notification to the FEC, the SSF must then file its next required report under its new filing frequency.

An SSF may change its filing schedule only once per calendar year. 104.5(c).

Special elections

SSFs making contributions or expenditures in connection with a special election may be required to file special election reports, including reports of independent expenditures (if appropriate). Filing dates for special elections are published in the Federal Register, the FEC *Record* and on the FEC website. 104.5(h)(1).

If a regularly scheduled report is due within 10 days of the date a special election report is due, the Commission may waive the regular report. 104.5(h)(2). Committees should check with the FEC to verify whether a report has been waived.

Meeting the filing deadline

By registered mail, certified mail, priority mail with delivery confirmation, express mail with delivery confirmation or overnight delivery

If a statement or report is sent by registered mail, certified mail, priority or overnight mail with an online tracking system, it is considered filed on the date of the U.S. postmark. (Note the special rules for pre-election reports, below.) 100.19. The committee should retain evidence that it delivered the report to the U.S. Postal Service or the overnight delivery service, in the event of a delivery failure.

By first class mail or hand-delivery

If a statement or report is sent by first class mail or by hand delivery, it is considered filed on the date it is received by the FEC. 104.5(e).

A filing date is not extended even if it falls on a weekend or holiday, when filing offices are closed. In such cases, the report must reach the filing offices by the close of business on the last working day before the filing date. The risk of timely delivery is on the filer.

By electronic filing

An electronic report is considered "filed" when it is received and validated by the Commission's computer system on or before 11:59 p.m. (Eastern Time) on the filing date. Incomplete or inaccurate reports that do not pass the FEC's validation program will not be considered filed. The Commission will notify the filer if the report is not accepted. 100.19(c) and 104.18(a)(2). An electronic filer that files its report on paper (instead of electronically) is considered a nonfiler. 104.18(a)(2).

By CD

While most electronic filers find it more convenient to file through the internet, the Commission also accepts properly-formatted electronic reports on compact discs (CDs) either hand-delivered or sent by other delivery means, such as the U.S. Postal Service. It is important to note that all mail sent to the FEC through the U.S. Postal Service undergoes special processing which might damage the information on a CD. For specific instructions on how to file electronically using a CD, see the electronic filing section of the FEC website at https://go.usa.gov/xnpvc

Mandatory electronic filing

Some committee must file electronically (See section 5, "Electronic filing"). If a committee required to file electronically files a paper report instead of an electronic report, the report will be considered not filed. The committee may be subject to the Commission's enforcement process for nonfilers. 104.18(a)(2).

4. Administrative fines for late filers and nonfilers

The Commission has implemented an Administrative Fines Program, as authorized by the Federal Election Campaign Act,[4] for assessing civil money penalties for violations involving:

- Failure to file reports on time;
- Failure to file reports at all; and
- Failure to file 48-hour notices of contributions received[5].

If the Commission finds "reason to believe" (RTB) that a committee violated the law in one of these ways, the Commission will notify the committee in writing of its finding and the amount of the civil money penalty.[6] 111.32. The committee will have 40 days to either pay the penalty or submit a written challenge to the Commission's finding. If the committee challenges the finding, the Commission will turn the case over to an independent reviewing officer who was not involved in the RTB finding. After the Commission considers the reviewing officer's recommendation and the committee's response to it, the Commission will make a final determination as to whether the committee violated 52 U.S.C. 30104(a) and, if so,

4 Public Law 106-58, 106th Cong., Section 640, 113 Stat. 430, 476-77 (1999); Commission authority extended in Public Law No. 106-67, 107th Cong., Section 642, 115 Stat 514, 555 (2001), again in Public Law No. 108-199, 108th Cong., Section 639, 118 Stat 3 (2004) ; again in Public Law No. 109-115, Section 721, 119 Stat 2396, 2493-2494 (2006); again in Public Law No. 110–433, 122 Stat. 4971 (2008), sec. 1(a) (2008); and again in Public Law 113–72, 113th Cong., Section 2, 127 Stat. 1210 (2013).
5 48-hour notices of contributions received are filed by authorized (candidate) committees.
6 For more information on the Administrative Fine Program, see 11 CFR 111.30 to 111.45, subpart B, and the Commission's website at https://www.fec.gov/legal-resources/enforcement/administrative-fines/).

will assess a civil money penalty based on the schedules of penalties. The committee will then have 30 days to pay the penalty or seek court review of the case. After the Commission's final determination, the respondents can challenge the penalty by taking the matter to federal district court, but they cannot raise any new arguments not raised during the administrative process.

Respondents must demonstrate one of the following situations in their challenge:

- The RTB filing is based on factual errors;
- The RTB civil money penalty is improperly calculated; or
- They could not file due to reasonably unforeseen circumstances beyond their control, and they filed the late report within 24 hours after those circumstances ended (also called the "best efforts" defense).

Excuses involving, for example, negligence, illness, inexperience, unavailability of committee staff or treasurer, failure to know filing dates, failure to use Commission software properly, delays caused by vendors or failure of the committee's computers, software or Internet service provider do not qualify for the "best efforts" defense. 111.35(c) and (d).

5. Electronic filing

Under the Commission's mandatory electronic filing rules, a committee must file all reports and statements electronically if it raises or spends more than $50,000 in any calendar year, or expects to do so. Any committees that are required to file electronically, but that file on paper or fail to file, may be subject to enforcement action as nonfilers. 104.18(a)(2). See the previous section, "Administrative fines for late filers and nonfilers."

Because electronic filing is more efficient and cost effective than paper filing, even committees that do not meet the $50,000 threshold requirement are encouraged to voluntarily file their reports electronically. Note, however, that a committee that voluntarily files a report electronically must continue to file electronically for the remainder of the calendar year unless the Commission determines that extraordinary and unforeseeable circumstances make continued electronic filing impractical. 104.18(b).

Methods of electronic filing

Most committees filing electronically find it convenient to do so via an internet connection with a password (see "Treasurer's duties" in section 1 of this chapter and "Meeting the filing deadline" in section 3 of this chapter). Committees may, however, submit their electronic reports on compact discs (CDs) (either hand delivered or sent by other means such as U.S. Postal Service). Electronic filers must file all their reports electronically, and the reports must adhere to the FEC's Electronic Filing Specifications Requirements.[7] 104.18(d). Committees filing electronically on CD must also submit a written certification - signed by the treasurer or assistant treasurer - either on paper or as a separate file with the electronic report, verifying that the treasurer has examined the documents and that, to the best of his or her knowledge, the report is correct, complete and true. 104.18(d).

7 Available online at https://www.fec.gov/help-candidates-and-committees/filing-reports/other-filing-software/ or on paper from the FEC.

Calculating the threshold

Committees should use the following formulas to determine if their total expenditures or total contributions are over $50,000 per calendar year:

Total contributions received[8]
- (refunds of contributions + transfers from affiliated committees)
= **total contributions**

or

Total federal operating expenditures
+ federal contributions made
+ transfers to affiliated federal committees
+ independent expenditures
= **total expenditures**

Have reason to expect to exceed the threshold

Once committees actually exceed the $50,000 yearly threshold, they have "reason to expect to exceed" the threshold in the following two calendar years. 104.18(a)(3)(i). Consequently, committees must continue to file electronically for the next two calendar years (January through December).

Committees with no history

New committees with no history of campaign finance activity have reason to expect to exceed the $50,000 yearly threshold if:

- The committee receives contributions or makes expenditures that exceed one-quarter of the threshold amount in the first calendar quarter of the calendar year (i.e., exceeds $12,500 by the end of March); or
- The committee receives contributions or makes expenditures that exceed one-half of the threshold amount in the first half of the calendar year (i.e., exceeds $25,000 by the end of June). 104.18(a)(3)(ii).

Verification requirements

The political committee's treasurer must verify the electronically filed reports by submitting either:

- A signed, written certification on paper along with the CD; or
- A digitized copy of the signed certification as a separate file in an electronic submission.

The signed verification must certify that the treasurer or assistant treasurer (whichever is signing the report) has examined the submitted report, and that, to the best of his or her knowledge, the report is true, correct and complete. 104.18(g).

8 Including the outstanding balance of any loans, as well as any endorsements or guarantees of bank loans. The actual balances of any bank loans, however, are not included.

Obtaining a password

Requesting a password

For registered committees, only the designated treasurer as listed on the committee's Statement of Organization can obtain an electronic filing password. Most committees may obtain or change their password online at https://www.fec.gov/help-candidates-and-committees/filing-reports/electronic-filing/. A validation email will be sent to the email address listed on the committee's Statement of Organization.

An entity or person(s) other than a political committee can obtain an electronic filing password by faxing (or mailing) a password request letter to the FEC's electronic filing office. For more information and further instructions, consult https://www.fec.gov/help-candidates-and-committees/filing-reports/electronic-filing/.

Lost or forgotten password

The Commission cannot provide a treasurer's password to a treasurer or committee if a treasurer forgets or loses the password because the passwords are encrypted. Instead, the treasurer must ask for a new password, repeating the process described above.

New treasurers

When a committee appoints a new treasurer, it must amend its Statement of Organization to disclose the change. In order to do so, the new treasurer may need to request a new password. Since the treasurer's name and signature do not appear on the committee's existing Statement of Organization, he or she must include the following sentence in the password request letter: "I represent that I am the duly appointed treasurer and have authority as such to sign FEC reports for the above committee."

Once a password is received, the new treasurer can file the amended Statement of Organization to indicate the change of position.

Special requirements

The following documents have special signature and submission requirements:

- Schedule C1 (Loans and Line of Credit), including copies of loan agreements;
- Schedule E (Independent Expenditures); and
- Form 8 (Debt Settlement Plan).

These three forms, in addition to being included in the electronic report, must be submitted on paper or in a digitized format (submitted as a separate file in the electronic report). 104.18(h).

6. Public inspection of reports

All reports and statements filed by political committees are available for public inspection and copying (for a minimal fee) in the FEC's Public Records Office. The reports are also posted on the Commission website at https://www.fec.gov/data/.

Copies of reports may also be purchased by mail. For more information, call 800/424-9530 ext. 3 or 202/694-1120.

Sale or use restriction

The Act prohibits anyone from selling or using the names and addresses of individual contributors, copied from FEC reports, for commercial purposes or for the purpose of soliciting funds. This sale or use restriction, however, does not apply to the names and addresses of political committees that are listed in FEC reports. 104.15. See also AOs 2004-24 (NGP) and 2003-24 (NCTFK).

"Salting" reports to detect misuse

When preparing a report to be filed, a committee may "salt" the report with up to 10 fictitious names in order to detect impermissible uses of individual contributor information by other organizations. This is also known as the use of pseudonyms. 104.3(e).

Salting can be done by taking a portion of the subtotal for unitemized contributions and allocating it, as itemized contributions, among several fictitious contributors. The committee itemizes each fictitious contribution on a Schedule A, providing a real address (such as the address of a campaign staff member) for each fictitious contributor. The committee must adjust its subtotals for itemized and unitemized contributions accordingly on the Detailed Summary Page. If a solicitation or commercial mailing is sent to one of the fictitious names, the committee will know that someone has illegally used the names of contributors disclosed on its reports. The committee may then file a complaint with the FEC.

When a committee files a report containing fictitious names, a list of the fictitious names must be sent under separate cover directly to the FEC's Reports Analysis Division. The list will be kept confidential.

CHAPTER 11
Completing FEC Form 3X

1. Reporting forms and formats

FEC reports are filed either electronically or on paper, as explained in the previous chapter. This section explains each format's requirements.

Form 3X

FEC Form 3X (or an electronic version) must be used by SSFs to disclose receipts and disbursements. The same form is used for all types of reports, including quarterly reports, semi-annual reports, pre- and post-election reports and termination reports.

Form 3X includes:

- The Summary Page
- The Detailed Summary Page
- Schedule A: Itemized Receipts
- Schedule B: Itemized Disbursements
- Schedule C: Loans
- Schedule C-1: Loans and Lines of Credit from Lending Institutions
- Schedule D: Debts and Obligations
- Schedule E: Itemized Independent Expenditures
- Schedules H1–H4: Allocation of Federal and Nonfederal Expenses (See appendix A for information on the allocation schedules.)

COVERED TOPICS INCLUDE

- Online web forms
- How to itemize receipts
- Reporting payroll deductions
- Memo entries
- Joint contributions
- Bounced checks
- In-kind contributions made

Requirements for electronic filers

Committees that receive contributions or make expenditures of more than $50,000 in any calendar year, or have reason to expect to do so, must file all reports and statements electronically. Committees that are required to file electronically, but that file on paper or fail to file, may be subject to action as nonfilers. 104.18(a)(2). See chapter 10, section 4, "Administrative fines for late filers and nonfilers." FECfile software, available free from the FEC, generates Form 1 and Form 3X. Filers can download the software from the FEC's website at https://go.usa.gov/xnpvg. Filers may use other software as long as it meets FEC format specifications. For more information about the electronic filing requirement, see section 5 of the preceding chapter.

Requirements for paper filers

FEC forms filed on paper should be typed (either on a typewriter or on a computer – see below for more information on computerized forms); printing in ink is also acceptable (but not recommended) as long as the forms are legible. Because filings will be imaged and photocopied several times before being placed on the public record, it is required that committees submit the original report (not a copy) with an original signature. Committees submitting illegible documents will be required to re-file.

Reporting instructions

Instructions for filling out each form and schedule are available online at https://go.usa.gov/xnpv4. Although written specifically for paper filers, the instructions contain information that is useful for electronic filers as well.

Online web forms

Online filing via the FEC's website is available for last-minute filing of 24- and 48-hour notices of independent expenditures (see section 14 of this chapter). For more information, and to access the online forms, visit https://www.fec.gov/help-candidates-and-committees/filing-reports/electronic-filing/.

Computerized forms

A committee that files on paper may develop its own computer-produced forms, reduced to the size of FEC forms, but it must submit them for approval by the FEC before using them. The submission must include sample formats of each applicable schedule (with sample data). The proposed format (and accompanying cover letter) should be mailed or hand-delivered to the attention of the Reports Analysis Division. 104.2(d); FEC Directive 37 (available through the FEC's Office of Public Records). Paper filing is not an option for committees required to file electronically.

How to obtain paper forms

FEC website

All FEC reporting forms and instructions, including Form 1 and Form 3X are available on the FEC website at https://www.fec.gov/help-candidates-and-committees/forms/.

2. Special rules for first report

In the first report filed after registering as a political committee, an SSF must disclose all financial activity that occurred before registration, beginning with the first date of activity through the end of the current reporting period. In the case of a nonfederal SSF that has converted into a federal SSF, the first report must include an itemization using memo entries of the sources of the committee's opening cash on hand, which is assumed to be composed of those contributions most recently received by the nonfederal SSF. AO 2003-29 (Fraternal Order of Police) (see answer to Question 1); see also 104.3(a) and (b).

3. Categorizing receipts

SSFs must report receipts under the different categories listed on the Detailed Summary Page of Form 3X. These categories are:

- Line 11(a)(i) and (ii), Contributions from individuals/persons other than political committees
- Line 11(b), Contributions from political party committees
- Line 11(c), Contributions from other political committees (e.g., PACs)
- Line 12, Transfers from affiliated committees
- Line 13, Loans received
- Line 14, Loan repayments received
- Line 15, Offsets to operating expenditures
- Line 16, Refunds of contributions made to federal candidates and other political committees
- Line 17, Other federal receipts; and
- Line 18(a), Transfers from nonfederal funds.

For each category, a committee must disclose the total for the current reporting period and the cumulative calendar-year-to-date total. In addition to reporting these totals, a committee must itemize certain receipts by providing supplemental information on supporting Schedules A. 104.3(a)(3) and (4). A committee must use a separate Schedule A for each category of receipts that must be itemized (i.e., the committee may not mix different category of receipts on the same schedule). Electronic filers must input all required information, including the calendar-year-to-date total. It is recommended that paper-filing committees complete the supporting Schedules first, before transferring totals to the Detailed Summary Page.

4. How to itemize receipts

For each itemized receipt, the committee must report the:

- The full name of the source of receipt (i.e., the name of the person or entity who gave something of value or paid money to the SSF);
- The mailing address of the source;
- The employer of the source (if the source is an individual contributor);
- The occupation of the source (if the source is an individual contributor);
- The date of receipt;
- The amount of receipt; and
- The aggregate calendar-year-to-date total of all receipts (within the same category) from the same source.

104.3(a)(4) and 104.8(a) and (b).

Date of receipt

Note that the date of receipt for both recordkeeping and reporting purposes is the date that the SSF (or a person or collecting agent who receives a contribution on behalf of the SSF) first receives a contribution, rather than the date on the check or the date of deposit. 102.8(a). See chapter 9, section 2 for instructions on reporting the dates of receipt for in-kind contributions or contributions by payroll deduction, credit card or text message.

Special employer information

If a contributor is self-employed, that should be stated in the “Employer” space on Schedule A. If a contributor is not employed, the space may be left blank, but the “Occupation” space should still be completed (e.g., “unemployed,” “retired,” “homemaker”). See chapter 9, section 5, “Best efforts,” regarding steps that must be taken to obtain information about contributors.

5. When to itemize receipts

Some receipts must be itemized on Schedule A regardless of their amount, while others need not be itemized until their aggregate calendar-year-to-date total exceeds a threshold dollar value. These concepts are further explained below.

Regardless of amount

Within the following categories of receipts listed on the Detailed Summary Page, every receipt must be itemized on Schedule A regardless of amount:

- Contributions from political party committees (Line 11(b); 104.3(a)(4)(ii));
- Contributions from political committees and similar organizations (including those that do not qualify as political committees under the Act (Line 11(c); 104.3(a)(4)(ii));
- Transfers from affiliated SSFs (Line 12; 104.3(a)(4)(iii)(B));
- Loans received (Line 13; 104.3(a)(4)(iv)); and
- Transfers from nonfederal funds (Line 18; 104.10(b)(3)).

Also itemize regardless of amount:

- Loan payments received (Line 14); and
- Refunded contributions received from political committees (Line 16).

Itemization threshold exceeded

Within the other categories, receipts from each source must be itemized if they:

- Exceed $200; or
- Aggregate over $200 when added to other receipts (within the same category) received from the same source during a calendar year.

The categories of receipts that are subject to this $200 threshold for itemization are:

- Contributions from individuals and groups other than political committees (Line 11(a); 104.3(c)(4)(i));
- Offsets to operating expenditures (rebates, refunds and returns of deposits), if the operating expenditures were paid by the SSF (Line 15; 104.3(c)(4)(v)); and
- Other receipts (such as interest and dividends earned on invested funds) (Line 17; 104.3(c)(4)(vi)).

Note that, although a committee only has to itemize contributions in its reports for persons (other than political committees) giving more than $200 per year, the committee's records must identify the sources of contributions of more than $50. 102.9(a)(1). See chapter 9, section 3.

Itemizing receipts when not required

A committee that chooses to itemize all its receipts, regardless of the $200 threshold, should use a separate Schedule A to itemize the receipts that do not aggregate over $200 and that are not required to be itemized. The committee must include those receipts in the total for Line 11(a)(ii), "Unitemized Receipts," on the Detailed Summary Page. 104.3(c)(4)(i).

6. Reporting contributions received

Line 11(a). Contributions from individuals and other persons/groups

Itemize contributions from individuals and groups other than political committees on Schedule A for Line 11(a)(i). As noted above, contributions from individuals are reported on Line 11(a) of the Detailed Summary Page and itemized once they aggregate in excess of $200 for the calendar year from a specific contributor. (See example 11–1.) Special reporting issues are addressed below.

11–1: Contribution receipt

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE OF
[X] 11a [ ] 11b [ ] 11c [ ] 12
[ ] 13 [ ] 14 [ ] 15 [ ] 16 [ ] 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Critical Reason, Inc. PAC

A. Full Name of Individual (Last, First, Middle Initial) or Full Organization Name
Kong, Qiu

Mailing Address
50 Analects Lane

City: Leesburg | State: VA | Zip Code: 33333

FEC ID number of contributing federal political committee. C

Name of Employer (for Individual): Critical Reason, Inc.
Occupation (for Individual): Executive Analyst

Receipt For: [ ] Primary [ ] General [ ] Other (specify) ▼

Aggregate Year-to-Date ▼ 300.00

Date of Receipt: MM 01 / DD 19 / YYYY 2018

Amount of Each Receipt this Period: 300.00

[ ] Memo Item

Payroll deductions

Once an individual's deductions aggregate over $200 in a calendar year, report the total amount deducted from the contributor's paychecks during the reporting period on Schedule A. In parentheses indicate the amount that was deducted each pay period. Instead of stating a specific date of receipt, specify "payroll deduction" under "Date." The other itemized information, including the year-to-date total, must be completed for each donor. 104.8(b).

EXAMPLE: During an election year, an executive authorizes his employing organization to deduct $15 per pay period (each pay period is two weeks) for the company's SSF. The SSF, which files FEC reports on a quarterly schedule, includes the executive's first-quarter contributions ($90 for six pay periods) as "unitemized contributions" on Line 11(a)(ii) in the April quarterly report.

By June 30 (the closing date for the July quarterly report), 13 pay periods have passed, and the executive's year to date aggregate contributions are $195—still below the $200 itemization threshold. The executive's second-quarter contributions again are included in "unitemized contributions" in the July report.

By September 30 (the closing date for the October quarterly report), 19 pay periods have passed, and the executive's year to date aggregate contributions reach $285. Now the committee itemizes the total contributions received from the executive during the third quarter ($90), providing the year-to-date total in the appropriate space. (See example 11–2.)

11-2: Payroll deduction

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE OF
[X] 11a [ ] 11b [ ] 11c [ ] 12
[ ] 13 [ ] 14 [ ] 15 [ ] 16 [ ] 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Critical Reason, Inc. PAC

A. Full Name of Individual (Last, First, Middle Initial) or Full Organization Name
Hobbes, Calvin N.

Mailing Address
3 Commentator Lane

City: Alexandria | State: VA | Zip Code: 33333

FEC ID number of contributing federal political committee. C

Name of Employer (for Individual): Critical Reason, Inc.
Occupation (for Individual): Executive Brand Manager

Receipt For: [ ] Primary [ ] General [ ] Other (specify) ▼

Aggregate Year-to-Date ▼ 285.00

Date of Receipt payroll deduction
M M / D D / Y Y Y Y

Amount of Each Receipt this Period 90.00

[ ] Memo Item
($15.00 biweekly)

Line 11(b). Contributions from political party committees
Line 11(c). Contributions from other political committees

Itemize all contributions from party committees, SSFs and nonconnected committees (including party organizations and committees that do not qualify as political committees under the Act). 104.3(a)(4)(ii).

Contributions from party committees are itemized on Schedule A for Line 11(b). 104.3(a)(2)(ii). Contributions from other types of political committees (including SSFs, nonconnected committees and committees that do not qualify as political committees) are itemized on Schedule A for Line 11(c). 104.3(a)(2)(iii).

Note: Transfers of funds received from affiliated SSFs are reported on Line 12. 104.3(a)(2)(v) and (a)(4)(iii)(B). Transfers of contributions forwarded by a collecting agent (including an affiliated SSF) are itemized as contributions from the original individual contributors, as described above. 102.6(c)(7). See the next section in this chapter for more information on reporting transfers from affiliated committees and chapter 3, section 15, for more information on collecting agent rules.

Memo entries

Memo entries are used on a schedule to provide information that is not included in the schedule's total dollar figure. Memo entries are used, for example, to disclose a reattribution of a contribution received or the value of an appreciated good contributed to the SSF.

Filers should exercise caution not to confuse "memo entries" with the "memo text" function used to supply additional information when filing electronically with FECFile or electronic filing software.

In-kind contributions received

When determining whether to itemize an in-kind contribution received, follow the same guidelines listed above under "When to itemize receipts." See chapter 2, section 2, for information on how to determine the dollar value of an in-kind contribution.

In addition, add the value of the in-kind contribution to the operating expenditures total on Line 21(b) of the Detailed Summary Page (in order to avoid inflating the cash-on-hand amount). 104.13(a)(2).

If the in-kind contribution must be itemized on Schedule A, then it must also be itemized on a Schedule B for operating expenditures. See example 11–3.

Appreciated goods

When a committee receives an in-kind contribution whose value may appreciate over time, such as stock or artwork, special reporting rules apply:

11–3a: In-kind Contribution

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE OF
[X] 11a [ ] 11b [ ] 11c [ ] 12
[ ] 13 [ ] 14 [ ] 15 [ ] 16 [ ] 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full): Critical Reason, Inc. PAC

A. Full Name of Individual (Last, First, Middle Initial) or Full Organization Name: Hume, Dave
Mailing Address: 1711 Empirical Avenue
City: Alexandria State: VA Zip Code: 33333
FEC ID number of contributing federal political committee: C
Name of Employer (for Individual): Critical Reason, Inc.
Occupation (for Individual): Systems Analyst
Receipt For: [ ] Primary [ ] General [ ] Other (specify) ▼
Aggregate Year-to-Date ▼ 3,990.00

Date of Receipt: 08 / 19 / 2018
Amount of Each Receipt this Period: 3,990.00
[ ] Memo Item
in-kind (raffle prize)

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE OF
[X] 21b [ ] 22 [ ] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full): Critical Reason, Inc. PAC

A. Full Name (Last, First, Middle Initial): Hume, Dave
Mailing Address: 1711 Empirical Avenue
City: Alexandria State: VA Zip Code: 33333
Purpose of Disbursement: In-kind: raffle prize. See Schedule A
Candidate Name
Category/Type
Office Sought: [ ] House [ ] Senate [ ] President
State: District:
Disbursement For: [ ] Primary [ ] General [ ] Other (specify) ▼

Date of Disbursement: 08 / 19 / 2018
FEC Identification Number: C
Amount of Each Disbursement this Period: 3,990.00
[ ] Memo Item

- Itemize the initial gift, if necessary, as a memo entry on Schedule A (see "When to itemize receipts," in section 5 of this chapter). Under "Amount," report the fair market value of the contribution on the date the item was received. Do not include that amount in the total for Line 11(a)(i) on the Detailed Summary Page.
- Once the item is sold, report the sale price as a contribution on Line 11(a)(i) if the purchaser is known or as an "Other Receipt" on Line 15 if the purchaser is unknown. Itemize the transaction on Schedule A if necessary.

104.13(b). See also AOs 2000-30 (pac.com) and 1989-06 (Boehlert).

Joint contributions

A joint contribution is made by a single check that bears two signatures. A check with one signature may also be a joint contribution if an accompanying form or letter, signed by both contributors, instructs the committee to treat it as a joint contribution.

For the purposes of itemization, report a joint contribution as though the joint contributors had given separately. If a joint contribution does not indicate the amount to be attributed to each contributor, attribute equally among the contributors. 110.1(k)(2). As with any contribution from an individual, itemize the contributions on Schedule A for Line 11(a)(i) only if total contributions from that individual have aggregated over $200 for the calendar year. 104.3(a)(4)(i).

Reattributions

This section describes how to report contributions which the committee has presumptively reattributed or for which the committee has requested reattributions from contributors. (See chapter 2, section 7.)

Receipt of original contribution

When itemizing a contribution that must be reattributed to correct an excessive amount, include a statement on Schedule A noting that a reattribution has been requested. 103.3(b)(5).

Receipt of reattribution

In the report covering the period during which the reattribution is received, itemize as memo entries on Schedule A:

- Information on the contribution as it was previously disclosed; and
- Information on the contribution as it was reattributed, including the date the reattribution was received; and
- For presumptive reattributions, note "presumptive reattribution."

104.8(d)(3).

See example 11–4 for how to report a reattribution. The excessive contribution ($6,000) is recorded in the reporting period in which it was received (July report). Then, in the report covering the period during which the reattribution is received (the October report) the initial contribution ($6,000) is reported as a memo entry followed by the portions reattributed between the original contributor and his spouse.

11-4: Reattribution

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE OF
[X] 11a [ ] 11b [ ] 11c [ ] 12
[ ] 13 [ ] 14 [ ] 15 [ ] 16 [ ] 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Critical Reason, Inc. PAC

A. Full Name of Individual (Last, First, Middle Initial) or Full Organization Name
Leibniz, Gottfried

Mailing Address
111 Monad Street

City: Strasburg | State: VA | Zip Code: 33333

FEC ID number of contributing federal political committee.
C

Name of Employer (for Individual): Rationalist Solutions
Occupation (for Individual): Vice-President

Receipt For:
[ ] Primary [ ] General
[ ] Other (specify) ▼

Aggregate Year-to-Date ▼
6,000.00

Date of Receipt
M M 06 / D D 14 / Y Y Y Y 2018

Amount of Each Receipt this Period
6,000.00

[ ] Memo Item
(Reattribution Requested)

11-4: Reattribution (next report)

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE OF
[X] 11a [ ] 11b [ ] 11c [ ] 12 [ ] 13 [ ] 14 [ ] 15 [ ] 16 [ ] 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full): Critical Reason, Inc. PAC

A. Full Name of Individual (Last, First, Middle Initial) or Full Organization Name: Leibniz, Gottfried
Mailing Address: 111 Monad Street
City: Strasburg | State: VA | Zip Code: 33333
FEC ID number of contributing federal political committee: C
Name of Employer (for Individual): Rationalist Solutions
Occupation (for Individual): Vice-President
Receipt For: [ ] Primary [ ] General [ ] Other (specify) ▼
Aggregate Year-to-Date ▼: 6,000.00
Date of Receipt: 06 / 14 / 2018
Amount of Each Receipt this Period: 6,000.00
[X] Memo Item
Originally reported 6/14/2018. $1000 reattributed below.

B. Full Name of Individual (Last, First, Middle Initial) or Full Organization Name: Leibniz, Gottfried
Mailing Address: 111 Monad Street
City: Strasburg | State: VA | Zip Code: 33333
FEC ID number of contributing federal political committee: C
Name of Employer (for Individual): Rationalist Solutions
Occupation (for Individual): Vice-President
Receipt For: [ ] Primary [ ] General [ ] Other (specify) ▼
Aggregate Year-to-Date ▼: 5,000.00
Date of Receipt: 07 / 11 / 2018
Amount of Each Receipt this Period: -1,000.00
[X] Memo Item
Reattribution below

C. Full Name of Individual (Last, First, Middle Initial) or Full Organization Name: Leibniz, Tina
Mailing Address: 111 Monad Street
City: Strasburg | State: VA | Zip Code: 33333
FEC ID number of contributing federal political committee: C
Name of Employer (for Individual): Best of All Possible Firms
Occupation (for Individual): Senior Attorney
Receipt For: [ ] Primary [ ] General [ ] Other (specify)
Aggregate Year-to-Date ▼: 1,000.00
Date of Receipt: 07 / 11 / 2018
Amount of Each Receipt this Period: 1,000.00
[X] Memo Item
Reattribution

SUBTOTAL of Receipts This Page (optional) ▶
TOTAL This Period (last page this line number only) ▶

FEC **Schedule A (Form 3X)** Rev. 06/2016

Refund of excessive portion

If the SSF does not receive the reattribution, the committee must refund the excessive portion within 60 days of the treasurer's receipt of the contribution. Disclose the refund on the next report. 103.3(b)(3) and (5) and 104.8(d)(4). See also "Refunds made by the SSF," later in this chapter.

Keep verification records

The SSF must also keep documentation for each reattribution to verify it was received within the 60-day time limit. Documentation for a reattribution must include one of the following:

- A copy of the postmarked envelope bearing the contributor's name, return address or other identifying code;
- A copy of the signed statement reattributing the contribution with a date stamp showing the date of the SSF's receipt; or
- A copy of the written reattribution dated by the contributor. 110.1(l)(6).

Bounced checks

If a committee reports the receipt of a contribution and later finds it cannot be negotiated because of insufficient funds in the contributor's account, the committee deducts the amount from its next report as follows:

- If the receipt was not itemized in a previous report, deduct the amount of the check from the total for unitemized contributions (Line 11(a)(ii) on the Detailed Summary Page).
- If the receipt was itemized previously, itemize the return of the check as a negative entry (see below) on a Schedule A for the appropriate line number.

Checks received, deposited and returned to the committee by the bank in the same reporting period do not need to be reported.

Negative entry

A negative entry is usually shown as a dollar amount with a negative sign in front of or parentheses around it. The amount is always deducted from the total for that schedule (and the corresponding line number on the Detailed Summary Page). A negative entry is used, for example, when a contributor's check bounces or is returned to the contributor without having been deposited in the committee's account.

7. Reporting other categories of receipts

Transfers-in

Transfers from affiliated committees

Itemize any transfers of funds received from affiliated SSFs on Schedule A for Line 12. See example 11–5. Enter the total on Line 12 of the Detailed Summary Page. Note: Do not itemize any transfers received from a collecting agent on this line; instead, itemize those receipts as contributions from their original sources. See chapter 3, section 15, for more information on collecting agent rules.

Transfers from nonfederal account for allocable activity

If the committee maintains a nonfederal account for state and local election activities and pays its own administrative expenses (as opposed to having them paid by the connected organization), the federal account (the SSF) may accept a transfer of funds from the nonfederal account for the sole purpose of covering its portion of an allocable federal and nonfederal expense. 106.6(e)(1)(i). Report the total amount transferred from the nonfederal account during the period (i.e., the total from Schedule H3) on Line 18(a) of the Detailed Summary Page.

Other rules concerning these transfers are explained in appendix A.

11–5: Transfers

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE OF
☐ 11a ☐ 11b ☐ 11c ☒ 12
☐ 13 ☐ 14 ☐ 15 ☐ 16 ☐ 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Alabama Moral Business Association PAC

A. Full Name of Individual (Last, First, Middle Initial) or Full Organization Name
National Moral Business Association PAC

Mailing Address
211 Fair Deal Lane

City: Kingdom of Ends | State: VA | Zip Code: 33333

FEC ID number of contributing federal political committee: C 00000013

Name of Employer (for Individual)

Occupation (for Individual)

Receipt For: ☐ Primary ☐ General ☐ Other (specify) ▼

Aggregate Year-to-Date ▼ 5,695.45

Date of Receipt: M M 07 / D D 30 / Y Y Y Y 2018

Amount of Each Receipt this Period: 2,140.30

☐ Memo Item

Offsets to operating expenditures

Refunds, rebates and returns of deposits are considered offsets to operating expenditures. Report them only if the SSF (not the connected organization) paid the original expenses.

Itemize offsets on Schedule A for Line 15 once the committee receives more than $200 from the same source during a calendar year. Enter the total on Line 15 of the Detailed Summary Page.

Refunds of contributions made

The committee should itemize refunds of contributions made by the SSF on Schedule A for Line 16 regardless of their amount. See section 11 for more information on how to report them. Enter the total on Line 16 of the Detailed Summary Page.

Other receipts

This category includes interest and dividends earned on investments. Itemize these receipts on Schedule A for Line 17 once the committee receives more than $200 from the same source during a calendar year. Enter the total under this category on Line 17 of the Detailed Summary Page. See chapter 4, section 3, and section 15 of this chapter for more information on interest and dividends.

8. Categorizing disbursements

SSFs must report disbursements under the different categories listed on the Detailed Summary Page of Form 3X.[1] These categories are:

- Line 21(a) Allocated federal/nonfederal activity
- Line 21(b) Other federal operating expenditures
- Line 22 Transfers to affiliated committees
- Line 23 Contributions to federal candidates/committees and other political committees
- Line 24 Independent expenditures
- Line 26 Loan repayments made
- Line 27 Loans made
- Line 28 Refunds of contributions
- Line 29 Other disbursements (including nonfederal donations).

For each category, a committee must disclose the total for the current reporting period and the calendar-year-to-date total. 104.3(b).

In addition to reporting these totals, a committee often has to itemize disbursements by providing supplemental information on supporting Schedule B (Schedule E for Independent Expenditures). A committee must use a separate Schedule B for each category of disbursements that must be itemized; the committee may not mix different categories of disbursements on the same schedule. Electronic filers must separately enter each disbursement when entering data in order to correctly generate the report. Paper-filing committees should complete the supporting schedules first so that they may transfer totals from these schedules to the Detailed Summary Page.

1 Note that Lines 25 and 30 of the Detailed Summary Page pertain only to party committees and are not used by SSFs.

9. How to itemize disbursements

For each disbursement that must be itemized, the committee must include the following information:

- Name of payee;
- Address of payee;
- Purpose of disbursement (a brief but specific description of why the disbursement was made);
- Date of disbursement; and
- Amount of disbursement.

104.3(b)(3) and 104.9.

Purpose

For reporting purposes, the "purpose" of disbursement refers to a brief statement or description about the reason for the disbursement. The description must be sufficiently specific, when considered within the context of the payee's identity, to make the reason for the disbursement clear. 104.3(b)(4)(i)(A) and (B). The Commission has published a non-exhaustive list of acceptable and unacceptable purpose descriptions at https://www.fec.gov/help-candidates-and-committees/purposes-disbursement/.

10. When to itemize disbursements

Regardless of amount

Several types of disbursements must be itemized regardless of amount:

- Transfers to affiliated SSFs (Line 22; 104.3(b)(3)(ii));
- Expenditures for allocated federal/nonfederal activity (on Schedule H4) (Line 21(a); 104.10(b)(4));
- Contributions to federal candidates/committees and other political committees (Line 23; 104.3(b)(3)(v)); and
- Loans made by the SSF (Line 27; 104.3(b)(3)(vi)).

Also itemize loan repayments made (Line 26) regardless of amount. Note that refunds of contributions (Line 28 on the Detailed Summary Page) must be itemized on Schedule B only if the incoming contribution had to be itemized on Schedule A, as explained earlier in this chapter.

Other disbursements: itemization threshold exceeded

A disbursement that does not fall under one of the categories listed above (such as a donation to a nonfederal candidate) must be itemized if it exceeds $200 when aggregated with other disbursements made to the same payee during the calendar year. See 104.3(b)(3).

11. Reporting contributions made

Contributions to federal candidates and other political committees

Itemize all monetary and in-kind contributions made to federal candidate committees and other political committees, regardless of amount, on Schedule B for Line 23. Report the total from that schedule on Line 23 of the Detailed Summary Page. Examples of itemized contributions to candidates are provided in this chapter.

Along with the basic information included for all types of disbursements, when itemizing a contribution to a candidate committee on Schedule B, the SSF must include the candidate's name and the office sought (including the state and, if applicable, congressional district). 104.3(b)(3)(v). Also, the committee should specify the election for which the payment was made by checking the appropriate category in the election designation box. See example 11–6.

11-6: Contributions to candidates

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
[ ] 21b [ ] 22 [X] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full): Critical Reason, Inc. PAC

A.
Full Name (Last, First, Middle Initial): Friends of Carl Popper
Mailing Address: 51 Open Society Lane
City: Albany | State: NY | Zip Code: 33333
Purpose of Disbursement: Contribution
Candidate Name: Carl Popper
Category/Type: 011
Office Sought: [X] House [ ] Senate [ ] President
State: NY District: 21
Disbursement For: 2018 [ ] Primary [X] General [ ] Other (specify)
Date of Disbursement: 07 / 12 / 2018
FEC Identification Number: C 00000003
Amount of Each Disbursement this Period: 1,000.00
[ ] Memo Item

B.
Full Name (Last, First, Middle Initial): Sophia for Senate
Mailing Address: 1661 Egypt Alley
City: Alexandria | State: VA | Zip Code: 22222
Purpose of Disbursement: Contribution - Debt Retirement
Candidate Name: Sophia Hypatia
Category/Type: 011
Office Sought: [ ] House [X] Senate [ ] President
State: ND District:
Disbursement For: 2016 [ ] Primary [X] General [ ] Other (specify)
Date of Disbursement: 08 / 10 / 2018
FEC Identification Number: C 00000004
Amount of Each Disbursement this Period: 1,000.00
[ ] Memo Item

In-kind contributions made

When making an in-kind contribution, as explained in chapter 5, section 1, an SSF must report the date the good or service is provided as the date of the contribution. It does so by itemizing the contribution on Schedule B for Line 23 as described above. However, payments for such goods or services are usually made on a different date than the date the contribution is provided to the campaign. In this case, the SSF must also report each payment made as an operating expenditure on the date the payment is actually made to the recipient. See examples 11–7a and 11–7b.

11–7a: In-kind contribution

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
[ ] 21b [ ] 22 [X] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full): Critical Reason, Inc. PAC

A. Full Name (Last, First, Middle Initial): Prytaneum Hotel
Mailing Address: 399 Agora Avenue
City: Athens State: GA Zip Code: 33333
Purpose of Disbursement: Meals
Candidate Name: John Socrates
Office Sought: [X] House [ ] Senate [ ] President
State: GA District: 4
Disbursement For: 2018 [ ] Primary [X] General [ ] Other (specify) ▼
Category/Type: 011
Date of Disbursement: 08 / 19 / 2018
FEC Identification Number: C 00000005
Amount of Each Disbursement this Period: 975.00
In-kind
[ ] Memo Item

11–7b: In-kind contribution (payment)

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
[X] 21b [ ] 22 [ ] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full): Critical Reason, Inc. PAC

A. Full Name (Last, First, Middle Initial): Prytaneum Hotel
Mailing Address: 399 Agora Avenue
City: Athens State: GA Zip Code: 33333
Purpose of Disbursement: Meals
Candidate Name: John Socrates
Office Sought: [X] House [ ] Senate [ ] President
State: GA District: 4
Disbursement For: 2018 [ ] Primary [X] General [ ] Other (specify) ▼
Category/Type: 011
Date of Disbursement: 09 / 19 / 2018
FEC Identification Number: C 00000005
Amount of Each Disbursement this Period: 975.00
[X] Memo Item (In-kind: See Schedule B, Line 23 of Sept. Monthly)

Reporting payment made in advance

If an SSF pays its connected organization in advance for the use of the organization's resources and facilities (as required by the FEC's anti-facilitation regulations; see chapter 5, section 1), the SSF would itemize the payment as an "Other Federal Operating Expenditure" on Line 21b. Then, when the resource or facility is actually used on behalf of a campaign, the SSF must itemize the payment again on Schedule B for Line 23 using the date of the use as the date the contribution is made. To reconcile its totals, the SSF must itemize the payment again, but as a negative entry, on Schedule B for Line 21b. See illustration in examples 11–8a and 11–8b.

11-8a: Advance payment

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
[X] 21b [ ] 22 [ ] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full): Stoic Solutions, Inc. PAC

A.
Full Name (Last, First, Middle Initial): Stoic Solutions, Inc.
Mailing Address: 80 Thinkers Trail
City: Aesop | State: NY | Zip Code: 33333
Purpose of Disbursement: Use of Meeting Room / Staff Time
Category/Type: 011
Candidate Name: Renee Descartes
Office Sought: [X] House [ ] Senate [ ] President
State: NY District: 23
Disbursement For: [X] Primary [ ] General [ ] Other (specify) ▼
Date of Disbursement: 03 / 14 / 2018
FEC Identification Number: C
Amount of Each Disbursement this Period: 1,000.00
[ ] Memo Item

B.
Full Name (Last, First, Middle Initial): Stoic Solutions, Inc.
Mailing Address: 80 Thinkers Trail
City: Aesop | State: NY | Zip Code: 33333
Purpose of Disbursement: Use of Meeting Room / Staff Time (in-kind)
Category/Type: 011
Candidate Name: Renee Descartes
Office Sought: [X] House [ ] Senate [ ] President
State: NY District: 23
Disbursement For: [X] Primary [ ] General [ ] Other (specify)
Date of Disbursement: 03 / 30 / 2018
FEC Identification Number: C
Amount of Each Disbursement this Period: -1,000.00
[ ] Memo Item (In-kind. See Schedule B, Line 23)

11-8b: Advance payment

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
[ ] 21b [ ] 22 [X] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Stoic Solutions, Inc. PAC

A. Full Name (Last, First, Middle Initial)
Stoic Solutions, Inc.

Mailing Address
80 Thinkers Trail

City: Aesop
State: NY
Zip Code: 33333

Purpose of Disbursement
Use of Meeting Room / Staff Time (in-kind)

Candidate Name
Renee Descartes

Office Sought: [X] House [ ] Senate [ ] President
State: NY District: 23

Disbursement For: [X] Primary [ ] General [ ] Other (specify) ▼

Category/Type: 011

Date of Disbursement: 03 / 30 / 2018

FEC Identification Number: C 00000006

Amount of Each Disbursement this Period: 1,000.00

[ ] Memo Item (See Schedule B, Line 21b)

Payment made after the contribution provided

In other cases, the SSF may pay for an in-kind contribution after the good or service is actually provided. In this case, it must report both the date the in-kind contribution is provided and the date of the payment.

For example, if an SSF contracts to rent a hotel ballroom for a fundraising event for a candidate, with payment to the hotel due 30 days after the event, it must itemize the date of the event and the actual contribution on Schedule B for Line 23, as described above. To report the date the hotel was actually paid, it must itemize the payment as a memo entry on Schedule B, Line 21b.

Redesignations of contributions made

In the report covering the period during which the SSF made the redesignation, itemize as memo entries:

- Information on the contribution as it was previously disclosed; and
- Information on the contribution as it was redesignated, including the date of the redesignation and the election to which the contribution was redesignated.

If a contribution to a candidate is redesignated after the close of books, show the redesignation on the next report and indicate the report on which the original contribution was itemized.

In example 11–9, the committee originally made a $5,500 contribution to a candidate's campaign, intending it to count toward the primary election. The committee itemized the contribution in its September Monthly report. The following month, the campaign requested that the SSF redesignate $500. The committee itemized the redesignation in its October Monthly report.

11-9a: Redesignation

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
[ ] 21b [ ] 22 [X] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Stoic Solutions, Inc. PAC

A. Full Name (Last, First, Middle Initial)
Committee to Elect Renee Descartes

Mailing Address
109 Via Sacra Lane

City: Rome
State: FL
Zip Code: 33333

Purpose of Disbursement
Contribution

Category/Type: 011

Candidate Name
Renee Descartes

Office Sought: [X] House [ ] Senate [ ] President
State: FL District: 23

Disbursement For: [X] Primary [ ] General [ ] Other (specify) ▼

Date of Disbursement
M M 08 / D D 12 / Y Y Y Y 2018

FEC Identification Number
C 00000006

Amount of Each Disbursement this Period
5,500.00

[ ] Memo Item (Redesignation made on 9/12/18)

11-9b: Redesignation (next report)

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
[ ] 21b [ ] 22 [X] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Stoic Solutions, Inc. PAC

A.
Full Name (Last, First, Middle Initial): Committee to Elect Renee Descartes
Mailing Address: 109 Via Sacra Lane
City: Rome | State: FL | Zip Code: 33333
Purpose of Disbursement: Contribution
Category/Type: 011
Candidate Name: Renee Descartes
Office Sought: [X] House [ ] Senate [ ] President
State: FL District: 23
Disbursement For: [X] Primary [ ] General [ ] Other (specify)
Date of Disbursement: 08 / 12 / 2018
FEC Identification Number: C00000006
Amount of Each Disbursement this Period: 5,500.00
[X] Memo Item (As disclosed in 2018 September monthly report)

B.
Full Name (Last, First, Middle Initial): Committee to Elect Renee Descartes
Mailing Address: 109 Via Sacra Lane
City: Rome | State: FL | Zip Code: 33333
Purpose of Disbursement: Contribution
Category/Type: 011
Candidate Name: Renee Descartes
Office Sought: [X] House [ ] Senate [ ] President
State: FL District: 23
Disbursement For: [ ] Primary [X] General [ ] Other (specify)
Date of Disbursement: 09 / 12 / 2018
FEC Identification Number: C00000006
Amount of Each Disbursement this Period: 500.00
[X] Memo Item (Redesignation of above contribution)

Return or refund of contributions made

If an SSF receives a refund of a contribution it has made, it must report the refund in one of two ways, depending on the circumstances described below.

Contribution made by SSF: original check not deposited

If a check to a candidate committee or other political committee is not deposited (e.g., if it is returned uncashed or is lost), itemize the amount as a negative entry on a Schedule B for Line 23, "Contributions to Federal Candidates and Other Political Committees." (The amount is subtracted from the total for Line 23 on the Detailed Summary Page.) See example 11–10.

11–10: Returned contribution

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE OF
[ ] 21b [ ] 22 [X] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full): Delian League Association PAC

A. Full Name (Last, First, Middle Initial): Al Verroes for Congress
Mailing Address: 2020 Hubris Street
City: Syracuse State: NY Zip Code: 00000
Purpose of Disbursement: Contribution
Category/Type: 011
Candidate Name: Al Verroes
Office Sought: [X] House [ ] Senate [ ] President
State: NY District: 25
Disbursement For: [ ] Primary [X] General [ ] Other (specify) ▼

Date of Disbursement: 08 / 12 / 2018
FEC Identification Number: C 00000006
Amount of Each Disbursement this Period: -5,000.00
[ ] Memo Item
Void of 7/12/18 contribution

11–11: Refunded contribution

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE OF
[ ] 11a [ ] 11b [ ] 11c [ ] 12
[ ] 13 [ ] 14 [ ] 15 [X] 16 [ ] 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full): Critical Reason, Inc. PAC

A. Full Name of Individual (Last, First, Middle Initial) or Full Organization Name: Hegel for Congress
Mailing Address: 33 Dialectic Lane
City: Leesburg State: VA Zip Code: 33333
FEC ID number of contributing federal political committee: C 00000019
Name of Employer (for Individual):
Occupation (for Individual):
Receipt For: [X] Primary [ ] General [ ] Other (specify) ▼
Aggregate Year-to-Date ▼ 1,000.00

Date of Receipt: 07 / 19 / 2018
Amount of Each Receipt this Period: 1,000.00
[ ] Memo Item
(Contribution itemized in the July quarterly report)

Refunded by recipient's check

If the recipient committee deposits the contribution and then refunds it with its own check, itemize the refund, regardless of amount, on a Schedule A for Line 16, "Contribution Refunds."

Refunds made by the SSF

When an SSF refunds a contribution to a donor, the committee must include the disbursement in the total for the appropriate category of refund on the Detailed Summary Page (Line 28(a), (b) or (c)). If the SSF previously itemized the incoming contribution on Schedule A, then it must itemize the refund on a Schedule B for the appropriate line number. 104.8(d)(4).

(An SSF may return a contribution to the donor without depositing it, although the return must be made within 10 days of the treasurer's receipt of the contribution. 103.3(a). In this case, the committee does not have to report either the receipt or the return of the contribution.)

12. Reporting other categories of disbursements

Operating expenditures

Operating expenditures—also called administrative expenses and fundraising expenses—are only reportable if the SSF pays for them. If the SSF pays for operating expenditures, they should be reported on Line 21(b). The connected organization may reimburse the SSF for these expenses, but the reimbursement must take place no later than 30 calendar days after the expense was paid. See 114.5(b)(3). The reimbursement is disclosed on Line 15 of the committee's report.

11-12: Operating expenditures

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
[X] 21b [ ] 22 [ ] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Delian League Association PAC

A. Full Name (Last, First, Middle Initial)
Graphos Printing

Mailing Address
2345 Papyrus Street

City: Alexandria
State: VA
Zip Code: 00000

Purpose of Disbursement
PAC letterhead

Candidate Name

Category/Type: 001

Office Sought: [ ] House [ ] Senate [ ] President
State: District:

Disbursement For: [ ] Primary [ ] General [ ] Other (specify) ▼

Date of Disbursement
M M 11 / D D 12 / Y Y Y Y 2017

FEC Identification Number
C

Amount of Each Disbursement this Period
500.00

[ ] Memo Item

Allocated federal/nonfederal activity

Report the federal and nonfederal shares of allocable activities separately on Lines 21(a)(i) and (ii). These numbers will be transferred from Schedule H4 (appendix A). Note, however, that Line 21(a) is rarely used by SSFs.

Other federal operating expenditures

As explained above, in many cases the operating expenditures of an SSF are paid for by the connected organization and thus are not reportable. In a case where the SSF has paid for an operating expenditure (e.g., income tax or bank charge), report the total of unallocated SSF operating expenditures (i.e., expenditures paid for exclusively from a federal account or, for an SSF with only one account, any operating expenditures incurred by the SSF as opposed to by its connected organization) on Line 21(b). Such expenditures must be itemized on Schedule B for Line 21(b) once payments to any one payee aggregate more than $200 in a calendar year. 104.3(b)(4)(i).

If the expenditures are paid with a credit card, the SSF must include a memo entry for any transaction with a single vendor charged on the card that exceeds the $200 threshold. The memo entry must include the name and address of the vendor, and the date, amount and purpose of the charge. (See example 11–13.)

Transfers-out

Itemize transfers to affiliated SSFs, regardless of amount, on Schedule B for Line 22. Enter the total from that schedule on the Detailed Summary Page on Line 22.

Independent expenditures

Unlike other categories of disbursements, independent expenditures are itemized on Schedule E, as explained in section 14 of this chapter. Enter the total from Schedule E, line (c), on Line 24 of the Detailed Summary Page.

Refunds of contributions received

Itemize a refund made by the committee only if the original contribution was itemized on Schedule A when it was received. Other rules for reporting contribution refunds made by an SSF are described in section 11 of this chapter. Enter the total amount refunded during the period on Line 28 of the Detailed Summary Page.

11–13: Credit card payment

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
[X] 21b [ ] 22 [ ] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full): Critical Reason, Inc. PAC

A.
Full Name (Last, First, Middle Initial): Credit Card Co.
Mailing Address: 101 Charge Street
City: Alexandria | State: VA | Zip Code: 33333
Purpose of Disbursement: Credit Card Payment (see below)
Candidate Name:
Category/Type: 003
Office Sought: [ ] House [ ] Senate [ ] President
State: District:
Disbursement For: [ ] Primary [ ] General [ ] Other (specify)
Date of Disbursement: 12 / 30 / 2018
FEC Identification Number: C
Amount of Each Disbursement this Period: 504.50
[ ] Memo Item

B.
Full Name (Last, First, Middle Initial): Prime Cut Steakhouse
Mailing Address: 1643 Calbert Street
City: Washington | State: DC | Zip Code: 33333
Purpose of Disbursement: PAC Fundraising Luncheon
Candidate Name:
Category/Type: 003
Office Sought: [ ] House [ ] Senate [ ] President
State: District:
Disbursement For: [ ] Primary [ ] General [ ] Other (specify)
Date of Disbursement: 11 / 01 / 2018
FEC Identification Number: C
Amount of Each Disbursement this Period: 237.25
[X] Memo Item

C.
Full Name (Last, First, Middle Initial): Big Box Office
Mailing Address: 123 Business Park
City: Washington | State: DC | Zip Code: 33333
Purpose of Disbursement: PAC Fundraising Printing
Candidate Name:
Category/Type: 003
Office Sought: [ ] House [ ] Senate [ ] President
State: District:
Disbursement For: [ ] Primary [ ] General [ ] Other (specify)
Date of Disbursement: 11 / 01 / 2018
FEC Identification Number: C
Amount of Each Disbursement this Period: 267.25
[X] Memo Item

Other disbursements, including nonfederal donations

"Other disbursements" include donations made by the SSF to nonfederal candidates and committees. Itemize "other disbursements" on Schedule B for Line 29 when they exceed $200 to the same payee during a calendar year. Enter the total of itemized and unitemized other disbursements on the Detailed Summary Page.

11–14: Nonfederal donation

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
☐ 21b ☐ 22 ☐ 23 ☐ 26 ☐ 27
☐ 28a ☐ 28b ☐ 28c ☒ 29 ☐ 30b

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Delian League Association PAC

A. Full Name (Last, First, Middle Initial)
Zara Yacob for Governor

Mailing Address
10 Archon Street

City: Aksum | State: IL | Zip Code: 00000

Purpose of Disbursement
Nonfederal Contribution

Candidate Name

Category/Type: 011

Office Sought: ☐ House ☐ Senate ☐ President
State: District:

Disbursement For: ☐ Primary ☐ General ☐ Other (specify) ▼

Date of Disbursement: M M 02 / D D 17 / Y Y Y Y 2018

FEC Identification Number: C

Amount of Each Disbursement this Period: 500.00

☐ Memo Item

13. Investments

Principal

When the committee invests funds in a savings account, money market fund, certificate of deposit or similar type of account, the principal deposited must be included in the committee's cash-on-hand total. (Investment properties, such as shares of stock, are not included in cash-on-hand.) The committee does not report this type of investment as a disbursement because the money is still a committee asset. 104.3(a)(1). (See chapter 4, section 3 for more information on committee investments.)

Additional depositories

Funds invested with banks

If the committee invests its funds in an account at a bank that was not previously identified as a campaign depository on the SSF's Statement of Organization, the SSF must file an amended Statement disclosing the name and address of the additional depository. The amendment must be filed within 10 days of opening the account. 102.2(a)(2).

Funds invested with other establishments

If committee funds are invested in an account that is not operated by a bank (such as a money market account operated by a brokerage firm), no amendment to the Statement of Organization is required. However, before disbursing the funds in the account (principal and interest), the committee must first transfer them to a designated campaign checking or transaction account. 102.10 and 103.3(a). See, e.g., AO 1999-08 (Specter).

Investment income

Report interest income received during the reporting period in the "Other Receipts" category (Line 17) of the Detailed Summary Page. If investment income received from one source aggregates over $200 during a calendar year, itemize the interest on a Schedule A for Line 17. 104.3(a)(4)(vi).

Income tax

Report taxes paid by the SSF as operating expenditures on Line 21(b) of the Detailed Summary Page. Itemize income tax payments on Schedule B for Line 21(b) only if they aggregate over $200 per year to the same payee—i.e., the local, state or federal government.

Unlike other operating expenditures, taxes on an SSF's earnings are not payable by the connected organization. AO 1977-19 (Texaco Employees Political Involvement Committee).

14. Independent expenditures[2]

Unlike other disbursements, independent expenditures are itemized on Schedule E for Line 24 on an SSF's regular report. If they aggregate more than $10,000 (or more than $1,000 during the last 20 days before an election), special filings are required, as explained below.

Date made

The date of the expenditure as listed on Schedule E must be the date of public dissemination – i.e., the first date on which the communication is published, broadcast or otherwise publicly disseminated. See 104.4(f). Independent expenditures such as yard signs, mini-billboards, handbills, t-shirts, hats and buttons are publicly disseminated on any reasonable date starting with the date the filer receives or exercises control over the items in the usual and normal course of dissemination, up to and including the date that the communications are actually disseminated to the public. For more information, see the FEC's Interpretive Rule on when Certain Independent Expenditures are "Publicly Disseminated" for Reporting Purposes at https://www.fec.gov/help-candidates-and-committees/making-disbursements-ssf-or-connected-organization/making-independent-expenditures-ssf-corporation-labor-organization/.

Certification of independence

Schedule E requires a certification, under penalty of perjury, that the expenditure meets the standards for independence. 104.3(b)(3)(vii)(B) and 104.4(d)(1) and (2).

2 This section contains information on reporting independent expenditures made by SSFs. For reporting independent expenditures made by other filers, consult https://transition.fec.gov/rad/other_filers/FederalElectionCommission-RAD-OtherFilers.shtml

Regularly scheduled reporting

Itemize any independent expenditure on Schedule E that exceeds $200, or that, when aggregated on a per-election and per-office sought basis within the calendar year, exceeds $200. 104.4(a) and (b)(1). On that schedule, enter a subtotal for itemized independent expenditures on Line (a).

Independent expenditures of $200 or less are not required to be itemized, although the committee must report the subtotal of those expenditures on Line (b). 104.3(b)(3)(vii)(C) and 104.4(a).

Enter the total of itemized and unitemized independent expenditures on Line (c) of Schedule E and on Line 24 of the Detailed Summary Page.

Contracts and agreements to pay for independent expenditures

In many cases, the SSF will sign a contract or agreement in advance of actually spending the money on the independent expenditure. In that case, independent expenditures made (i.e., publicly disseminated) prior to payment must be disclosed as "memo" entries on Schedule E and as reportable debt on Schedule D. 104.11. See section 16 in this chapter and the reporting instructions at https://youtu.be/elxadq0TKoY.

If the SSF pays for an independent expenditure before it is publicly disseminated, report the disbursment on Schedule E and file a 24 or 48 hour report (if necessary). See example 11-15.

Aggregating independent expenditures for reporting purposes

Independent expenditures are aggregated toward the various reporting thresholds on a per-election and per-office sought basis within the calendar year. Consider, as examples, the following scenarios, all of which occur in the same calendar year but before the 20th day before an election:

If an SSF makes $5,000 in independent expenditures with respect to a Senate candidate, and $5,000 in independent expenditures with respect to a House candidate, then the SSF is not required to file 48-hour reports, because the expenditures were made for different election races; however, it must disclose this activity on its next regularly-scheduled report.

- If the SSF makes $5,000 in independent expenditures with respect to a clearly-identified candidate in the primary, and an additional $5,000 in independent expenditures with respect to the same candidate in the general, no 48-hour report is required, because the expenditures were made in different elections; however, it must disclose the expenditures on its next regularly scheduled report.
- If the SSF makes $6,000 in independent expenditures supporting a Senate candidate in the primary election and $4,000 opposing that Senate candidate's opponent in the same election, then the SSF must file a 48-hour report.

As explained above, the date that a communication is publicly disseminated serves as the date that an SSF must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amounts of $10,000. A 48-hour report is required for each additional $10,000 in aggregate expenditures. See the next section.

11–15: Independent expenditure (prepayment)

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full): Delian League Association PAC
FEC IDENTIFICATION NUMBER ▼: C 00000007

Check if ☐ 24-hour report ☐ 48-hour report New report Amends report filed on M M / D D / Y Y Y Y

Full Name of Payee: XYZ Studios ☐ Memo Item
Mailing Address: 789 Main Street
City: Sparta State: IL Zip Code: 00000
Purpose of Expenditure: TV Ad (prepayment) Category/Type
Date of Public Distribution/Dissemination: 09 / 20 / 2018
Amount: 25,000.00
Date of Disbursement or Obligation: 08 / 20 / 2018
Name of Federal Candidate: Marc Twaine ☒ Support ☐ Oppose
Office Sought: ☐ House District: ☐ President ☒ Senate State: MO
Calendar Year-To-Date Per Election for Office Sought: 25,000.00
Disbursement For: ☐ Primary ☒ General 2018 ☐ Other (specify) ▶

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full): Delian League Association PAC
FEC IDENTIFICATION NUMBER ▼: C 00000007

Check if ☐ 24-hour report ☒ 48-hour report X New report Amends report filed on M M / D D / Y Y Y Y

Full Name of Payee: XYZ Studios ☐ Memo Item
Mailing Address: 789 Main Street
City: Sparta State: IL Zip Code: 00000
Purpose of Expenditure: TV Ad (See 2018 September Monthly) Category/Type
Date of Public Distribution/Dissemination: 09 / 20 / 2018
Amount: 25,000.00
Date of Disbursement or Obligation: 08 / 20 / 2018
Name of Federal Candidate: Marc Twaine ☒ Support ☐ Oppose
Office Sought: ☐ House District: ☐ President ☒ Senate State: MO
Calendar Year-To-Date Per Election for Office Sought: 25,000.00
Disbursement For: ☐ Primary ☒ General 2018 ☐ Other (specify) ▶

The calculation of the aggregate amount of the independent expenditures must include both disbursements for independent expenditures and all contracts obliging funds for disbursements of independent expenditures. 104.4(f).

Independent expenditures aggregating less than $10,000

SSFs must report on Schedule E, as part of their regularly scheduled filing, independent expenditures that aggregate less than $10,000 with respect to a given election during the calendar year that are made up to and including the 20th day before an election. 104.4(a) and (b)(1). See “Regularly scheduled reporting,” above.

48-hour independent expenditure reports

When a committee makes independent expenditures aggregating $10,000 or more for an election in any calendar year, up to and including the 20th day before an election, it must report those independent expenditures on Schedule E. Political committees must ensure that the Commission receives these reports by 11:59 p.m. Eastern Time on the second day following the date on which a communication that constitutes an independent expenditure is publicly distributed or otherwise publicly disseminated. 104.4(b)(2) and 104.5(g)(1).

The SSF must report independent expenditures a second time on a Schedule E filed with its next regular report. 104.4(a).

Electronic filers must file these reports electronically. Paper filers may file by fax or email. Additionally, electronic filers and paper filers may file 48-hour reports using the FEC's online webform. 100.19(d)(3) and 104.4(b)(2).

If the cost of an independent expenditure is not known at the time of dissemination, estimate the cost on the 48-hour (or 24-hour) report, and indicate that the amount is an estimate in the purpose field. When the payment is made, report the actual cost on Schedule E with a notation that the amount on Schedule E is the correct amount, and the amount on the 24/48-Hour Report was an estimate. See example 11–16.

11-16a: Independent expenditure (48-hour estimated cost)

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full): Delian League Association PAC

FEC IDENTIFICATION NUMBER ▼: C 00000007

Check if [ ] 24-hour report [X] 48-hour report X New report Amends report filed on MM / DD / YYYY

Full Name of Payee: XYZ Studios [ ] Memo Item

Mailing Address: 789 Main Street

City: Sparta State: IL Zip Code: 00000

Purpose of Expenditure: TV Ad (estimate) Category/Type

Date of Public Distribution/Dissemination: 08 / 17 / 2018

Amount: 12,000.00

Date of Disbursement or Obligation: MM / DD / YYYY

Name of Federal Candidate: Al Verroes [X] Support [ ] Oppose

Office Sought: [X] House District: 25 [ ] President [ ] Senate State: NY

Calendar Year-To-Date Per Election for Office Sought: 12,000.00

Disbursement For: [ ] Primary [X] General 2018 [ ] Other (specify) ▶

11-16b: Independent expenditure (actual cost)

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full): Delian League Association PAC

FEC IDENTIFICATION NUMBER ▼: C 00000007

Check if [ ] 24-hour report [ ] 48-hour report New report Amends report filed on MM / DD / YYYY

Full Name of Payee: XYZ Studios [ ] Memo Item

Mailing Address: 789 Main Street

City: Sparta State: IL Zip Code: 00000

Purpose of Expenditure: TV Ad (Actual cost of IE on 48-Hour Report filed 8/17/18) Category/Type

Date of Public Distribution/Dissemination: 08 / 17 / 2018

Amount: 15,000.00

Date of Disbursement or Obligation: 08 / 28 / 2018

Name of Federal Candidate: Al Verroes [X] Support [ ] Oppose

Office Sought: [X] House District: NY [ ] President [ ] Senate State: 25

Calendar Year-To-Date Per Election for Office Sought: 15,000.00

Disbursement For: [ ] Primary [X] General 2018 [ ] Other (specify) ▶

24-hour independent expenditure reports

Any independent expenditures aggregating $1,000 or more and made after the 20th day but more than 24 hours before the day of an election must be reported - and the report must be received by the Commission - within 24 hours after the expenditure is made. A 24-hour report is required for each additional $1,000 that aggregates. The 24-hour report must be filed on a Schedule E. 104.4(c) and 104.5(g). The date that a communication is publicly disseminated serves as the date that an SSF must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of $1,000.

The SSF must report each expenditure reported on a 24-hour report a second time on a Schedule E filed with its next regular report. 104.4(a). See example 11–17.

Electronic filers must file these reports electronically, and paper filers may file by fax or email. Additionally, electronic filers and paper filers may file 24-hour reports using the FEC's online webform. 104.4(c) and 109.10(d).

See above for reporting estimated costs of independent expenditures.

Certification

All 24- and 48-hour reports must meet the certification requirement explained above. 104.4(d)(1).

For reports filed on paper, the treasurer must sign the Schedule E. For reports filed by email or using the FEC's online webform filing system, the treasurer must type his or her name on the Schedule E following the certification.

11-17a: Independent expenditure (24-hour report)

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full): Delian League Association PAC

FEC IDENTIFICATION NUMBER ▼: C 00000007

Check if [X] 24-hour report [ ] 48-hour report — X New report — Amends report filed on M M / D D / Y Y Y Y

Full Name of Payee: The Spartan Herald — [ ] Memo Item

Mailing Address: 10 Archon Street

City: Sparta — State: IL — Zip Code: 00000

Purpose of Expenditure: Newspaper Ad — Category/Type: 004

Date of Public Distribution/Dissemination: 08 / 09 / 2018

Amount: 2,500.00

Date of Disbursement or Obligation: M M / D D / Y Y Y Y

Name of Federal Candidate: Al Verroes — [X] Support [ ] Oppose

Office Sought: [X] House District: 25 [ ] President [ ] Senate State: NY

Calendar Year-To-Date Per Election for Office Sought: 2,500.00

Disbursement For: [ ] Primary [X] General [ ] Other (specify) ▶

11-17b: Independent expenditure (next regular report)

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full): Delian League Association PAC

FEC IDENTIFICATION NUMBER ▼: C 00000007

Check if [ ] 24-hour report [ ] 48-hour report — New report — Amends report filed on M M / D D / Y Y Y Y

Full Name of Payee: The Spartan Herald — [ ] Memo Item

Mailing Address: 10 Archon Street

City: Sparta — State: IL — Zip Code: 00000

Purpose of Expenditure: Newspaper Ad — Category/Type:

Date of Public Distribution/Dissemination: 08 / 09 / 2018

Amount: 2,500.00

Date of Disbursement or Obligation: 08 / 28 / 2018

Name of Federal Candidate: Al Verroes — [X] Support [ ] Oppose

Office Sought: [X] House District: 25 [ ] President [ ] Senate State: NY

Calendar Year-To-Date Per Election for Office Sought: 2,500.00

Disbursement For: [ ] Primary [X] General 2018 [ ] Other (specify) ▶

15. Reporting loans

Continuously itemize and report all loans received and made by the SSF until they are repaid. All repayments made or received on a loan must also be itemized. 104.3(a)(4)(iv) and (b)(3)(ii) and (vi), 104.3(d) and 104.11. Procedures for reporting loans and loan repayments are explained below.

Loans are considered contributions to the extent of the outstanding balance of the loan. 100.52(b). Loans from banks, however, are not considered contributions if made in the ordinary course of business. Endorsements and guarantees of bank loans, however, do count as contributions. 100.52(b) and 100.82(a) through (d).

Loans received by the SSF

Schedule A: Initial receipt of loan

Itemize the receipt of a loan, regardless of amount, on a separate Schedule A for Line 13 ("Loans Received"). 104.3(a)(4)(iv).

Schedule B: Interest and principal payments

Report the interest paid on a loan as an operating expenditure, itemizing the payment on a Schedule B for Line 21(b) ("Operating Expenditures") once interest payments to the payee aggregate over $200 in a calendar year. 100.111(b) and 104.3(b)(3)(i).

Payments to reduce the principal must be itemized, regardless of amount, on a separate Schedule B for Line 26 ("Loan Repayments Made"). 104.3(b)(3)(iii).

Schedule C: Continuous reporting

In addition, report both the original loan and payments made to repay the loan on Schedule C each reporting period until the loan is repaid. 104.3(d) and 104.11. Instructions for Schedule C explain what information must be disclosed. Use separate Schedule C forms to itemize loans received and loans made.

The Schedule C balance of the total amount owed on loans is entered on Line 10 of the Summary Page ("Debts and Obligations Owed by the Committee") or, if the committee has other debts, the balance is carried over to Schedule D (see section 16).

Schedule C-1: Additional information for bank loans

A committee that obtains a loan from a bank must also file Schedule C-1 with the first report due after a new loan or line of credit has been established. 104.3(d)(1). A new Schedule C-1 must also be filed with the next report if the terms of the loan or line of credit are restructured.

Additionally, in the case of a committee that has obtained a line of credit, a new Schedule C-1 must be filed with the next report whenever the committee draws on the line of credit. 104.3(d)(1) and (3).

Line-by-line instructions for filling out the schedule appear on the back of Schedule C-1. The committee treasurer or designated assistant treasurer must sign the schedule on Line G and attach a copy of the loan agreement. 104.3(d)(2).

An authorized representative of the lending institution must sign the statement on Line I.

Loans made by the SSF

Schedule B: Outgoing loan

When making a loan to another organization, itemize the disbursement, regardless of amount, on a Schedule B for Line 27 ("Loans Made"). 104.3(b)(3)(vi).

Schedule A: Interest and principal payments received

Report interest received on a loan on a Schedule A for Line 17 ("Other Federal Receipts") if the payments aggregate over $200 from the same source during the calendar year. 104.3(a)(4)(vi).

Itemize all payments received that reduce the principal owed on a separate Schedule A for Line 14 ("Loan Repayments Received").

Schedule C: Continuous reporting

The original amount loaned and repayments received on it must be itemized on Schedule C each reporting period until the loan is repaid in full. 104.11; see also 104.3(d). Schedule C instructions explain what information must be disclosed. (Note that separate Schedule C forms are used to itemize loans received and loans made.)

The Schedule C balance of the total outstanding loans owed to a committee is entered on Line 9 of the Summary Page ("Debts and Obligations Owed to the Committee") unless other types of debts are owed to the committee. In that case, the Schedule C total is carried over to Schedule D (see below).

16. Reporting debts other than loans

When debts are reportable

Unpaid bills and written contracts or agreements to make expenditures are considered debts. 100.112. (Regularly recurring administrative expenses like rent and salaries, if paid by the SSF and not by the connected organization, do not have to be reported as debt until payment is overdue. 104.11(b); but see also 116.6(c).) Report debts and obligations (other than loans) on Schedule D according to the following rules:

- A debt of $500 or less is reportable once it has been outstanding 60 days from the date incurred (the date of the transaction, not the date the bill is received). The debt is disclosed on the next regularly scheduled report.
- A debt exceeding $500 must be reported on the next report filed after the debt is incurred.

104.3(d) and 104.11.

Use separate Schedule D forms for debts owed by the committee and debts owed to the committee. Label each schedule accordingly.

Debts owed by an SSF

Use Schedule D to report:

- The outstanding amount owed on a debt or obligation; and
- Payments made to reduce the debt.

Schedule D instructions explain what additional information is required.

Enter the Schedule D total of outstanding debts, plus the balance of loans owed by the committee (carried over from Schedule C, as explained above) on Line 10 of the Summary Page. Note that payments to reduce debts must also be reported under the appropriate category of disbursement on the Detailed Summary Page (for example, Line 21(b) for a payment on a bill for an operating expenditure).

Settlement of debts

Special rules apply to debts that are forgiven or settled for less than their full amount. See chapter 12 for more information.

Special debt reporting problems

Debts of unknown amount

If the exact amount of a debt is not known, report the estimated amount of the debt. The committee should amend the report once a correct figure is known or include the correct figure in a later report. 104.11(b).

Unpayable debts

If a debt cannot be paid because the creditor has gone out of business or cannot be located, the SSF may write to the FEC to request permission to discontinue reporting the debt. The letter must demonstrate that the debt is at least two years old and that efforts to reach the creditor have been made. The committee must continue to report the debt until the Commission determines that the debt is unpayable. See 116.9.

Disputed debts

A disputed debt is a bona fide disagreement between the creditor and the committee as to the existence of a debt or the amount owed by the committee. 116.10.

Until the creditor and committee resolve the dispute (assuming the creditor did provide something of value), the SSF must disclose:

- The amount the committee admits it owes;
- The amount the creditor claims is owed; and
- Any amounts the committee has paid the creditor.

Debts owed to an SSF

Continuously report a debt owed to an SSF on Schedule D if the debt exceeds $500 or has been outstanding 60 days. 104.11. Payments received on the debt are also reported on Schedule D until the

debt is retired. The payments must also be reported on the appropriate line number of the Detailed Summary Page and itemized on Schedule A if necessary.

Enter the Schedule D total of outstanding debts owed to a committee, plus the balance of outstanding loans carried over from Schedule C, on Line 9 of the Summary Page.

17. Completing the report

As noted above, paper filers should complete the itemization schedules first so that they may accurately complete the Summary Page and the Detailed Summary Page. After completing the schedules, transfer the totals from those pages, plus other relevant totals derived from the committee's records, to the Detailed Summary Page. Calculations from the Detailed Summary Page and from Schedules C and D are then transferred to the Summary Page. Paper filers should refer to the next two sections for detailed information. Electronic filing software completes these tasks automatically.

18. The Detailed Summary Page

The Detailed Summary Page lists the totals for various categories of receipts and disbursements. Some of the figures are taken from the totals listed on the attached Schedules A and B, some are totals of figures that are not itemized on these schedules and some are combined totals of itemized figures from the schedules plus some unitemized figures.

Column A and Column B

Column A is for the figures relating to amounts received and disbursed during the reporting period covered by the report. Column B lists totals for the calendar year to date.

Line 11(a). Contributions from individuals and other persons/groups

Itemize contributions from individuals and other groups (such as partnerships, sole proprietorships, certain LLCs or other unincorporated entities) who have contributed in excess of $200 during the calendar year on Schedule A for Line 11(a)(i). Report the total of unitemized contributions from these sources on Line 11(a)(ii). Rules concerning when to itemize contributions from individuals are explained in section 5 of this chapter.

Line 11(b). Political party committees

If the committee has received any contributions from party committees (including any party organizations that are not registered with the FEC), itemize them on Schedule A for Line 11(b) regardless of amount and enter the total on Line 11(b).

Line 11(c). Other political committees

If the committee has received any contributions from other types of political committees (including SSFs, nonconnected committees and committees that are not yet registered with the FEC), itemize them regardless of amount on Schedule A for Line 11(c) and enter the total on Line 11(c). Transfers of funds received from affiliated SSFs, however, are reported on Line 12.

Line 11(d). Total contributions
Enter the total of Lines 11(a), (b) and (c).

Line 12. Transfers from affiliated committees
Itemize any transfers of funds received from affiliated SSFs on Schedule A for Line 12. Enter the total on Line 12. (Do not, however, include any funds transferred by an affiliated SSF acting as a collecting agent. Those funds must be reported as contributions from the individual contributors on Line 11.)

Line 13. All loans received
Itemize any loans received on Schedule A for Line 13. Enter the total amount on Line 13. Committees receiving loans must also file Schedule C. See section 15 for more information.

Line 14. Loan repayments received
Itemize any repayments received on loans made by the SSF on Schedule A for Line 14. Enter the total on Line 14. Committees receiving loan repayments must also file Schedule C. See section 15 for more information.

Line 15. Offsets to operating expenditures
Itemize offsets on Schedule A for Line 15 once the committee receives more than $200 from the same source during a calendar year. Add the total from the Schedule to the total amount of unitemized offsets received by the SSF, but not requiring itemization, and enter the grand total on Line 15.

Line 16. Refunds of contributions made
Itemize refunds of contributions made by the SSF on Schedule A for Line 16 regardless of their amount and enter the total on Line 16. See section 11 for more information on how to report refunds received.

Line 17. Other receipts
Itemize "other receipts" (including dividend and investment income) on Schedule A for Line 17 once the committee receives more than $200 from the same source during a calendar year. Add the total from the Schedule to the total amount of unitemized receipts received by the SSF, but not requiring itemization, and enter the grand total under this category on Line 17. See section 13 for more information on interest and dividends.

Line 18. Transfers from nonfederal account for allocated activity
If the committee maintains a nonfederal account for state and local election activities and pays its own administrative expenses, the federal account (the SSF) may accept a transfer of funds from the nonfederal account for the sole purpose of covering its portion of an allocable federal and nonfederal expense. 106.6(e)(1)(i). Report the total amount transferred from the nonfederal account during the period (i.e., the total from Schedule H3) on Line 18(a). See appendix A.

Line 21(a). Allocated federal/nonfederal activity
Report the federal and nonfederal shares of allocable activities separately on Lines 21(a)(i) and (ii). These numbers are transferred from Schedule H4 (see appendix A). Note, however, that Line 21(a) is rarely used by SSFs. See section 12 of this chapter and appendix A.

Line 21(b). Other federal operating expenditures

Itemize operating expenditures that are paid by the SSF and that are not allocable (see appendix A) on Schedule B for Line 21(b) once payments to any payee exceed $200 in a calendar year. Add the total from the schedule to the total amount of unitemized operating expenditures paid for by the SSF, but not requiring itemization, and enter the grand total under this category on Line 21(b). See section 10 for more information.

Line 22. Transfers to affiliated committees

Itemize transfers to affiliated SSFs, regardless of amount, on Schedule B for Line 22. Enter the total from that schedule on the Detailed Summary Page on Line 22.

Line 23. Contributions to federal candidates and other political committees

Itemize all monetary and in-kind contributions made to candidate committees and other political committees, regardless of amount, on Schedule B for Line 23. Report the total from that schedule on Line 23 of the Detailed Summary Page. See section 11 of this chapter.

Line 24. Independent expenditures

Unlike other categories of disbursements, independent expenditures are itemized on Schedule E. Enter the total from Schedule E, Line (c), on Line 24. See section 14 of this chapter.

Line 26. Loan repayments made

See section 15 of this chapter for information on how to itemize the payments on Schedules B and C. Enter the total amount of loan repayments made on Line 26.

Line 27. Loans made

See section 15 of this chapter for information on how to report loans made by the committee on Schedules B and C. Enter the total amount loaned during the period on Line 27.

Line 28. Refunds of contributions

Itemize a refund made by the committee only if the original contribution was itemized. Other rules for reporting contribution refunds made by an SSF are described in section 11 of this chapter. Enter the total amount refunded during the period on Line 28.

Line 29. Other disbursements (including nonfederal donations)

Itemize “other disbursements” on Schedule B for Line 29 when they exceed $200 to the same payee during a calendar year. Add the total from the Schedule to the total amount of unitemized “other disbursements’ paid for by the SSF but not requiring itemization and enter the grand total under this category on Line 29. See section 12 of this chapter.

Lines 31 – 38

Paper filers must complete Lines 31-38 as instructed by the form to subtotal the figures disclosed. Electronic filing software completes these tasks automatically.

19. The Summary Page

After completing the Detailed Summary Page, totals from that page and from Schedules C and D are used to complete the Summary Page (see example), as indicated below:

Line 1. Name and address

Fill in the SSF's full name (including any abbreviations used) and mailing address. (See "Naming the SSF" in chapter 1, section 3.) Check the appropriate box if the address has changed.

Line 2. ID Number

Enter the committee's FEC identification number on Line 2. If the SSF is filing its first report, it may not have yet received an ID number; in that case, the committee should leave this space blank.

A committee must include its ID number in all reports, statements, notices and other written communications with the FEC.

Line 3. New or amended report

Check "amended" only when amending a report that has already been filed with the FEC; otherwise, check "new."

Line 4. Type of report

Check the appropriate box indicating the type of disclosure report being filed (quarterly, monthly, pre-election or post-election); see chapter 10.

Line 5. Coverage dates

The period covered by the report begins the day after the close of books of the last report filed by the SSF. If the report is the first one filed by a committee, then the reporting period begins with the date of the committee's first activity.

Line 6. Cash on hand

Cash on hand includes funds held in checking and savings accounts, certificates of deposit, petty cash funds, traveler's checks, treasury bills and other investments valued at cost. 104.3(a)(1).

Line 6(a) Cash on hand at beginning of year

On Line 6(a), enter cash on hand as of January 1st of the reporting year. If your committee did not exist at the beginning of the year, enter "0.00."

Line 6(b) Cash on hand at beginning of reporting period

On Line 6(b), enter the amount of your cash on hand at the close of books of your last report (i.e., the amount the SSF disclosed on Line 8 of the preceding report filed).

First report

Beginning cash on hand—i.e., money that the committee had in its possession at the time of registration—is subject to the contribution limits, prohibitions and disclosure requirements of federal law. (The committee must exclude any contributions that are not permissible under federal law.) The committee may have to itemize contributions and other receipts included in the beginning cash on hand balance. See section 2 of this chapter. 104.12.

Line 7. Total disbursements
Enter the totals you reported on Line 31 of the Detailed Summary Page.

Line 8. Cash on hand at close of reporting period
Subtract total disbursements reported on Line 7 from Cash on Hand totals reported on Line 6(d).

Line 9. Debts owed to committee
On Line 9, transfer the total amount owed to the SSF from the appropriate Schedule C and/or D.

Line 10. Debts owed by the committee
On Line 10, transfer the total amount owed by the committee (including written contracts to make expenditures) that have been itemized on the appropriate Schedule C and/or D. See sections 15 and 16 of this chapter.

Multicandidate committee status
If the committee has filed FEC Form 1M, check the box to indicate that the SSF is a qualified multicandidate committee. See chapter 1, section 7.

Treasurer's name and signature
The treasurer must sign and date Form 3X at the bottom of the Summary Page. Only a treasurer or assistant treasurer designated on the Statement of Organization may sign the report. 104.14(a). See chapter 1 for more information on the treasurer's responsibilities. See also chapter 10, section 5, "Electronic filing."

20. Filing amendments

The committee must file an amended report if it:

- Discovers that an earlier report contained erroneous information; or
- Does not obtain required reporting information concerning a particular transaction until after the transaction has been reported.

Paper filers

When filing an amendment to an original report, complete the Summary Page (including the treasurer's signature), indicating on Line 3 by checking the appropriate box that the document is an amended report.

In addition to the Summary Page (pages 1 and 2 of FEC Form 3X), submit a corrected version of the schedule that contained the incomplete or incorrect itemized information in the earlier report, along with a revised Detailed Summary Page (pages 3-5 of FEC Form 3X), if appropriate. Transactions originally reported correctly do not need to be itemized again. The Commission recommends that the treasurer attach a cover letter explaining the change.

Electronic filers

Electronic filers must electronically resubmit the entire report, not just the amended portions. The committee must check the amendment box on the new report before filing. The amendments must be formatted to comply with the Electronic Filing Specifications Requirements mentioned in chapter 10, section 5.

CHAPTER 12
Termination and debt settlement

This chapter discusses how SSFs can settle any outstanding debts and terminate their registration with the FEC. It also addresses the obligations that corporations that are commercial vendors have to political committees under the law, and the conditions under which they may settle debts with political committees.

1. Terminating the committee

An SSF may terminate its registration and reporting obligations by filing a termination report at any time, provided that:

- The committee no longer intends to receive contributions or make expenditures; and
- The committee has no outstanding debts or obligations. 102.3(a)(1) and 116.1(a).

SSFs with outstanding debts or obligations should see section 2 of this chapter, "Debt settlement."

Terminations are not accepted when a committee is involved in an FEC enforcement action (MUR), an FEC audit or litigation with the FEC.

Termination report

When filing the SSF's termination report, the treasurer must check the "Termination Report" box on Line 4(a) of the Summary Page of Form 3X. See example 12–1. The termination report must disclose:

- All receipts and disbursements not previously reported, including an accounting of debt retirement (see section 2 of this chapter); and
- The purposes for which any remaining SSF funds will be used. 102.3(a).

Committee no longer required to report once notified

The committee's reporting obligation ends when the Commission notifies the committee that the termination report has been accepted. Until the committee receives this notification, it must continue to file reports.

Disposal of remaining funds

The Commission has concluded that a political committee not authorized by a candidate may expend its funds for any lawful purpose consistent with the Act and Commission regulations. Therefore, an SSF may use its remaining funds for any otherwise legal disbursement, including turning them over to the connected organization's treasury, refunding them to the SSF's contributors or giving them to charity. See AOs 1986-32 (Sino American Coop PAC), 1983-04 (American Federation of Musicians) and 1979-42 (South Carolina National Bank PAC).

12-1: Termination report

FEC FORM 3X

REPORT OF RECEIPTS AND DISBURSEMENTS
For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) — **TYPE OR PRINT ▼** — Example: If typing, type over the lines. 12FE4M5

Critical Reason, Inc. PAC

ADDRESS (number and street) ▼ 101 Apriori Street

☐ Check if different than previously reported. (ACC)

Alexandria | VA | 00000 –

CITY ▲ STATE ▲ ZIP CODE ▲

2. **FEC IDENTIFICATION NUMBER ▼** C 00000002

3. IS THIS REPORT ☐ NEW (N) **OR** ☐ AMENDED (A)

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

- ☐ April 15 Quarterly Report (Q1)
- ☐ July 15 Quarterly Report (Q2)
- ☐ October 15 Quarterly Report (Q3)
- ☐ January 31 Year-End Report (YE)
- ☐ July 31 Mid-Year Report (Non-election Year Only) (MY)
- ☒ Termination Report (TER)

(b) Monthly Report Due On:

- ☐ Feb 20 (M2)
- ☐ Mar 20 (M3)
- ☐ Apr 20 (M4)
- ☐ May 20 (M5)
- ☐ Jun 20 (M6)
- ☐ Jul 20 (M7)
- ☐ Aug 20 (M8)
- ☐ Sep 20 (M9)
- ☐ Oct 20 (M10)
- ☐ Nov 20 (M11) (Non-Election Year Only)
- ☐ Dec 20 (M12) (Non-Election Year Only)
- ☐ Jan 31 (YE)

(c) 12-Day **PRE**-Election Report for the: ☐ Primary (12P) ☐ General (12G) ☐ Runoff (12R) ☐ Convention (12C) ☐ Special (12S)

Election on MM / DD / YYYY in the State of

(d) 30-Day **POST**-Election Report for the: ☐ General (30G) ☐ Runoff (30R) ☐ Special (30S)

Election on MM / DD / YYYY in the State of

5. Covering Period 01 / 01 / 2019 through 02 / 15 / 2019

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer E. Manuel Kant

Signature of Treasurer *E. Manuel Kant* [Electronically Filed] Date 02 / 15 / 2019

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 52 U.S.C. § 30109.

Office Use Only

FEC FORM 3X
Rev. 05/2016

2. Debt settlement

This section explains the debt settlement process for those SSFs wishing to terminate but with outstanding debts. It also explains the rules for corporations acting as creditors or commercial vendors to any political committee, including federal campaigns, political party committees and political action committees.

Eligibility for debt settlement

Only a terminating committee may settle its debts for less than the full amount owed to the creditors. A terminating committee is one that does not intend to raise contributions or make expenditures, except for the purposes of paying winding-down administrative expenses (if any) and retiring debts. 116.1(a) and 116.2(a). (An ongoing committee, i.e., a political committee that does not qualify as a terminating committee, is not eligible for debt settlement and must continuously report debts until they are extinguished. See 104.3(d), 116.1(b) and 116.2(b).)

Debts subject to settlement

The types of debts that are subject to debt settlement requirements include:

- Amounts owed to commercial vendors (including corporations);
- Debts arising from advances by individuals (e.g. SSF staff using personal funds or credit to purchase goods and services on behalf of the committee);
- Salary owed to SSF employees (if the SSF uses its own funds to pay salaries); and
- Loans owed to political committees or individuals.

116.7(b).

The debt settlement rules do not apply to disputed debts, which are covered by other rules. 116.7(c)(2). See below. The rules also generally are not applied to bank loans.[1]

Debt settlement rules

A commercial vendor (incorporated or unincorporated) may forgive or settle debts owed by an SSF without making a contribution if:

- Credit was initially extended in the ordinary course of business and the terms of the credit were substantially similar to terms extended to nonpolitical debtors of similar risk and of similar size of obligation. 116.3 and 116.4(d)(1);
- The committee undertook all reasonable efforts to satisfy the outstanding debt, such as fundraising, reducing overhead costs and liquidating assets. 116.4(d)(2); and

1 The Commission does not encourage settlement of bank loans because it could result in prohibited contributions from the lending institutions. In extraordinary situations, the Commission may consider such settlements on a case-by-case basis. See 56 Fed. Reg. 67118, 67121 (Dec. 27, 1991), available online at https://transition.fec.gov/law/cfr/ej_compilation/1991/1991-24.pdf#page=4.

- The vendor made the same efforts to collect the debt as those made to collect debts from a nonpolitical debtor in similar circumstances. Remedies might include, for example, late fee charges, referral to a debt collection agency or litigation. 116.4(d)(3).
- If the committee or the creditor (including a corporation acting as a commercial vendor) fails to take the appropriate steps described in the second and third bullets above, the difference between the amount owed and the amount actually paid may be considered a contribution subject to limitation and source prohibitions (prohibited contribution if the vendor is incorporated). See 114.2(b).

Creditor's rights

No commercial vendor (including a corporation) or other creditor is required to forgive or settle debts owed by an SSF. 116.4(e).

Debt settlement plans

After a terminating committee has reached an agreement with a creditor, the treasurer must file a debt settlement plan on FEC Form 8. The treasurer may use a separate form for each debt or may combine several debt settlements in one plan. Once the plan has been submitted to the Commission for review, the committee must postpone payment on the debt until the Commission has completed the review. 116.7(a). Payments to creditors must be disclosed in the committee's termination report.

Completing Form 8

Form 8 and step-by-step instructions for completing Form 8 are available from the FEC website at https://www.fec.gov/help-candidates-and-committees/forms/. The Commission recommends that the committee include as many debts as possible in the plan and submit a separate Part II (second page) for each creditor along with Part I (cover page). The treasurer must also submit Part III (third page) to indicate how the committee intends to address other debts not included in the submission. The treasurer must sign and date the first page of Form 8. The creditor (including a corporation acting as a creditor) must sign and date the second page of Form 8 to indicate its acceptance of the settlement. Alternatively, the committee may attach a signed statement from the creditor containing the same information. 116.7(e)(2).

Commission review

The Commission reviews each debt settlement plan to ensure compliance with the rules discussed above. 116.7(f). Once the plan has been approved, the Commission sends a written notification to the committee. The committee must postpone payment to the creditor until the Commission has completed its review of that plan. 116.7(a).

Reporting debts undergoing settlement

Debts undergoing settlement must be continuously reported until the Commission has completed its review of the committee's debt settlement plan. 116.4(f), 116.5(e) and 116.6(c). The committee may file a termination report once all debts have been paid, settled, forgiven or otherwise extinguished. 102.3(a)

(1). Payments to creditors must be disclosed on this report. See 104.11(a), which requires the committee to include a statement as to the circumstances and conditions under which the debt or obligation was extinguished and the amount paid.

Disputed debts

A disputed debt is a bona fide disagreement between the creditor and the committee as to the existence of a debt or the amount owed by the committee. See chapter 11, section 16, for information on how to report a disputed debt on Schedule D.

When filing a debt settlement plan, a terminating committee must describe any disputed debts and the committee's efforts to resolve them on Part III of Form 8. 116.10(b). The SSF may note on its report that its disclosure of a disputed debt does not constitute an admission of liability or a waiver of any claims the SSF may have against the creditor. 116.10(a).

Forgiveness of debts owed by ongoing committees

Forgiveness requirements

A creditor, including a corporation, may forgive a debt owed by an ongoing committee[2] if the creditor and the ongoing committee have satisfied the requirements of 116.3 (extensions of credit by commercial vendors) or of 116.5 (advances by committee staff), whichever is appropriate; the debt has been outstanding at least 24 months; and:

- The creditor is unable, after reasonable diligence, to locate the ongoing committee; or
- The ongoing committee (1) has insufficient cash on hand to pay the debt; (2) has had receipts of less than $1,000 and disbursements of less than $1,000 during the previous 24 months; and (3) owes debts to other creditors of such magnitude that the creditor could reasonably conclude that the ongoing committee will not pay its particular debt.

116.8(a).

Notification to Commission

A creditor, including a corporation, who intends to forgive a debt owed by an ongoing committee, must notify the Commission of its intent in writing. The letter must provide the following information:

- An explanation of how the committee has satisfied the forgiveness requirements set forth in 116.8(a) (see above);
- The terms of the initial extension of credit and a description of the terms under which the creditor has extended credit to similar nonpolitical debtors;
- A description of the candidate's or the committee's efforts to satisfy the debt;
- A description of the steps taken by the creditor to obtain payment, along with a comparison of those remedies with others pursued by the creditor under similar circumstances involving nonpolitical debtors; and

2 An ongoing committee is any political committee that has not terminated and does not qualify as a terminating committee. 116.1(b).

- An indication that the creditor has forgiven other debts involving nonpolitical debtors in similar circumstances, if any.

116.8(b).

Commission review

The Commission will review each proposal to forgive a debt to ensure that the creditor and the ongoing committee have complied with the requirements for debt forgiveness, as well as with the Act's contribution limits and prohibitions. 116.8(c).

Administrative termination

An inactive SSF that wants to terminate but still has outstanding debts must make efforts to settle the debts under the procedures described in the next section. If debt settlement efforts fail, however, such a committee may seek administrative termination by the FEC. (The Commission may also, at its own initiative, administratively terminate a committee's reporting status.)

Criteria for administrative termination

When determining a committee's eligibility for administrative termination, the Commission will consider the following factors:

- The SSF's aggregate reported financial activity in one year is less than $5,000.
- The SSF's reports disclose no receipt of contributions for the previous year.
- The SSF's last report disclosed minimal expenditures.
- The SSF's primary purpose for filing its reports has been to disclose outstanding debts and obligations.
- The committee has failed to file reports for the previous year.
- The committee's outstanding debts and obligations do not appear to present a possible violation of the Act's contribution prohibitions and limitations.
- The SSF's last report disclosed that the debts owed to the committee were not substantial.
- The SSF's outstanding debts and obligations exceed the total of the committee's reported cash on hand balance.

See 102.4(a).

As noted above, terminations are not approved when a committee is involved in an FEC enforcement action (MUR), an FEC audit or litigation with the FEC.

Procedures for requesting administrative termination

When requesting administrative termination, the SSF's treasurer should set forth the committee's eligibility in writing, based on the factors listed above. In addition, with respect to any outstanding debts, the committee's request should describe:

- The terms and conditions of the initial extension of credit;
- Steps taken by the committee to repay the debt; and
- Efforts made by the creditors to obtain payment.

Requests should be addressed to the Reports Analysis Division.

Once the Commission completes its review of the request, the committee will be sent a written notification of the Commission's approval or disapproval. Committees must continue to file regular reports until the request for administrative termination has been approved.

APPENDIX A
Allocable federal and nonfederal activities[1]

This appendix explains rules on allocating expenses that apply when a committee chooses to support both federal and nonfederal candidates using separate federal and nonfederal accounts. These rules do not apply to committees that conduct only activities related to federal elections or that use only a federal account to support both federal and nonfederal candidates.

1. Options for supporting nonfederal elections

As explained in chapter 4, section 5, a committee engaging in activity related to both federal and nonfederal elections has two options:

- Set up one federal account that supports both federal and nonfederal candidates. 102.5(a)(1)(ii); or
- Set up two accounts—a federal account for federal elections and a nonfederal account for state and local elections. 102.5(a)(1)(i).

With the first option, the federal account would pay for all federal and nonfederal activity and would report the activity to the FEC. The second option permits the committee to maintain a nonfederal account that has no federal registration or reporting obligations. With the second option, the committee could also allocate the federal and nonfederal costs between the two accounts.

2. Allocation: expenditures that may be allocated between accounts

Administrative expenses

Administrative expenses include, for example, rent, utilities, office supplies and salaries not attributable to a candidate. As explained in chapter 1, the SSF's connected organization may pay for these expenses, however, if the SSF pays these expenses, it may choose to allocate the expenses by maintaining separate federal and nonfederal accounts. 106.6(b)(1)(i); AO 1991-35 (California Farm Bureau).

1 Under *Emily's List* v. *FEC*, 581 F3d 1 (D.C. Cir. 2009), SSFs need not allocate administrative expenses, costs of generic voter drives and generic public communications. Nor do they need to report these allocations to the FEC. See FEC Statement on the D.C. Circuit Court of Appeals Decision in *Emily's List* v. *FEC* at https://go.usa.gov/xnpv2. This appendix is intended for the SSFs that choose to allocate.

Generic voter drives

A generic voter drive includes any voter identification, voter registration and get-out-the-vote drives or any other activity that urges the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate. 106.6(b)(1)(iii).

Generic public communications

These are public communications that refer to a political party but do not refer to any clearly identified federal or nonfederal candidate. 106.6(b)(1)(iv).

Committee fundraising

Costs associated with an event or program for soliciting contributions to the SSF are allocated only if the committee maintains two accounts, raises money for both accounts and pays for its own fundraising costs from both accounts. (Again, the connected organization may pay fundraising costs for the SSF.) See 102.5(a)(1)(i)); 106.6(b)(1)(ii).

Direct candidate support

"Direct candidate support" activities by SSFs include both in-kind contributions and independent expenditures. Direct candidate support also includes public communications or voter drives that refer to one or more federal and nonfederal candidates, regardless of any reference to a political party. Such communications may not count as contributions or independent expenditures but are nonetheless reportable as "Other Federal Operating Expenditures." See the instructions for Schedule B, Form 3X, available online at https://www.fec.gov/resources/cms-content/documents/fecfrm3xi.pdf#page=14.

Only federal candidates referenced

Generally, communications and voter drives that refer to a federal candidate(s) and do not reference any nonfederal candidates must be financed exclusively with federal funds, even if the communication includes a generic reference to the party. 106.6(b)(2). See appendix H for additional rules that apply to making such communications.

Only nonfederal candidates referenced

Similarly, communications and voter drives that refer to a nonfederal candidate(s) and do not reference any federal candidate(s) may be financed solely with nonfederal funds, regardless of whether the communication refers to a party.

Both federal and nonfederal candidates referenced

Payments for fundraising activities conducted on behalf of both federal and nonfederal candidates and payments for coordinated communications that support both federal and nonfederal candidates

are allocable in-kind contributions. See 109.20(b) and 109.21. An independent expenditure may be allocated if it advocates the election or defeat of both federal and nonfederal candidates. The rules for allocating communications between candidates would apply. See chapter 5, section 1, "Allocation among candidates."

3. Payment of allocated expenditures

Administrative costs, voter drives and generic public communications expenses may be allocated between the federal and nonfederal accounts at any ratio, including 100 percent nonfederal. Fundraising expenses should be allocated using the "Funds Received" method, and direct candidate support activities may be allocated using the "Time/Space" method, (for communications) or the "Funds Received" method, (for fundraising activities). 106.1(a) and 106.6(d); see also the examples in sections 7–9, below.

No matter what method is used to allocate expenses, committees with separate federal and nonfederal accounts should use one of the following two procedures to pay allocable expenses. Failure to properly allocate expenses could result in a contribution by the nonfederal account to the federal account—a violation of federal law. 102.5(a)(1)(i) and (2), 106.6(e)(1)(iii); see also 114.2(b).

- Payment from Federal Account: The committee pays the entire amount from its federal account, transferring funds from the nonfederal account to the federal account only to cover the nonfederal share of allocable expenses. 106.6(e)(1)(i).
- Payment from Allocation Account: The committee may establish a separate allocation account for the sole purpose of paying joint federal and nonfederal expenses. 106.6(e)(1)(ii).

Under the second option, the committee transfers funds from both the federal and nonfederal accounts to the separate allocation account in amounts equal, respectively, to the federal and nonfederal shares of each allocable expense. The allocation account is considered a federal account, and the SSF should include the account's receipts and disbursements in its FEC reports. 106.6(e)(1)(ii), (2) and (3).

4. Timing of internal transfers

The committee must transfer funds from the nonfederal account to the federal account (or to the allocation account) within a 70-day "window"—not more than 10 days before or 60 days after the original payment to the vendor. 106.6(e)(2)(ii)(B). (A transfer from the federal account to the allocation account is permissible at any time and is not reported, because the allocation account is seen as part of the federal account for reporting purposes. 104.10(b)(3) and (4).)

Time limits also apply to adjustments of the allocation ratio and corresponding transfers, which may be required after an activity where federal and nonfederal funds are raised. See examples below.

5. Allocation ratios

Time/space ratio

Used for:

- Public communications that refer to both federal and nonfederal candidates; and
- Voter drives, including voter identification, voter registration and get-out-the-vote drives that refer to clearly identified federal and nonfederal candidates.

106.1(a).

Calculation:
Costs are allocated according to the ratio of space or time devoted to federal candidates compared with the total space or time devoted to all candidates, federal and nonfederal. In the case of a phone bank, the ratio is determined by the number of questions or statements devoted to federal candidates compared with the total number of questions or statements for all candidates.

Funds received ratio

Used for:

- Direct fundraising costs for both the SSF's federal and nonfederal accounts (if not paid by the connected organization); and
- Direct fundraising costs of events that support both federal and nonfederal candidates.

106.6(d).

Calculation:
Costs are allocated according to the ratio of funds received for the federal account (or candidates) to the total funds received through the fundraising program or activity. 106.6(d).

6. Reporting allocated administrative, generic voter drive and generic public communications expenses

Applicable forms

- **Schedule B**—Itemized Disbursements
- **Schedule H1**—Allocation Ratio for Administrative Expenses, Generic Voter Drive Expenses and Generic Public Communications
- **Schedule H2** – Allocation Ratios for Public Communications or Voter Drives that Refer to both Federal and Nonfederal Candidates
- **Schedule H3**—Transfers from Nonfederal to Federal Account
- **Schedule H4**—Disbursements for Allocated Activity

If the connected organization does not pay the SSF's administrative costs then the SSF may allocate these costs; it may also allocate the costs for generic voter drives and generic public communications. To do

this, the committee will pay for all allocable expenses from its federal account. The allocable expenses should be disclosed on Schedule H4. The Committee can transfer into its federal account the nonfederal portion of the expense up to 10 days before the payment or up to 60 days after the payment. The transfer-in is disclosed on Schedule H3.

Allocable expenses should not be paid from the nonfederal account and reimbursed by the federal account.

7. Allocating committee fundraising expenses

If an SSF's connected organization does not pay its solicitation costs and the SSF raises money for both its federal and nonfederal accounts, the costs of the fundraising event or activity must be allocated between those accounts. 106.6(d). As noted previously, the federal account could pay 100 percent of the costs without reimbursement and avoid allocation. 106.6(a).

Note that expenses incurred in connection with activities directly supporting candidates (such as fundraising for candidates) are not considered the committee's own fundraising expenses, and the committee must report them as in-kind contributions. See section 8.

Required forms

- **Schedule B**—Itemized Disbursements
- **Schedule H2**—Allocation Ratios
- **Schedule H3**—Transfers from Nonfederal to Federal Account
- **Schedule H4**—Disbursements for Allocated Activity

Allocation ratio

If the SSF raises money for both its federal and nonfederal accounts through the same fundraising program or event, the costs directly associated with the program or event are allocated using the "funds received" ratio. As previously described, this is the ratio of funds received for federal activities to total funds raised through the program or event. The SSF must estimate the ratio prior to beginning the solicitation and report the ratio on Schedule H2. 104.10(b)(1) and 106.6(d)(1).

The committee must also give each fundraising program or event a unique name or code. 104.10(b)(2) and 106.6(d). This unique identifier must be used on all FEC schedules referring to the activity.

Payments

The SSF must pay for allocated fundraising expenses from its federal account (or separate allocation account). 106.6(e)(1). The nonfederal account may transfer its allocable share to the federal account as described below. The federal and nonfederal shares of the payments are reported on Schedule H4 and included in the total for Line 21(a) (Allocated federal/nonfederal activity) of the Detailed Summary Page. 104.10(b)(4).

The "year-to-date" figure entered for each fundraising payment represents the total spent on that particular committee fundraising event as of the date of payment. 104.10(b)(2).

Transfers

The committee itemizes the receipt of transfers from the nonfederal account to the federal account for allocable fundraising expenses on Schedule H3. The amount of the transfer is also reported on the Detailed Summary Page, Line 18(a). 104.10(b)(3). The transfer must be made within the 70-day window described in section 4. 106.6(e)(2)(ii).

Adjustments to ratio

After a particular fundraising program or event, the SSF may need to adjust the allocation ratio reported for the event on Schedule H2 to reflect the federal and nonfederal shares of the actual receipts. The SSF must determine whether such an adjustment is necessary within 60 days after the date of the fundraising event. The revised ratio must be noted on a Schedule H2 filed with the SSF's next report. 106.6(d)(2).

If an adjustment indicates that the nonfederal account paid more than its allocable share of expenses for the event, the SSF must transfer funds from its federal account to its nonfederal account to avoid an excessive payment by the nonfederal account. Any transfers from the federal account to the nonfederal account made as a result of the revision must be reported on Schedule H4 and included in the total for Line 21(a)(i) on the Detailed Summary Page in the committee's next regular report. Further adjustments and transfers from the federal account may be necessary if additional federal receipts come in. 106.6(d)(2).

If an adjustment indicates that the federal account paid more than its share of allocable expenses, the SSF may transfer funds from the nonfederal account to make up for the excessive nonfederal payment. Such transfers, however, may only be made within 60 days after the event. 106.6(d)(2). Transfers from the nonfederal account are itemized on a Schedule H3 and included in the total for Line 18(a) on the Detailed Summary Page.

8. Allocating costs of fundraising for candidates

This section explains how to allocate the costs of a direct candidate support activity that raises money for both federal and nonfederal candidates. The explanation is based on the following scenario:

EXAMPLE: The American Society of Associated Corporations PAC, an SSF with separate federal and nonfederal accounts, sponsors a fundraising dinner-dance each nonelection year to benefit federal and nonfederal candidates in a particular state.

In 2017, the PAC plans to use the event to raise money for five candidates—a Senate candidate, a House candidate and three candidates for the state legislature. At past events the committee has raised about $5,000 for all participating candidates, and the committee has customarily divided the proceeds evenly between the federal and the nonfederal candidates. The PAC expects the two federal candidates to split half the proceeds, while the three state candidates will evenly divide the other half. The total cost of the event is expected to be $5,000. The costs are in-kind contributions to the candidates.

Required forms

- Schedule B—Itemized Disbursements
- Schedule H2—Allocation Ratios
- Schedule H3—Transfers from Nonfederal to Federal Account
- Schedule H4—Disbursements for Allocated Activity

Unique identifier

Every allocable direct candidate support activity must be assigned a unique identifying name or code. On Schedule H2, the PAC uses "Dinner Dance 2017" as the event's unique identifier. When referring to the dinner-dance in subsequent schedules and reports, the committee must continue to use "Dinner Dance 2017." 104.10(a)(1).

Allocation ratio

Because the dinner and dance is a fundraising event for candidates, the committee allocates the $5,000 expected total costs according to the "funds received ratio" (i.e., funds received by federal candidates compared with funds received by all candidates). Since the PAC expects that half the proceeds will go to federal candidates and half to nonfederal candidates, the funds received ratio is 50/50. Expressing this ratio in percentages, the PAC enters 50 percent federal and 50 percent nonfederal in the appropriate spaces on Schedule H2. 106.1(a)(1). To indicate the purpose of the event, the committee checks the "Direct Candidate Support" box.

Payments

The American Society of Associated Corporations PAC pays the bills for the event from its federal account (or separate allocation account) and reports the payments on Schedule H4. Because the payments are in-kind contributions, the federal share of the costs is cross-referenced to an entry on Schedule B for Line 23 and included in the total figure for Line 23 (Total Contributions to Federal Candidates) on the Detailed Summary Page.

On each page, the committee uses "Dinner Dance 2017" (the unique identifier) as the name of the event. 104.10(a)(1). The "event year-to-date" figure represents the aggregate amount spent on the dinner-dance (to all payees) as of the date of payment.

Transfer of funds

To cover the nonfederal share of the costs of the dinner-dance, the PAC transfers $2,500.00 from the nonfederal account to the federal account. The amount transferred is one-half of the $5,000.00 total payments for the ballroom. The transfer is made within the 70-day window described in section 4. 106.6(e)(2)(ii)(B).

The PAC reports the receipt of the transfer on Schedule H3. The amount is also included on Line 18(a) of the Detailed Summary Page.

Adjustments

At a later date, the PAC may have to adjust the allocation ratio for the event if the federal candidates receive a different proportion of the actual funds raised than was originally reported on Schedule H2. The adjusted allocation ratio must be reported on a new Schedule H2 filed with the next report.

As a result of adjusting the allocation ratio, the nonfederal share of the payments for the event may be less than the nonfederal account originally paid. In that case, the federal account must reimburse the nonfederal account for its excessive payments and report the reimbursement on Schedule H4. The reimbursement must also be included in the Line 23 total on the Detailed Summary Page and itemized on Schedule B. 106.6(d)(2).

On each page, the committee uses "Dinner Dance 2017" (the unique identifier) as the name of the event. 104.10(a)(1). The "event year-to-date" figure represents the aggregate amount spent on the dinner-dance (to all payees) as of the date of payment.

9. Allocating costs of public communications and voter drives

When a committee makes a public communication or conducts voter drive activity referring to both federal and nonfederal candidates, the costs may be allocated whether or not the activity qualifies as an in-kind contribution or an independent expenditure. This section's explanation of the rules for allocating these costs is based on the following scenario:

EXAMPLE: The American Society of Associated Corporations PAC, an SSF, maintains a separate nonfederal account for use in state and local elections. In late 2017, the PAC plans to purchase several advertisements in local newspapers to urge voters to support four candidates: a candidate for governor, a candidate for state treasurer, a candidate for secretary of state and a candidate for the U.S. Senate running in a special election that year. Equal space in the advertisements will be devoted to each candidate. The total cost for running the advertisements is $4,250.

Applicable forms

- Schedule B--Itemized Disbursements (if communications are in-kind contributions; see chapter 5)
- Schedule E--Itemized Independent Expenditures (if communications contain express advocacy and are not coordinated with a candidate or political party – See chapter 5)
- Schedule H2--Allocation Ratios
- Schedule H3--Transfers from Nonfederal to Federal Account
- Schedule H4--Disbursements for Allocated Activity

Unique identifier

Every direct candidate support activity must be assigned a unique identifying name or code. On Schedule H2, The American Society of Associated Corporations PAC lists "VA Newspaper Campaign" as the unique identifier for the activity. The committee will use "VA Newspaper Campaign" to refer to the advertisements in all future reports. 104.10(a)(1).

Allocation ratio

Because "VA Newspaper Campaign" is a public communication that refers to both a clearly identified federal and a nonfederal candidate, the committee uses a "time and space ratio" to allocate the $4,250 total expected cost on Schedule H2. In this case, the ratio of space devoted to federal candidates to space used for all candidates is ¼. (The committee would base its allocation on time if the advertisements were broadcast.)

Expressing the allocation ratio in percentages, the American Society of Associated Corporations PAC enters 25 percent federal and 75 percent nonfederal in the appropriate spaces on Schedule H2.

Payments

The PAC makes all allocable payments from its federal account (or separate allocation account) and itemizes them on Schedule H4. Because the payments are independent expenditures, the federal share is itemized on Schedule E and included in the total figure for Line 24 (Independent Expenditures) of the Detailed Summary Page.

The "event year-to-date" figure represents the aggregate amount paid to all payees for "VA Newspaper Campaign" as of the date of payment.

Transfer of funds

The nonfederal share is ¾ of the $4,250 total cost. The committee transfers $3,187.50 from the nonfederal account to the federal account. The transfer is made during the permissible 70-day window, as described in section 4. 106.6(e)(2)(ii)(B).

The American Society of Associated Corporations PAC reports the receipt of the transfer on Schedule H3. The amount is also included on Line 18(a) of the Detailed Summary Page.

APPENDIX B
Twice-yearly solicitations

Twice a year, a corporation (including an incorporated trade association or membership organization) or labor organization and its SSF may expand their solicitation to include certain individuals outside their restricted class. Outlined below are guidelines for conducting a twice-yearly solicitation.

1. Who may be solicited twice yearly

By corporations: non-managerial personnel

Twice a year, a corporation (or its SSF) may solicit in writing its employees who are not executive and administrative personnel or stockholders for contributions to the corporation's SSF. The families of those employees may also be included in a twice-yearly solicitation. 114.6(a).

However, individuals paid on a commission basis whose wages are not subject to income tax withholding may not be solicited under this provision (or under the regular provision for soliciting executive and administrative personnel). See 114.1(c)(3); AO 1999-20 (EQUI-PAC).

By labor organizations: nonmembers

Twice a year, a labor organization (or its SSF) may solicit in writing certain nonmembers, including:

- Employees of the labor organization who are not executive or administrative personnel;
- Employees of the labor organization who are not members of the labor organization;
- Stockholders (and their families) of corporations whose employees are represented by the labor organization;
- Employees of such corporations who are not members of the labor organization; and
- Employees of subsidiaries of such corporations.

114.6(b); AOs 1990-25 (Community Psychiatric) and 1979-50 (Public Affairs Council).

2. Custodial arrangement

Because the solicitation involves individuals who are not in the normal solicitable class of the organization, the connected organization or SSF must appoint a custodian to receive contributions before conducting a twice-yearly solicitation. The custodial arrangement preserves the anonymity of individuals who do not wish to contribute or who contribute only small amounts. 114.6(d).

Appointment of custodian

For SSFs established by corporations, the custodian may not be a stockholder, officer, executive or administrative personnel, or an employee of the corporation or its SSF. In the case of labor organizations, the custodian may not be an officer, executive or administrative personnel, or an employee or member of the labor organization or its SSF. 114.6(d)(1). The connected organization may, however, appoint an outside entity, such as a bank, to be a custodian. AO 1977-49 (Kerr-McGee Corp. PAC).

Exception for SSF treasurer

An individual employed as the SSF treasurer may be the custodian provided that he or she:

- Preserves the anonymity of contributors as required;
- Does not participate in the SSF's decisions regarding making contributions and expenditures; and
- Continues to fulfill the regular duties of the committee treasurer.

114.6(d)(5). See AO 1977-56 (Western Co. of North America SAFEPAC).

Custodial duties

The custodian of an SSF is responsible for the following duties:

Collecting contributions

See "Collection methods" below.

Transmittal of contributions

The custodian must deposit all contributions within 10 days of receipt in a separate, custodial bank account. Periodically, the custodian must withdraw funds contained in the custodial account and forward them by check drawn on the custodial account to the SSF's account. Contributions that appear to be illegal must be treated as described in chapter 2, section 12. 114.6(d)(2).

Information to the SSF

The custodian must provide the SSF with the necessary recordkeeping information identifying those who make individual contributions exceeding $50 or whose aggregate contributions in a calendar year exceed $200. (See chapter 9, section 3.) This information must be provided to the SSF in time for it to include the contributions in its next report. Apart from this, the only information the custodian may provide to the SSF or connected organization is the total number of contributions received. The custodian may not reveal any information on non-contributors, small contributions of $50 or less or multiple contributions aggregating $200 or less. 114.6(d)(2)(ii) and (3).

Information to the custodian

In order to accurately keep records on each donor's aggregate contributions, the connected organization or its SSF must provide the custodian with a list of previous contributors and the year-to-date total of each one's contributions to the SSF. 114.6(d)(4).

3. Collection methods

Solicitations must be mailed to residence

Twice-yearly solicitations must be made in writing and mailed to the solicitee's residence. The mailing must inform the solicitee of the right to refuse to contribute without reprisal and of the political purpose of the SSF. Twice-yearly solicitations must, additionally, notify the recipients of the custodial arrangement (described above). The return address on the solicitation (or enclosed return envelope) must be the custodian's address. Furthermore, the written solicitation must note that the organization will preserve the anonymity of:

- Those who do not contribute;
- Those who make a single contribution of $50 or less; and
- Those who make multiple contributions aggregating $200 or less.[1]

114.5(a)(5) and 114.6(c).

Additional materials

While the solicitation must be in writing, additional materials may be mailed to augment that written solicitation. For example, in AO 1991-28 (Golden Rule), the Commission permitted a corporation to mail a videotape as part of the twice-yearly mailing that contained the same solicitation message as the written material that accompanied it.

No payroll deduction

Corporations and labor organizations may not use payroll deduction for twice-yearly solicitations. 114.6(e)(1).

4. Requirements for corporations

Notification to labor organization

A corporation must notify a labor organization representing any of the corporation's employees (or employees of its subsidiaries, branches, divisions or affiliates) of its intention to conduct a twice-yearly solicitation and the method of solicitation it will use. This must be done within a reasonable time prior to the solicitation so that the labor organization, if it wishes, may also make a twice-yearly solicitation at that time. 114.6(e)(3) and (4).

1 Exceptions: Information may, upon request, be made available to the FEC, the Secretary of the Senate, law enforcement officials or judicial bodies. 114.6(d)(3)(i).

Availability of method to labor organization

A corporation must make available to the labor organization the method it uses for soliciting and collecting contributions through a twice-yearly mailing. However, if the corporation does not wish to disclose the names and addresses of its employees and stockholders, it may give a mailing list to an independent mailing service which will conduct the mailing for both the labor organization and the corporation. 114.6(e)(3).

If the corporation does not conduct a solicitation under the twice-yearly provision during the calendar year, it is not required to provide the labor organization with a solicitation method for the labor organization's twice-yearly solicitations or with any names and addresses. 114.6(e)(3)(iii).

5. Requirements for labor organizations

When more than one labor organization represents the employees of a corporation and its subsidiaries, the unions share a limit of two solicitations of nonmembers per year. (There is no limit on the number of solicitations each union makes of its own members.) 114.6(e)(5).

The unions may conduct twice-yearly solicitations independently, or they may participate in a joint solicitation mailing. A joint mailing may contain requests for contributions to each participating union's SSF. 114.6(e)(5).

APPENDIX C
Solicitations by trade associations and their SSFs

Trade associations and their SSFs are subject to the general rules that apply to all solicitations by connected organizations and their SSFs, as outlined in chapter 3. 114.8(e)(5). However, additional solicitation guidelines that apply only to trade associations and their SSFs are explained in this appendix, which should be used in conjunction with chapter 3.

1. Request for corporate member approval: prior approval process

In addition to soliciting noncorporate members and its own personnel, a trade association may solicit the restricted class of member corporations (i.e., their executive and administrative personnel, stockholders and the families of both groups). Solicitation of a corporate member's restricted class is a two-step process. First, the trade association must obtain the corporate member's written approval for solicitation; second, and only after the corporate member's prior approval has been granted, the association may conduct the solicitation.

Requirements for prior approval request

Before beginning its solicitation of the restricted class of a corporate member, a trade association must make a written request to the member corporation for permission to solicit the member's restricted class. This request, known as a request for "prior approval" is sent to the corporate representative with whom the association normally conducts its activities. Any request for prior approval must inform the member corporation that:

- Corporate approval is necessary before the trade association or its SSF may conduct a solicitation; and
- The corporation may not approve solicitations by another trade association for the same calendar year.

114.8(c) and (d)(3).

Optional information

The trade association may enclose a copy of proposed solicitation materials in its request for approval. Moreover, the trade association may note that it intends to limit the scope of the solicitation (e.g., to just executive and administrative personnel but not stockholders). 114.8(d)(3) and (5).

Format for prior approval request

Because the request for prior approval is not considered a solicitation, it may be distributed to corporate members using a variety of formats. AO 2000-10 (America's Community Bankers). For example, a trade association may:

- Post an electronic request for prior approval on its website. (AO 2000-22 (Air Transportation Association));
- Publish in its magazine or newsletter a form for obtaining solicitation approval from corporate members. (AOs 1981-41 (International Association of Amusement Parks and Attractions) and 1980-65 (National Tire Dealers and Retreaders Association)); and
- Operate a booth at which it requests solicitation approvals at its convention, annual meeting or similar event. The trade association may also receive written solicitation approvals at the convention as long as they are signed by persons authorized by the corporations to make such approvals. (AOs 1981-41 (International Association of Amusement Parks and Attractions), 1978-83 (Construction Equipment PAC) and 1978-17 (CABLEPAC)). (Solicitations conducted at conventions are discussed in chapter 3, section 10.)

No matter what format is used when making the request for prior approval, the approval form must be written (or electronic) and include all the required information described above. See 114.8(d)(3).

Written approval by corporate member

As noted above, the approval granted by the member corporation must be made in writing (or electronically; see "Use of electronic signatures" below). Because the representative of the member corporation grants approval on behalf of the corporation, the approval form should also indicate that the signatory is doing so on behalf of the specific named corporation, e.g., "[the signature], for ABC Corp." (Normally, the representative is the person with whom the trade association normally conducts the association's activities.) 114.8(d)(3). See AOs 2000-22 (Air Transportation Association), 1984-61 (Society of American Florists) and 1984-33 (National Restaurant Association PAC).

Corporate approval of trade association solicitations in no way limits the corporation's right to solicit contributions for its own SSF. 114.8(e)(2).

There is no limit on the number of member corporations from which a trade association can obtain solicitation approvals. In a particular calendar year, however, a corporation may authorize only one trade association to solicit its restricted class. 114.8(d)(5). Thus, the corporate member must designate the calendar year for which the solicitations are authorized; the authorization automatically expires on December 31 of the designated year. See 114.8(d)(4).

Multiple-year approvals

A member corporation may grant its approval for several years in advance; however, the company must provide the trade association with a separate approval (in the form of a separate signature line) for each year. See 114.8(d)(4); AO 1984-61 (Society of American Florists).

Approval extended to affiliated nonconnected PAC

Any solicitation approval granted by a corporate member of a trade association also covers solicitations from a nonconnected PAC affiliated with the trade association's SSF. AO 1996-38 (ASHA).

Use of electronic signatures

A trade association SSF may accept corporate members' electronic signatures as written prior authorization to solicit the restricted class of their corporate members. The electronic authorization may be obtained through email or a website. In either case, the trade association must verify that:

- The prior approval forms were available only to representatives of corporate members; and
- Each electronic signature came from the specific corporate representative.

Furthermore, a copy of the electronic approval has to be maintained, in a readily available form, for three years. AO 2000-22 (Air Transportation Association).

Content of approval

Scope

A corporation's authorization may limit the scope of the solicitations to particular members of the restricted class (for example, stockholders only). 114.8(d)(5). Note that trade associations may not solicit persons outside of the member corporation's restricted class.

Frequency

The corporate approval may also limit the number of times solicitations may take place during the calendar year. Unless otherwise specified in the approval, the trade association may conduct unlimited solicitations. 114.8(e)(1).

Records

The trade association must retain a copy of the written approval for three years after the year to which the approval applies. 114.8(d)(2).

2. Restricted class: special issues for trade associations

Parent and subsidiary member corporations

If a parent corporation is a member of the trade association but its subsidiaries are not, then the trade association may solicit (with prior approval) the restricted class of only the parent. 114.8(f). Likewise, if a subsidiary corporation is a member of the trade association but the parent is not, then the trade association may (with prior approval) solicit the restricted class of the subsidiary only; the parent's restricted class is not solicitable. If both corporations are members, then both restricted classes are solicitable. 114.8(f).

Nonstock corporate member

A trade association may (with prior approval) solicit the individual members of a member non-stock corporation. AO 2000-04 (NAFCU), 1999-16 (Commercial Finance Association) and 1999-15 (ARDA). Moreover, in the case where a trade association is affiliated with a non-trade association membership organization, either organization may solicit contributions to its SSF from the members and owners and from executive and administrative personnel of the trade association's incorporated members. AO 2005-17 (American Crystal Sugar).

3. Trade association federations

A federation of trade associations may also establish an SSF. The federation may solicit SSF contributions from the restricted class of a member corporation of a trade association that is a member of the federation, as explained below.

Definition

A trade association federation is an organization representing trade associations involved in the same or allied line of commerce. 114.8(g)(1); see AOs 2005-14 (AKFCF), 1998-19 (CUNA), 1995-12 (Independent Bankers) and AOs cited within.

Affiliation and solicitation

When a federation and its regional, state or local associations are affiliated, their respective SSFs are also affiliated and are treated as one political committee for purposes of the contribution limits. Affiliation is based on the relationship between the organizations, analyzed in terms of the circumstances indicating affiliation (described in chapter 4, section 1).100.5(g)(4), 110.3(a)(3) and 114.8(g)(1); see AOs 2005-14 (AKFCF) and 1995-12 (Independent Bankers). Corporate members that are local units, or state leagues, may also act as collecting agents for the SSF of an affiliated organization. AOs 2000-15 (CUNA New York) and 1998-19 (CUNA).

Joint and delegated solicitations

A federation's SSF and a member association's SSF may also engage in joint solicitations. In addition, a member association may delegate its solicitation rights to the federation. 114.8(g)(1)(i) and (ii).

4. Member-provided assistance

Donations from members

A trade association may solicit and accept donations of money, goods or services from its members to defray the operating, administrative and solicitation expenses of the association's SSF. See AOs 1995-28 (American Health Care), 1995-17 (National Association of Realtors), 1989-18 (AICSPAC) and 1980-59 (Lawyers Title Insurance). Such donations are not "contributions" as long as the donor qualifies as

a member of the association. (The Commission has reasoned that when these funds were placed in the trade association's general treasury, the association could use them in any event to pay the administrative and solicitation costs of its SSF.) See "Definition of member," chapter 3, section 7, and "Operating Costs" chapter 1, section 9.

Funds received for an SSF's administrative, operating or solicitation expenses must be kept in a separate account from the SSF contributions (sometimes referred to as an "administrative fund"). This account must be used only for the administrative and solicitation costs of the SSF. AOs 1992-20 (ASHA), 1990-04 (American Veterinary Medical Association), and 1980-59 (Lawyers Title Insurance).

Member donations of prizes or entertainment

When prizes or entertainment are donated for an SSF fundraising event, the SSF must apply the "one-third rule" and reimburse the connected organization if the donated items are disproportionately valuable in comparison with the amount raised by the event. See chapter 3, section 11. See also AOs 1995-17 (National Association of Realtors) and 1989-18 (AICSPAC).

Donations from nonmembers

If a trade association receives an unsolicited donation, to cover the SSF's administrative and solicitation expenses, from an individual who is not a member of the trade association, that donation is a contribution to the SSF and is subject to the donor's $5,000 annual limit. Because goods and services contributed by nonmember individuals are in-kind contributions, they are not subject to the "one-third rule" discussed above. Similar contributions by nonmember corporations are prohibited. AOs 1995-17 (National Association of Realtors) and 1989-18, n. 4 (AICSPAC).

Payroll deduction

Upon the written request of the trade association, a corporate member may use a payroll deduction or checkoff plan as part of providing incidental services to collect and forward contributions to a trade association's SSF. A corporation using a payroll deduction system to collect contributions for the trade association's SSF must allow a labor organization representing any of the corporation's employees (or employees of its subsidiaries, branches, divisions or affiliates) to also use payroll deduction to collect contributions to the union's SSF. This must be provided upon written request of the labor organization and at a cost sufficient only to reimburse the corporation and its affiliates. 114.8(e)(4).

APPENDIX D
Partnerships and LLCs

This chapter explains the federal campaign finance laws that apply to partnerships and limited liability companies (LLCs) that are treated as partnerships for tax purposes. As explained in chapter 2, section 3, such entities may make contributions to federal candidates and committees, including SSFs. 110.1(e) and (g). Thus, membership organizations and trade associations whose members include partnerships or LLCs that are treated as partnerships for tax purposes may solicit those entities at any time as part of the restricted class. 114.7(a) and (e). Note, however, that certain partnerships and partners may be prohibited from contributing. See "Prohibited partnership/LLC contributions," below.

1. Contribution limits

Contributions received by an SSF from a partnership may not exceed $5,000 per year. 110.1(d).
As explained below, a contribution from a partnership must be attributed to each partner in direct proportion to his or her share of the partnership profits or by agreement of the partners. 110.1(e). This means each partner's proportionate contribution from the partnership also counts against his or her personal contribution limit of $5,000 per year for the same political committee. 110.1(e) and (g)(2).

2. Attribution among partners

Formula for attributing contributions

A portion of the partnership contribution must be attributed to each contributing partner. If all partners within the organization are contributing, the partnership may attribute the contribution in direct proportion to each partner's share of the partnership's profits. 110.1(e)(1). However, if the partnership attributes a contribution on another basis agreed to by the partners, or if it attributes contributions only to certain partners, then the following rules must be observed:

- The contributing partners' profits must be reduced (or their losses increased) in proportion to the contribution attributed to them; and
- The profits (or losses) of only the contributing partners must be affected.

110.1(e)(2).

A portion of a contribution drawn on a partnership account may not be attributed to the spouse of a partner unless the spouse is also a member of the partnership. AO 1980-67 (Long).

Whatever the attribution, the portion attributed to each partner must not, when aggregated with other contributions from that person, exceed his or her contribution limit to the SSF. 110.1(e).

Notice to recipient committee

Because a contribution from a partnership is a type of joint contribution, the partnership must provide to the recipient committee, along with the contribution, a written notice listing the names of the contributing partners and the amount to be attributed to each (unless the contribution is attributed equally among the partners). 110.1(e)(1) and (g)(5). However, unlike other joint contributions, the signature of each contributing partner is not required. 110.1(k)(1) and (2).

Application to LLCs

This method for attributing contributions from a partnership would also apply to an LLC (and its members) that has chosen to be treated for tax purposes as a partnership, or that has not chosen how it should be treated by the IRS. 110.1(g)(2). Note, however, that the Commission will continue to treat all entities, other than LLCs, that qualify as corporations under state law as corporations for FECA purposes. See AO 2008-05 (Holland & Knight) (applying state law to LLP). For more information on contributions from LLCs, see chapter 1, section 12, and chapter 2, section 3.

3. Prohibited partnership/LLC contributions

Professional corporations

Although law firms, doctors' practices and similar groups are often organized as partnerships, some of these groups may instead be professional corporations. (Generally, the Commission relies on state law to distinguish a partnership from a corporation. See AO 2008-05.) 114.7(d).

Unlike a partnership, a professional corporation is prohibited from making any contributions because contributions from corporations are unlawful. 114.2(b). A professional corporation would follow the rules applicable to any other corporations and thus should refer to the rest of this guide. However, an individual member of a professional corporation may contribute to an SSF using a check drawn on his or her nonrepayable corporate drawing account because the check represents a contribution from the individual rather than from the corporation. See AOs 1981-04 (National Society of Professional Engineers PAC) and 1979-19 (Cattleman's Action Legislative Fund).

Partnerships or LLCs with corporate partners/members

Because contributions from corporations are prohibited, a partnership or an LLC with corporate members (but treated as a partnership for tax purposes) may neither use the profits of nor attribute any portion of a contribution to the corporate partners. A partnership or LLC composed solely of corporate partners may not make any contributions.[1] See 110.1(e); 114.2(b) and AO 1981-56 (Satellite Business Systems).

1 However, a joint venture partnership wholly owned by corporate partners and affiliated with at least one of the partners may pay the establishment, solicitation and administrative costs of its SSF without making a contribution. See AO 1992-17 (Du Pont Merck).

Partnerships or LLCs with foreign national partners/members

Similarly, because contributions from foreign nationals are prohibited, a partnership or LLC may not attribute any portion of a contribution to a partner or member who is a foreign national. 110.20(b).

Partnerships or LLCs with federal government contracts

A partnership or LLC that is a federal contractor is prohibited from making contributions between the time it begins to negotiate a contract with the federal government or the time when requests for proposals are sent out, whichever is earlier, and the time it completes the performance of the contract or the time the contract negotiations cease, whichever is later. 115.1, 115.2 and 115.4. However, an individual partner in or employee of such a firm may make contributions from personal funds (rather than from funds drawn on the firm's account). 115.4(b) and (c). See also AO 1991-01 (Deloitte & Touche PAC).

4. Reporting partnership/LLC contributions

Partnership contributions are included in the total figure reported for "Contributions from Individuals/ Persons other than Political Committees" on the Detailed Summary Page of Form 3X (Line 11(a)(ii)) and itemized as explained below.

Itemization

If a single partnership/LLC contribution exceeds $200, or if several contributions by the same partnership/LLC aggregate over $200 during a calendar year, the committee must itemize the contribution on a Schedule A used for "Contributions from Individuals/Persons Other Than Political Committees" (Line 11(a)(i)).

Additionally, if an individual partner's share of the contribution exceeds $200 when combined with other contributions received from that partner in the same calendar year, the committee must disclose, as a memo entry, itemized information on the partner (name, address, occupation, date contribution received, partner's share of contribution and aggregate year-to-date total of contributions made by that partner). 104.8(a), (b) and (d)(1).

In-kind contributions

A committee reports the value of an itemized in-kind contribution received from a partnership or LLC on Schedule A in the same way it reports an itemized monetary contribution from an individual or any other person eligible to make in-kind contributions on Schedule A. Moreover, an in-kind contribution itemized on Schedule A must also be itemized on a Schedule B for operating expenditures. See 104.13(a) and (b). See also chapter 11, section 6 for details on reporting in-kind contributions received. Note that information about a partner itemized as a memo entry on Schedule A does not have to be reported on Schedule B.

5. Affiliation between partnership/LLC and corporation

Partnerships and LLCs that are treated as partnerships are generally prohibited from serving as the connected organization of an SSF. Instead, were such organizations to form a political committee, they would form a nonconnected PAC. See AOs 2008-05 (Holland & Knight) and 1982-63 (Manatt, Phelps, Rothenberg & Tunney). A different result occurs, however, when a partnership or LLC is owned by a corporation, as explained below.

Partnership/LLC as connected organization

A partnership or LLC that is owned entirely by corporations and affiliated with one of those corporations is permitted to pay the administrative and solicitation costs of its corporate owner's SSF without the resulting costs being considered a contribution to the committee. The SSF must list one of the partnership or LLC's affiliated corporate owners (not the partnership or LLC) as its connected organization on its Statement of Organization. See AOs 2010-16 (EmblemHealth Services Company LLC), 2009-14 (Mercedes-Benz USA/Sterling), 2004-42 (Pharmavite), 2003-28 (Horizon Lines), 2001-18 (BellSouth) and AOs cited within.

Joint venture partnerships/LLCs owned by corporations

When a nonconnected PAC is sponsored by a joint venture partnership or LLC owned entirely by one or more corporations and affiliated with at least one of them, the nonconnected PAC becomes affiliated with the SSF of any corporation affiliated with the joint venture partnership or LLC. AOs 2016-02 (Enable), 2014-17 (Berkadia Commercial Mortgage), 2004-42 (Pharmavite), 2003-28 (Horizon Lines), 1997-13 (USA PAC) and AOs cited within.

As noted in chapter 4, even though nonconnected PACs sponsored by partnerships or LLCs do not normally carry the solicitation restrictions applicable to SSFs, the rules that apply to SSFs will apply to the nonconnected PAC of a partnership that is an affiliate of a corporation with an SSF. As a result, when a nonconnected PAC becomes affiliated with an SSF, the nonconnected PAC may solicit only that SSF's restricted class and must follow the rules governing SSF solicitations. AOs 1996-38 (ASHA), 1992-17 (Du Pont Merck) and 1989-08 (Wagner & Brown).

APPENDIX E
Earmarked contributions

An earmarked contribution is one which the contributor directs to, or spends on behalf of, a clearly identified candidate or candidate's committee through an intermediary or conduit. An SSF may serve as a conduit for earmarked contributions. Earmarking may take the form of a designation, instruction or encumbrance and may be direct or indirect, oral or written, express or implied. 110.6(b)(1). Earmarked contributions require additional disclosure, as summarized in this appendix. In addition, under the provisions of the Honest Leadership and Open Government Act of 2007[1] (HLOGA), certain earmarked contributions may trigger additional disclosure of the identity of the conduit. See appendix F.

1. Earmarked contributions – basic Information

Conduit/intermediary

Anyone who receives and forwards an earmarked contribution to a candidate or a candidate's committee is considered a conduit or intermediary. 110.6(b)(2). (The terms "conduit" and "intermediary" are interchangeable; "conduit" will be used in the remainder of this appendix.) Individuals, political committees (including an SSF), unregistered PACs and partnerships may act as conduits for earmarked contributions.

Persons not considered conduits

For the purposes of the earmarking rules, certain individuals and organizations are not considered conduits even though they may participate in activities to raise money for a candidate. These persons include:

- An employee or full-time volunteer working for a candidate committee;
- An individual who occupies a significant position in a candidate's campaign and who is expressly authorized to raise money on behalf of the candidate;
- A committee affiliated with the candidate committee; and
- A commercial fundraising firm retained by the candidate committee.

110.6(b)(2)(i).

Prohibitions apply

No corporation (including an incorporated trade association or membership organization), labor organization or other entity prohibited from making contributions in connection with federal elections may act as a conduit for an earmarked contribution. An SSF, however, may act as a conduit. 110.6(b)(2)(ii), 114.2(f)(3)(ii) and 114.3(c)(2)(ii).

1 Pub. Law No. 110-81, 121 Stat. 735, signed into law September 2007.

Furthermore, no individual may receive a contribution on behalf of a candidate (as a conduit or otherwise) while acting as the representative of a corporation, labor organization or other entity prohibited from making contributions. 110.6(b)(2)(i)(A) and (E) and 114.2(f); but see AO 2004-19 (DollarVote).

2. Effect on contribution limits

Contributor's limit

An earmarked contribution counts against the contributor's contribution limit for the recipient candidate. 110.6(a).

Conduit's limit

Direction or control

The conduit's contribution limit is implicated when the conduit exercises direction or control over the contributor's choice of the recipient candidate. (But see also "Contributions earmarked through SSF," below.) In that case, the full amount of the contribution counts against the limits of both the original contributor and the conduit, even though the candidate receives only one contribution. For examples of how the Commission has viewed the "direction or control" rule in specific situations, see AOs 2003-23 (WE LEAD), 1986-04 (Armstrong Industries), 1981-57 (Coal Miners PAC) and 1980-46 (National Conservative PAC).

Contributions earmarked through SSF

Unsolicited

As discussed in section 1, a corporation or labor organization may never act as a conduit for earmarked contributions. A corporation or labor organization's SSF, however, may collect and forward earmarked contributions. An unsolicited earmarked contribution, transmitted to a candidate through the SSF, counts against the original contributor's contribution limits, but it does not count against the limits on the SSF's own contributions to the candidate. 110.6(d)(1) and 114.2(f)(3)(ii).

Solicited

If the earmarked contribution was solicited from the restricted class via a communication from the SSF's connected organization (see chapter 5, section 1, and chapter 8, section 2), and was collected by the SSF, it is considered a contribution to both the SSF and the candidate, and from both the individual contributor and the SSF. As such, the earmarked contribution counts against several contribution limits.[2] 114.2(f)(2)(iii) and (f)(4)(iii).

Note, however, that the costs of the solicitation of the earmarked contribution only count as an in-kind contribution from the SSF to the campaign if the communication soliciting the contribution was

2 See the explanation and justification for 114.2(f) at 60 Fed. Reg. 64265 (December 14, 1995), available online at https://transition.fec.gov/law/cfr/ej_compilation/1995/1995-23_Express_Advocacy_Indep_Exp_and_Coordination.pdf#page=6.

coordinated with the candidate or his or her agents or campaign. See chapter 8, section 2. See also 109.21 and AO 2003-23 (WE LEAD) (overruling AO 1980-46 (National Conservative PAC) to this effect).

Effect on unregistered organization

An unregistered organization acting as a conduit (e.g., a state PAC of a connected organization) should be aware that conduit activity could result in a contribution or expenditure made by the organization (e.g., if the costs of a solicitation of earmarked contributions result in an in-kind contribution made by the state PAC under 109.21 or if the organization's solicitation of its restricted class results in the amounts forwarded counting as a contribution from the state PAC under 114.2(f)). In such a case, the activity may trigger registration requirements for the unregistered organization, as a contribution or expenditure made in any amount triggers registration for an SSF. See 100.5(b) and chapter 1.

Deferred earmarking via payroll deduction

A member of the restricted class who contributes to the SSF through a payroll deduction program may subsequently earmark those contributions for specific candidates, subject to the requirements outlined below. Such a program is sometimes referred to as "deferred earmarking." AOs 1995-15 (Allison Engine PAC) and 1991-29 (Sundstrand).

Obtaining designation and forwarding the contribution

The SSF must obtain a signed and dated statement from each contributor designating the particular candidate to receive the contribution, and the amount to be forwarded. Contributors should also designate the election to which they are contributing. While earmarked contributions must normally be forwarded to a candidate within 10 days of receipt (see section 3 of this appendix), in this instance the SSF must forward the earmarked contributions to the named candidate within 10 days of the designation of the funds. AOs 1995-15 (Allison Engine PAC) and 1991-29 (Sundstrand).

Ledger accounts

The SSF must keep a ledger account of each individual's payroll deduction contributions. In the case of a program set up for earmarking after the deduction is made, this accounting method assures that the funds will not be used until the contributor designates them for a specific candidate. In one program (AO 1995-15 (Allison Engine PAC)), funds that were left undesignated past the deadline set for designation were available for use by the SSF.

Effect on contribution limits

The committee must consider all funds collected through payroll deduction as contributions to the SSF, regardless of whether contributors will have the later option of earmarking them for specified candidates. The contributions, once designated for candidates, are viewed as contributions to the candidate and also as contributions made by the SSF, and count against the applicable limits. AOs 1995-15 (Allison Engine PAC) and 1991-29 (Sundstrand).

Reporting

The SSF must report receipts from participating employees as contributions to the SSF at the time the SSF receives the deduction proceeds from the employee's salary or receives the employee's check. Such contributions must be itemized when the employee's total for the calendar year exceeds $200. 104.3(a)(4)(i). As a conduit of earmarked contributions, the SSF must disclose the conduit transaction in its reports according to the guidelines in this appendix (see section 5). 110.6(c)(1); see also AO 1995-15 (Allison Engine PAC).

3. Forwarding earmarked contributions

10-day limit

The SSF must forward an earmarked contribution, along with a report (see below), to the recipient candidate committee within 10 days of receiving the contribution. 102.8(a) and (c) and 110.6(c)(1)(i) and (iii).

4. Transmittal to campaign

Along with the funds, the conduit must also forward to the recipient candidate committee a transmittal report containing information that the candidate's campaign committee will need for its own records and reports. 110.6(c)(1)(i) and (ii).

Contributions exceeding $50

When an earmarked contribution exceeds $50, the accompanying transmittal report must contain the name and mailing address of the original contributor, the date the contribution was received by the conduit and the amount. 102.8(a) and 110.6(c)(1)(iv). The report should also state the election designated by the contributor, if any. 110.1(b)(2).

Contributions exceeding $200

When an earmarked contribution exceeds $200, the accompanying report must contain the full name and mailing address of the contributor, the contributor's occupation and name of employer, the date the contribution was received by the conduit and the amount. 102.8(a) and 110.6(c)(1)(iv). The report should also state the election designated by the contributor, if any. 110.1(b)(2).

5. Reporting earmarked contributions

An earmarked contribution must be reported by both the conduit (political committee or unregistered entity, including an individual) and the recipient authorized committee. The conduit must comply with special reporting rules, which vary depending on whether the contribution was deposited in the conduit's bank account or was passed on directly to the campaign in the form of the original contributor's check (see below). 110.6(c)(1)(v).

Reports by unregistered conduit

A conduit that is not a registered political committee--that is, a conduit that is an individual or a group--must send a transmittal letter to the recipient authorized committee when it forwards the contributions and must also file a report by letter with the FEC (but not with the Secretary of the Senate) within 30 days of forwarding the contribution. 110.6(c)(1)(ii). The letter should contain all the information listed below for SSF conduits.

Report filed by SSF acting as conduit

An SSF that serves as a conduit for an earmarked contribution must disclose the earmarked contribution, regardless of amount, on two separate reports: the committee's next regularly scheduled FEC report and a special transmittal report sent to the recipient authorized committee. 102.8(a) and 110.6(c)(1)(ii).

Next regularly scheduled FEC report

The conduit's next regularly scheduled report must indicate whether the earmarked contribution was:

- Transmitted through the conduit's account, in which case each contribution must be reported on the reporting schedules for itemized receipts and disbursements (Schedules A and B); or
- Transmitted in the form of the original contributor's check, in which case each earmarked contribution must be reported as a memo entry on Schedules A and B.

110.6(c)(1)(iv) and (v).

Contents of report by SSF acting as conduit

Schedule A

For an earmarked contribution, an SSF must itemize the following information on Schedule A:

The name and mailing address of the original contributor making an earmarked contribution and, if the contribution is from an individual and exceeds $200, the contributor's occupation and employer;

- The amount of the earmarked contribution;
- The date the contribution was received by the conduit;
- The recipient candidate, as designated by the contributor; and
- The election for which the contribution was designated, if any (see 110.1(b)(2)).

Schedule B

Along with the information required on Schedule A, an SSF reports the forwarding of the contribution to the candidate on Schedule B by itemizing:

- The candidate designated by the contributor;
- The date the contribution was forwarded to the candidate;
- The amount forwarded to the candidate;
- The election designated by the contributor, if any (see 110.1(b)(2));
- The name of the contributor;
- A notation of whether the contribution was passed on in cash, by the contributor's check or by the conduit's check; and
- A statement indicating that the conduit's limit was also affected, if appropriate (110.6(d)(2)).

See 110.6(c)(1)(iv) and (v).

E-1a: Earmarked contribution (Schedule A)

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE OF
[X] 11a [ ] 11b [ ] 11c [ ] 12
[ ] 13 [ ] 14 [ ] 15 [ ] 16 [ ] 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Unmoved Movers, Inc. PAC

A. Full Name of Individual (Last, First, Middle Initial) or Full Organization Name
Beauvoir, Simone D.

Mailing Address
11 Lamda Street

City: Paris | State: NY | Zip Code: 33333

FEC ID number of contributing federal political committee: C

Name of Employer (for Individual): Unmoved Movers, Inc.
Occupation (for Individual): President

Receipt For:
[ ] Primary [X] General
[ ] Other (specify) ▼

Aggregate Year-to-Date ▼

Date of Receipt: 08 / 19 / 2018

Amount of Each Receipt this Period: 500.00

[ ] Memo Item

Earmarked for Gambino for Senate

E-1b: Earmarked contribution (Schedule B)

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE OF
[ ] 21b [ ] 22 [X] 23 [ ] 26 [ ] 27
[ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Unmoved Movers, Inc. PAC

A. Full Name (Last, First, Middle Initial)
Gambino for Senate

Mailing Address
12 Summa Lane

City: Rome | State: NY | Zip Code: 33333

Purpose of Disbursement: Contribution Earmarked by Simone D. Beauvoir
Category/Type: 011

Candidate Name: Gambino Barreda

Office Sought: [ ] House [X] Senate [ ] President
State: IA District:

Disbursement For:
[ ] Primary [ ] General
[ ] Other (specify) ▼

Date of Disbursement: 08 / 25 / 2018

FEC Identification Number: C 00000009

Amount of Each Disbursement this Period: 500.00

[ ] Memo Item

APPENDIX F
Lobbyist bundled contributions

The Honest Leadership and Open Government Act (HLOGA) of 2007[1] requires campaigns, political party committees and leadership PACs (collectively "reporting committees") to disclose information about lobbyists, registrants and lobbyist/registrant PACs that provide two or more "bundled" contributions that exceed the law's reporting threshold within a covered period. 104.22(b)(1). This appendix explains the regulations implementing HLOGA's requirements, which became effective in 2009. Corporations (including incorporated trade associations and membership organizations) and labor organizations that employ lobbyists or registrants under the Lobbying Disclosure Act (LDA) of 1995[2] should review this appendix to determine the effect of the law on their activities and their organization's SSFs.

1. What is a bundled contribution?

A "bundled contribution" is a term of art for a certain type of contribution triggering special reporting requirements. 104.22(a)(6). There are two types of bundled contributions:

Type 1: Contributions forwarded by the lobbyist/registrant or lobbyist/registrant PAC

The first type of bundled contribution is a contribution forwarded from the contributor(s) to the reporting committee by a lobbyist/registrant or lobbyist/registrant PAC. 104.22(a)(6)(i). The contribution may be delivered or transmitted by physical or electronic means to the reporting committee by the lobbyist/registrant or lobbyist/registrant PAC, or by any person that the reporting committee knows to be forwarding such contribution on behalf of a lobbyist/registrant or lobbyist/registrant PAC. 104.22(a)(6)(i). Contributions forwarded electronically include contributions received by a lobbyist/registrant or lobbyist/registrant PAC in the form of checks that are deposited into the lobbyist/registrant or lobbyist/registrant PAC's account and then transmitted electronically to the reporting committee. A lobbyist/registrant or lobbyist/registrant PAC may also receive contributions via credit card, debit card or electronic check, and then transmit the contributions in the form of a check or via credit card to the reporting committee.[3]

1 Honest Leadership and Open Government Act of 2007, Pub. L. No. 110-81, 121 Stat. 735
2 Lobbyist Disclosure Act (LDA) of 1995, Pub. L. No. 104-65, 109 Stat. 691
3 See Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 74 Fed. Reg. 7285, 7292 (Feb. 17, 2009), available online at http://sers.fec.gov/fosers/showpdf.htm?docid=11860.

Note that a contribution delivered by a lobbyist/registrant's or lobbyist/registrant PAC's employee, colleague, friend or courier service falls under this provision if the reporting committee knows that the contribution is being forwarded on behalf of the lobbyist/registrant or lobbyist/registrant PAC.

Type 2: Contributions credited to the lobbyist/registrant or lobbyist/registrant PAC

The second type of bundled contribution covers contributions received by the reporting committee from a contributor, but credited to the lobbyist/registrant or lobbyist/registrant PAC through records, designations or other means of recognizing that a certain amount of money has been raised by the lobbyist/registrant or lobbyist/registrant PAC. 104.22(a)(6)(ii). In this case, the contribution must be 1) received by the reporting committee and 2) credited to a lobbyist/registrant or lobbyist/registrant PAC to satisfy the definition of bundled contribution.

Crediting contributions

Crediting recognizes that a certain amount of money has been raised by the lobbyist/registrant or lobbyist/registrant PAC. 104.22(a)(6)(ii). Examples of crediting include:

- Maintaining records that the reporting committee or candidate involved attributes contributions received to a lobbyist/registrant or lobbyist/registrant PAC. "Records" means written evidence and includes paper, electronic, digital, audio, and video records, and records in any other format, including informal items such as hand-written notations on a business card. 104.22(a)(6)(ii)(A).[4]
- Providing designations and other benefits to the lobbyist/registrant or lobbyist/registrant PAC, including giving honorary titles, tracking identifiers, access or invitations to events for people who raised a certain amount of money, mementos such as photographs with the candidate and autographed copies of books authored by the candidate. 104.22(a)(6)(ii)(A).

Crediting a prohibited source

Under the LDA, lobbyist/registrants may include lobbying organizations that would be prohibited sources of contributions under FECA (e.g. corporations, labor organizations, federal government contractors). Reporting committees may give credit to a lobbyist/registrant who is a prohibited source; however, reporting committees may not accept contributions from, or that have been forwarded by, a prohibited source. 110.6(b)(2)(ii), 110.20, 114.2 and 115.2.

Contributions from a lobbyist/registrant or lobbyist/registrant PAC

Note that the definition of "bundled contribution" does not include contributions made by a lobbyist/registrant PAC or from the personal funds of the lobbyist/registrant who forwards or is credited with raising the contributions or from the personal funds of that lobbyist/registrant's spouse. 104.22(a)(6)(iii).

4 See Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 74 Fed. Reg. 7285, 7293 (Feb. 17, 2009), available online at http://sers.fec.gov/fosers/showpdf.htm?docid=11860.

2. Who are lobbyist/registrants and lobbyist/registrant PACs?

A lobbyist/registrant is a person who, at the time a contribution is forwarded or received, is a current registrant under section 4(a) of the LDA; or an individual who is named on a current registration or report filed under section 4(b)(6) or 5(b)(2)(C) of the LDA.[5] 104.22(a)(2).

A lobbyist/registrant PAC is any political committee that a lobbyist/registrant established or controls. 100.5(e)(7) and 104.22(a)(3). For the purposes of these rules, a lobbyist/registrant "established or controls" a political committee if he or she is required to make a disclosure to that effect to the Secretary of the Senate or Clerk of the House of Representatives under the LDA. 104.22(a)(4)(i). A lobbyist/registrant PAC must identify itself as such to the FEC, as described further in section 3, below.

If a political committee is not able to obtain definitive guidance from the Senate or House regarding its status as a lobbyist/registrant PAC, then it must consult additional criteria in FEC regulations at 104.22(a)(4)(ii). Under these criteria, a political committee is considered a lobbyist/registrant PAC if:

- It is a separate segregated fund whose connected organization is a current registrant (104.22(a)(4)(ii)(A)); or
- A lobbyist/registrant had a primary role in the establishment of the committee or directs the governance or operations of the committee. Note that the mere provision of legal compliance services or advice by a lobbyist/registrant would not by itself meet these criteria.

104.22(a)(4)(ii)(B)(1) and (2).

Identifying lobbyists/registrants or lobbyist/registrant PACs

In order to determine whether a person is reasonably known to be a lobbyist/registrant or lobbyist/registrant PAC, a reporting committee must search the list of lobbyist/registrants and lobbyist/registrant PACs on each of the following websites:

- Clerk of the House of Representatives (http://lobbyingdisclosure.house.gov);
- Secretary of the Senate (http://senate.gov/legislative/Public_Disclosure/LDA_reports.htm); and
- Federal Election Commission (https://www.fec.gov/data/committees/)—for lobbyist/registrant PACs.

If the reporting committee does not find the name of the person for whom it is searching it may retain a computer printout or screen capture from each website indicating that the name of the person or PAC sought was not listed in the results of the search. This will constitute conclusive evidence that the reporting committee consulted the websites and did not find the name sought. 104.22(b)(2)(ii). Note that these are not the exclusive means by which the reporting committee may provide evidence that it has consulted the websites and not found the name of the person sought.

Additionally, a reporting committee is subject to the reporting requirements if it has actual knowledge that, at the time a contribution was forwarded or received, the person whose name is sought was required to be listed on any registration or report under the LDA. 104.22(b)(2)(iii).

5 For more information on the LDA or for registration and filing requirements under the LDA, contact the Secretary of the Senate or the Clerk of the House of Representatives.

3. SSF disclosure of status as lobbyist/registrant PAC

An SSF that falls within the definition of lobbyist/registrant PAC must disclose its status as such on its Statement of Organization by checking the appropriate box. 104.22(c). See chapter 1 for an example.

4. Filing reports

SSFs do not have to file reports to disclose bundled contributions. These reports are filed by reporting committees using FEC Form 3L. See 104.22(b) and (a)(1) (definition of "reporting committee").

5. Fundraisers

Fundraising events hosted by lobbyist/registrants are treated like any other fundraising activity. Reporting committees must disclose the actual amounts of all bundled contributions credited to, or forwarded by, a lobbyist/registrant or lobbyist/registrant PAC, that aggregate in excess of the reporting threshold within the relevant covered period. Note that contributions forwarded by a lobbyist/registrant or lobbyist/registrant PAC at a co-hosted fundraiser count as contributions bundled by the lobbyist/registrant or lobbyist/registrant PAC that forwarded the contributions, regardless of whether the lobbyist/registrant or lobbyist/registrant PAC is a co-host of the fundraiser or an attendee.[6]

Examples

Note: In each of these examples, the reporting committee must check the appropriate websites to determine whether the individuals who have forwarded or are credited with raising the funds are lobbyist/registrants.[7] If the reporting committee knows that the person forwarding contributions is doing so on behalf of a lobbyist/registrant or a lobbyist/registrant PAC, disclosure will be triggered where the contributions exceed the threshold in a covered period. Also, where disclosure is triggered in each example, the committee must disclose the lobbyist bundling on FEC Form 3L twice, once on the report covering the time frame and a second time on the committee's semi-annual bundling report.

- A fundraising event is co-hosted by registered Lobbyists A, B and C. The event generates $20,000 in contributions. The reporting committee believes that Lobbyist A raised the entire $20,000 and thus credits Lobbyist A with the entire $20,000 raised at the event, and does not credit Lobbyists B or C. The reporting committee must disclose the $20,000 that has been credited to Lobbyist A. The reporting committee need not disclose any information regarding Lobbyist B and C, because neither Lobbyist B nor C has been credited with any bundled contributions.
- A fundraising event is co-hosted by registered Lobbyists A and B, as well as three non-lobbyist hosts. The event generates $20,000 in contributions. The reporting committee gives each host credit for raising $20,000. The reporting committee must disclose the $20,000 of bundled contributions that

6 See Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 74 Fed. Reg. 7285, 7297 (Feb. 17, 2009) available online at http://sers.fec.gov/fosers/showpdf.htm?docid=11860.
7 Lobbyist/registrants are listed with the Clerk of the House and the Secretary of the Senate. If contributions are forwarded by a PAC, the reporting committee must check the FEC website to determine whether the committee is a lobbyist/registrant PAC. See section 2, above, for details.

has been credited to Lobbyist A and also report the $20,000 of bundled contributions that has been credited to Lobbyist B because the reporting committee has credited the full amount to each lobbyist. The reporting committee may, if it chooses, include a memo entry in the space provided on FEC Form 3L to indicate that, although only a total of $20,000 was raised at the event, that full $20,000 was credited to each of the co-hosts.

- A fundraiser is co-hosted by registered Lobbyist A and several non-lobbyist hosts. Registered Lobbyist B (who is not a co-host of the fundraiser) approaches the candidate for whom funds are being raised and hands the candidate $20,000 in contributions from other individuals. Because these are contributions that have been "forwarded" by Lobbyist B, the reporting committee must disclose the $20,000 of bundled contributions that were forwarded by Lobbyist B irrespective of any amount of credit given to Lobbyist B. If the reporting committee also credits Lobbyist A, a co-host of the fundraiser, $20,000 for having raised the contributions forwarded by Lobbyist B (because the contributions were received during the fundraising event), the reporting committee must then also disclose that $20,000 of bundled contributions has been credited to Lobbyist A. Even though the reporting committee must disclose the entire $20,000 as having been forwarded by Lobbyist B, the reporting committee must also report that same $20,000 of bundled contributions has been credited to Lobbyist A.

For additional examples, see Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 74 Fed. Reg. 7285, 7296-7 (Feb. 17, 2009), available online at http://sers.fec.gov/fosers/showpdf.htm?docid=11860.

6. Lobbyist bundled contributions and earmarked contributions

The lobbyist bundling regulations do not change a reporting committee's reporting obligations under the rules for earmarked contributions. An SSF that receives and forwards earmarked contributions to a candidate's authorized committee (whether or not the SSF deposits the contributions) is still required to report its conduit activity on its regularly scheduled FEC report. 110.6(c)(1)(ii) and (2). For more information on earmarked contributions, see appendix E.

APPENDIX G
Compliance with other laws

In addition to complying with the Federal Election Campaign Act, SSFs must observe laws and rules outside the Commission's jurisdiction. This appendix lists some of the laws that affect the activities of SSFs and their connected organizations.

1. Tax laws

SSFs should be aware that they have to comply with federal and state laws on income tax. For information on federal tax laws, contact the Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, (phone: 1-877/829-5500; web: https://www.irs.gov/charities-non-profits/political-organizations).

Committees that need to obtain a taxpayer ID number should visit https://www.irs.gov/businesses/small-businesses-self-employed/employer-id-numbers for information. Each regional IRS office also has a toll-free number; consult your telephone directory for the number in your state. SSFs should also consult the appropriate state agency for information on state income tax laws.

2. Communications Act

For information on rules concerning rates for purchasing broadcast time, equal access to broadcast media and procedures for filing complaints in this area, contact the Federal Communications Commission, Mass Media Bureau, 445 12th Street SW, Washington, DC 20554 (phone: 1-888/225-5322 or 202/418-1440; email: campaignlaw@fcc.gov; web: https://www.fcc.gov/media/policy/political-programming).

3. Hatch Act

For information on the Hatch Act, which regulates political activity by federal employees, contact the Office of Special Counsel, U.S. Merit Systems Protection Board, 1730 M Street, NW, Suite 218, Washington, DC 20036 (phone: 1-800/854-2824 or 202/254-3650; web: https://go.usa.gov/xnpvb.

4. House and Senate rules

The U.S. Senate and House each have rules regulating activity of incumbent U.S. Senators and Representatives, including rules on gift receipts and travel. Contact the following offices:

- Senate Candidates: Senate Select Committee on Ethics, 220 Hart Senate Office Building, Washington, DC 20510 (phone: 202/224-2981; web: http://ethics.senate.gov).
- House Candidates: House Committee on Ethics, 1015 Longworth House Office Building, Washington, DC 20515 (phone: 202/225-7103; web: http://ethics.house.gov).

5. Lobbyist Disclosure Act of 1995 (LDA)

Lobbyists employed by corporations (including incorporated trade associations and membership organizations) and labor organizations may need to register and file reports with the Senate Office of Public Records and the Clerk of the House according to the Lobbying Disclosure Act (LDA) of 1995, Pub. L. No. 104-65, 109 Stat. 691. Contact the following offices for more information (also consult appendix F for requirements under the FECA):

Senate Office of Public Records, 232 Hart Senate Office Building, Washington, D.C. 20510-7116 (phone: 202/224-0758; email: lobby@sec.senate.gov; web: https://go.usa.gov/xnpvD).

Clerk of the House, Legislative Resource Center, B-106 Cannon House Office Building, Washington, DC 20515 (phone: 202/226-5200, email: lobbyinfo@mail.house.gov; web: https://go.usa.gov/xnpvW).

APPENDIX H
Corporate and labor communications to the general public

Corporations (including incorporated trade associations and membership organizations) and labor organizations are generally prohibited from using their general treasury funds to make contributions in connection with a federal election.[1] See 52 U.S.C. §30118. However, corporations and labor organizations may use such funds to make expenditures for certain election-related communications.[2]

This appendix provides a non-exhaustive list of election-related communications that corporations and labor organizations may make to the general public using treasury funds. The Commission emphasizes that while corporations and labor organizations are not limited to the types of communications set out here or in Commission regulations, the corporations and labor organizations financing these communications must comply with all applicable disclaimer, registration and reporting requirements under the Act.

1. Independent expenditures

Corporations and labor organizations may use general treasury funds to make independent expenditures. Independent expenditures are not contributions and are not subject to limits.

Defined

An independent expenditure is an expenditure for a communication that expressly advocates the election or defeat of a clearly identified federal candidate that is not coordinated with a candidate, candidate's committee, party committee or their agents. See 100.16(a), 109.21.

Clearly identified candidate

A candidate is "clearly identified" if the candidate's name, nickname, photograph or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference, such as "the President," "your Congressman," or "the incumbent," or through an unambiguous reference to his or her status as a candidate, such as "the Democratic presidential nominee," or "the Republican candidate for Senate in the State of Georgia." 100.17; AO 2012-19 (American Future Fund).

1 Pursuant to *SpeechNow.org* v. *FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc) and *Carey* v. *FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011), corporations and labor organizations may make contributions to nonconnected political committees that make only independent expenditures, or to separate accounts maintained by nonconnected political committees for making only independent expenditures.
2 Although corporations and labor organizations may make expenditures for the election-related communications discussed in this appendix, those communications may not be coordinated with a federal candidate or party committee. A communication that is coordinated with a candidate or party would result in a prohibited in-kind contribution to that committee. See 114.4(c)(1), 109.20(b) and 109.21(b).

Express advocacy

There are two ways that a communication can be considered express advocacy: by use of certain "explicit words of advocacy of election or defeat" or by the "only reasonable interpretation" test. 100.22.

Explicit words of advocacy of election or defeat

The following words convey a message of express advocacy:

- "Vote for the President," "re-elect your Congressman," "support the Democratic nominee," "cast your ballot for the Republican challenger for the U.S. Senate in Georgia," "Smith for Congress," "Bill McKay in '16";
- Words urging action with respect to candidates associated with a particular issue, e.g., "vote Pro-Choice"/"vote Pro-Life," when accompanied by names or photographs of candidates identified as either supporting or opposing the issue;
- "Defeat" accompanied by a photograph of the opposed candidate, the opposed candidate's name or "reject the incumbent"; and
- Campaign slogan(s) or word(s), e.g., on posters, bumper stickers and advertisements, that in context can have no other reasonable meaning than to support or oppose a clearly identified candidate, for example, "Nixon's the One," "Carter '76," "Reagan/Bush." 100.22(a).

"Only reasonable interpretation" test

In the absence of such "explicit words of advocacy of election or defeat," a communication expressly advocates when, taken as a whole and with limited reference to external events, such as the proximity to the election, it can only be interpreted by a "reasonable person" as advocating the election or defeat of one or more clearly identified candidate(s). 100.22(b). To satisfy this standard, the electoral portion of the communication must be unmistakable, unambiguous and suggestive of only one meaning. 100.22(b)(1). The author's subjective intent is irrelevant--the standard is an objective determination of how a "reasonable" receiver of the communication can interpret the message. If reasonable persons could not differ as to the electoral advocacy of the communication, it is express advocacy regardless of what the author intended. 100.22(b)(2).

Reporting independent expenditures

Corporations and labor organizations that make independent expenditures aggregating over $250 with respect to a given election in a calendar year must report the activity to the FEC. 109.10(b).

For more information on the reporting requirements, consult https://www.fec.gov/help-candidates-and-committees/forms/#other-filers.

2. Electioneering communications

Defined

An electioneering communication is any broadcast, cable or satellite communication that refers to a clearly identified federal candidate, is publicly distributed within 30 days of a primary or 60 days of a general election and is targeted to the relevant electorate. 100.29(a).

Clearly identified candidate

See discussion under "Independent expenditures" above.

Public distribution

A communication is "publicly distributed" for the purposes of the rules governing electioneering communications when it is aired, broadcast, cablecast or otherwise disseminated through the facilities of a radio or television station, cable television system or a satellite system. 100.29(b)(3)(i).

Targeted to the relevant electorate

A communication is "targeted to the relevant electorate" when it is receivable by 50,000 or more persons in the candidate's district (for a House candidate) or state (for a Senate candidate). 100.29(b)(5); AO 2015-10 (21st Century Fox).[3]

What is not an electioneering communication?

A communication is not an electioneering communication if it:

- Is publicly disseminated through means other than broadcast, cable or satellite media. 100.29(c)(1);
- Appears in a news story, commentary or editorial that is publicly distributed by broadcast, cable or satellite facilities not owned or controlled by any political party. 100.29(c)(2);
- Is a bona fide news story distributed by facilities owned and controlled by a party or a candidate. 100.29(c)(2) and 100.132(a) and (b);
- Constitutes an expenditure or independent expenditure. 100.29(c)(3); or
- Constitutes a candidate debate or forum. 100.29(c)(4) and 110.13.

Disclaimer notice requirements for electioneering communications

All electioneering communications financed by a corporation or labor organization's general treasury funds require a disclaimer stating who paid for the communication and that it is not authorized by any candidate or candidate's committee. 110.11(a)(4) and (b). For more information on the disclaimer notice requirements, see chapter 5, section 5.

3 In the case of presidential and vice presidential candidates, the communication is publicly distributed if it can be received by 50,000 or more people in a state where a primary election or caucus is being held within 30 days or anywhere in the United States 30 days prior to the nominating convention or 60 days prior to the general election. 100.29(b)(3)(ii).

Reporting electioneering communications

Corporations and labor organizations that make electioneering communications aggregating over $10,000 in the calendar year must report the disbursements to the FEC. 104.20(b).

For more information on the reporting requirements, consult https://www.fec.gov/help-candidates-and-committees/forms/#other-filers.

Coordinated electioneering communication

An electioneering communication paid for by a corporation or labor organization meets the content and payment prongs under the Commission's three-part test for determining whether a communication was coordinated. 109.21(a)(1) and (c)(1). (The three-prong coordination communications test is explained in chapter 5, section 3.) If the conduct prong is also met, then the electioneering communication would result in a prohibited in-kind contribution by the corporation or labor organization. To avoid making a prohibited contribution, corporations and labor organizations financing electioneering communications must not engage in the activity noted under "Conduct Prong" in chapter 5, section 3.

3. Candidate and party appearances

A corporation or labor organization may pay for a candidate, a candidate's representative or party representatives to appear before the general public in the following situations:

- Officeholder/professional (i.e., noncampaign-related) appearances;
- Public debates; and
- Public appearances at educational institutions.

Officeholder/professional appearance at corporation or labor organization

Under certain circumstances, a corporation or labor organization may sponsor an appearance by a candidate before the general public. For example, the Commission has permitted the following appearances:

- Incumbent officeholders giving a speech to a nonprofit organization regarding its main issue (AO 1996-11 (NRL)); and
- A non-incumbent, who had in prior speeches to college and university audiences discussed his ideas regarding current statutes and future legislation, giving a college lecture on a topic that reflected his career as a state legislator (AO 1992-06 (Duke)).

In these rulings, the Commission noted these important points:

- The speaker did NOT appear in his capacity as a federal candidate but rather as a current federal officeholder or as a lecturer;
- The speaker could speak about issues of interest to the sponsoring organization, including legislative issues, but was required to avoid referring to the campaign;

- Neither the speaker nor the organization could expressly advocate the election or defeat of a clearly identified candidate; and
- Neither the speaker nor the organization could solicit contributions before, during or after the event.

Payment of travel expenses

A corporation or labor organization may pay the speaker's travel expenses as long as no part of the trip is campaign related. If any campaign related activity is conducted at a stop, the entire stop is campaign related and travel expenses must not be paid by the sponsoring organization. AO 1996-11 (NRL).[4]

4. Public debates

Sponsorship

A tax-exempt nonprofit organization (a 501(c)(3) or 501(c)(4)) that does not endorse, support, or oppose candidates or parties may stage candidate debates. 110.13(a)(1) and 114.4(f)(1).

Candidate debates may also be staged by a broadcaster, a bona fide newspaper, a magazine or other periodical publication as long as they are not owned or controlled by a political party, committee, or candidate. 110.13(a)(2) and 114.4(f)(2).

Corporate/labor donations permitted

A corporation or labor organization may donate funds to a tax-exempt nonprofit organization that does not endorse, support, or oppose any candidate or party to defray the cost of staging a candidate debate. 114.4(f)(1) and (3).

Debate structure

The debate must include at least two candidates and must be structured so that it does not promote or advance one candidate over another. 110.13(b).

Candidate selection

The organization staging the debate must select the candidates based on pre-established objective criteria. For primary elections, the organization may restrict candidates to those seeking the nomination of one party. For general elections, the staging organization may not use nomination by a particular party as the sole objective criterion. 110.13(c).

4 In AO 1996-11 (NRL), the corporation sponsoring the appearances of two officeholders who were running for re-election could not pay the officeholders' travel expenses because the organization had knowledge that the officeholders' campaigns were planning campaign-related events at the site of the appearance. Payment of their travel expenses would have constituted a prohibited corporate contribution.

5. Appearance at educational institutions

Candidates or party representatives may make appearances at educational institutions (any school, college or university, including both an incorporated nonprofit tax exempt private school and an unincorporated tax exempt public school[5]). The institution may make its facilities available at either the usual and normal cost for campaign events, or at a discount or for free for academic events. If the institution makes its facilities available at a discount or for free, the institution must:

- make reasonable efforts to ensure that the appearance constitutes a speech, question and answer session, or similar communication and not a campaign appearance or event;
- not expressly advocate the election or defeat of any federal candidate or candidates of any political party; and
- not favor any candidate or party. See 110.12(a)-(b) and 114.4(c)(7)(i)-(ii).

6. Other election related communications

A corporation or labor organization may prepare and distribute other election-related communications (e.g., print, broadcast, video, email and web-based) to the general public. A non-exhaustive list of possible communications is provided below. These communications may be express advocacy but must not be coordinated with any candidates or political parties (except as provided by law). In addition, the communications must not solicit contributions for a candidate or party. Either of these actions would result in a prohibited contribution. See 114.4(c)(1), 114.2(f). Finally, if any of these communications meet the definition of an independent expenditure or electioneering communication (see above), then they must be reported as such.

Endorsements

A corporation or labor organization may endorse a candidate and may communicate the endorsement to the general public. 114.4(c)(6). The corporation or labor organization may communicate with candidates for the purpose of deciding which, if any, candidate to endorse. For example, the corporation or labor organization may discuss issues with the candidate in determining whether or not to make an endorsement. However, the corporation or labor organization may not coordinate the announcement of its public endorsement with any candidate, candidate committee or its agents without the endorsement resulting in a contribution or expenditure.[6] See 114.4(c)(6)(i) and (ii), 109.21.

5 Tax exempt nonprofit institutions are advised to review the Internal Revenue Service requirements regarding the effect of political activity and continuing nonprofit status.

6 Disbursements for endorsements made to the general public are not contributions or expenditures as long as the endorsement is not coordinated with any candidate, candidate committee or its agents, and disbursements for any press release or press conference are de minimis. (Disbursements are considered de minimis if the press release and notice of press conference are distributed only to the organization's usual media contacts when issuing non-political press releases or holding press conferences for other purposes.) 114.4(c)(6)(ii)(B).

Voting records

A corporation or labor organization may prepare and distribute the voting records of members of Congress to the general public. Disbursements for voting records are not contributions or expenditures as long as:

- The voting records and any communications distributed with it do not expressly advocate the election or defeat of any clearly identified candidate(s) or the candidates of a clearly identified party; and
- Decisions as to content and distribution of a voting record are made by the corporation or labor organization without coordinating with the candidate(s) or political party. 114.4(c)(4)(ii)(A) and (B), 109.21.

Voter guides

Voter guides are publications consisting of candidates' positions on campaign issues. Corporations and labor organizations may obtain and distribute voter guides prepared by nonprofit organizations or they may prepare and distribute their own voter guides. 114.4(c)(5).

There are two types of voter guides that corporations/labor organizations can develop under 114.4(c)(5):

- One is based solely on news articles, voting records or other noncampaign sources and may not contain express advocacy (Type 1). 114.4(c)(5)(ii)(A).
- The other is based on answers to questions submitted by the organization to the candidates (Type 2). 114.4(c)(5)(ii)(B).

Neither type of voter guide may be coordinated with any candidate or candidate's committee. 114.4(c)(5)(ii)(A) and (B)(1).

Rules for preparing and distributing Type 2 Voter Guides

Type 2 Voter Guides are subject to the following restrictions:

- All candidates for a particular congressional seat must be given equal opportunity to respond to the questions. 114.4(c)(5)(ii)(B)(2).
- For primary elections of presidential candidates, the corporation or labor organization may choose to direct the questions only to those presidential and vice presidential candidates who (1) are seeking the nomination of a particular party; (2) appear on the general election ballot in the state where the guides are distributed; or (3) are on the ballot in enough states to win a majority of electoral votes. 114.4(c)(5)(ii)(B)(2).
- No candidate may receive greater prominence in the voter guide than other participating candidates or substantially more space for responses. 114.4(c)(5)(ii)(B)(3).
- The voter guide may not contain an electioneering message and may not score or rate responses in such a way as to convey an electioneering message. 114.4(c)(5)(ii)(B)(4) and (5).

Voter registration and Get-Out-the-Vote drives

A corporation or labor organization may conduct registration and GOTV drives directed at the general public. In conducting this activity, the corporation or labor organization may expressly advocate the election or defeat of a clearly identified candidate or the candidates of a clearly identified party (subject to the requirements for independent expenditures), however voter registration and GOTV drives may not be coordinated with any candidate or any political party. 114.4(c)(1) and (2), 109.21; AO 1999-25 (DNet).

Transportation

The corporation or labor organization may provide transportation to the place of registration or to the polls in connection with the voter registration or GOTV drive. 114.4(d)(1).

Exemption for certain drives

Under 114.4(d)(2), a voter registration or GOTV drive is not a reportable expenditure if the following conditions are met:

- The corporation or labor organization must not make any express advocacy communications as part of the voter registration or GOTV drive;
- The voter registration drive must not be directed primarily to individuals previously, currently or intending to register with the political party favored by the corporation or labor organization;
- Registration information, voting assistance and other services must be made available without regard to the voter's political preference, and must not be withheld or refused on the basis of support for or opposition to particular candidates or political party. This information must be provided in writing to those receiving such services at the time of the drive; and
- Individuals conducting the drive must not be paid on the basis of the number of individuals registered or transported who support one or more particular candidate or political party. 114.4(d)(2)(i)-(v).

Voter education

A corporation or labor organization may pay for public advertisements providing voter registration information. These communications may be express advocacy, but they may not be coordinated with any candidate or political party. See 114.4(c)(1), 114.4(c)(2) and 109.21.

Official election information

A corporation or labor organization may distribute to the general public any registration or voter information produced by official election administrators. This information may include instructional materials, official registration-by-mail forms, and absentee ballots (if permitted by state law). 114.4(c)(3)(i),(ii).

In addition, a corporation or labor organization may donate funds to state and local government agencies administering the elections to help defray the costs of printing or distributing registration or voting information and forms. 114.4(c)(3)(iii).

Exemption for certain voter education activities

Disbursements for the activities described above are not contributions or expenditures provided that:

- the corporation or labor organization does not expressly advocate the election or defeat of any clearly identified candidate(s) or candidates of a clearly identified political party and does not encourage registration with any particular political party; and
- the reproduction and distribution of registration or voting information and forms is not coordinated with any candidate or political party. 114.4(c)(3)(iv).

APPENDIX I
Definitions

Act – The Federal Election Campaign Act of 1971 (52 U.S.C. §30101 et seq.), as amended.

Administrative expenses – The costs of operating a separate segregated fund, including office space, phones, salaries, utilities, supplies, legal and accounting fees and other operating costs. 114.1(b).

Advisory opinion (AO) – A formal Commission response regarding the legality of a specific activity proposed in an advisory opinion request (AOR). Part 112. For information on requesting an AO, see the introduction to this guide.

Affiliated – Established, financed, maintained or controlled by the same organization. 100.5(g). Affiliated committees are considered one political committee for purposes of contribution limits. 110.3(a)(1). Automatically affiliated committees are (1) all committees established, financed, maintained or controlled by the same corporation, labor organization, person or group of persons, including any parent, subsidiary, branch, division, department or local unit, and (2) all committees established, financed, maintained or controlled by (a) a single corporation and/or its subsidiaries; (b) a single national/international union and/or its local unions or subordinate organizations; (c) an organization of national or international unions and/or all its state and local central bodies; (d) a membership organization (including a trade association) and/or related state and local entities of that organization or group; and (e) the same person or group of persons. 100.5(g)(2)-(4) and 110.3(a)(1)(ii), (2) and (3). Affiliation of entities that do not fall into these categories is assessed on a case-by-case basis using the factors listed in 100.5(g)(4) and 110.3(a).

Authorized committee – Any political committee, including the principal campaign committee, authorized in writing by a federal candidate to receive contributions and make expenditures on his or her behalf. 100.5(f)(1). Authorized committees are often called "candidate committees" or "campaign committees."

Bank – A state bank; a federally chartered depository institution (including a national bank); or a depository institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. 100.82(a)-(d), 100.142(a)-(d) and 103.2.

Bundled contribution – Under HLOGA, the term "bundled contribution" means a contribution (subject to the applicable threshold) which is - (1) forwarded from the contributor or contributors to the recipient by a lobbyist/registrant or lobbyist/registrant PAC; or (2) received by the committee from a contributor or contributors, and credited by the committee or candidate involved (or, in the case of a leadership PAC, by the candidate associated with the PAC) to the lobbyist/registrant or lobbyist/registrant PAC through records, designations, or other means of recognizing that a certain amount of money has been raised by the lobbyist/registrant or lobbyist/registrant PAC. 104.22(a)(6).

Campaign – A candidate for a federal office, his or her authorized agents, principal campaign committee and any other authorized committees.

Campaign committee – Popular term for an authorized committee.

Campaign traveler – Any candidate, or individual traveling on behalf of a candidate or political committee, traveling in connection with an election for federal office, or any member of the news media traveling with a candidate. 100.93(a)(3).

Candidate – An individual seeking nomination or election to federal office becomes a candidate when he or she (or agents acting on his or her behalf) raise contributions or make expenditures that exceed $5,000. 100.3.

Candidate committee – Popular term for an authorized committee.

CFR – Code of Federal Regulations.

Clear and conspicuous –A disclaimer is clear and conspicuous if the print is not difficult to read and the placement cannot be easily overlooked. 110.11(c)(1). See chapter 5, section 5.

Clearly identified candidate – A candidate is clearly identified when his or her name, nickname, photograph or drawing appears or when his or her identity is otherwise apparent by unambiguous reference. 100.17 and 106.1(d).

Collecting agent – An organization or committee that collects and transmits contributions to a separate segregated fund (SSF) to which the collecting agent is related. Collecting agents include the SSF's connected organization or an organization or committee (federal or nonfederal) affiliated with the SSF. 102.6(b)(1).

Commercial vendor – Any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services. 116.1(c).

Connected organization – A corporation, trade association, membership organization or labor organization that directly or indirectly establishes, administers or financially supports a separate segregated fund. 100.6(a).

Contribution – A gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing a federal election or the payment of compensation to a person if those services are rendered without charge to a political committee for any purpose. 100.52(a) and 100.54. See chapter 2.

Coordinated – Made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee or their agents or a political party committee or its agents. 109.20.

Coordinated communication – A communication that satisfies a three-prong test. The communication must 1) be paid for by a person other than a federal candidate, a candidate's authorized committee or political party committee, or any agents of the aforementioned entities with whom the communication is coordinated; 2) meet one or more of the four content standards set forth in 11 CFR 109.21(c); and 3) meet one or more of the five conduct standards set forth in 11 CFR 109.21(d). A payment for a communication satisfying all three prongs is an in-kind contribution to the candidate or political party committee with which it was coordinated. 109.21. See chapter 5, section 3.

Corporation – Any separately incorporated entity (other than a political committee that has incorporated for liability purposes only). 100.134(l) and 114.12(a). The term covers both for-profit businesses (including C and S corporations) and nonprofit incorporated organizations, including corporations without capital stock, incorporated membership associations, incorporated trade associations, incorporated cooperatives and professional corporations.

Date contribution is made – The date the contributor relinquishes control over a contribution. When making a contribution to a candidate, the date made determines the election limit against which a contribution counts. When making a contribution to an SSF, the date made determines the calendar year limit against which a contribution counts. 110.1(b)(6). A contribution that is mailed is considered made on the date of the postmark. Contributions made via the internet are "made" on the date the contributor electronically authorizes the transaction. In-kind contributions are "made" on the date the goods or services are provided by the contributor.

Date contribution is received – The date the recipient committee (or its agent, intermediary or conduit) takes possession of (actually receives) the contribution. This date is used by that committee when reporting the receipt of the contribution to the FEC. 102.8(a).

Disbursement – Any purchase or payment made by a political committee or any other person that is subject to the Act. 300.2(d).

Disclaimer notice – Notices that are put on public communications to identify who has paid for the communication and who has authorized it.

Donation – A payment, gift, subscription, loan, advance, deposit or anything of value given to a person, but does not include contributions. 300.2(e).

Earmarked contribution – A contribution that the contributor directs (either orally or in writing) to, or expends on behalf of, a clearly identified candidate or authorized committee through an intermediary or conduit. Earmarking may take the form of a designation, instruction or encumbrance, and it may be direct or indirect, implied or express. 110.6. See appendix E.

Election – Any one of several processes by which an individual seeks nomination for election or election to federal office. They include: a primary election, including a caucus or convention that has authority to select a nominee; a general election; a runoff election; and a special election held to fill a vacant seat. 100.2.

Election cycle – The period beginning the day after the previous general election (for federal office) and ending on the day of the next general election for that office. 100.3(b). (For House candidates, the election cycle is two years; for presidential candidates, four year; for Senate candidates, six years).

Election year – A year in which there are regularly scheduled elections for federal office (i.e., even-numbered years).

Electioneering communication – Any broadcast, cable or satellite communication that 1) refers to a clearly identified candidate for federal office, 2) is publicly distributed within certain time periods before an election, and 3) in the case of House and Senate candidates, is targeted to the relevant electorate. 100.29.

Executive or administrative personnel–Individuals employed by a corporation or labor organization who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional or supervisory duties. The definition does not include professionals who are represented by a labor organization, salaried foremen and lower-level supervisors having direct supervision over hourly employees and former or retired personnel who are not stockholders. 114.1(c).

Expenditure – A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing a federal election. A written agreement to make an expenditure is also considered an expenditure. 100.111(a), 100.112 and 114.1(a).

Express advocacy – Unambiguously advocating the election or defeat of a clearly identified federal candidate. There are two ways that a communication can be defined as express advocacy: by use of certain "explicit words of advocacy of election or defeat" and by the "reasonable person" test. See 100.22.

"Explicit words of advocacy of election or defeat" such as:

- "Vote for the President," "re-elect your Congressman," "support the Democratic nominee," "cast your ballot for the Republican challenger for the U.S. Senate in Georgia," "Smith for Congress," "Bill McKay in '16";
- Words urging action with respect to candidates associated with a particular issue, e.g., "vote Pro-Life"/"vote Pro-Choice," when accompanied by names or photographs of candidates identified as either supporting or opposing the issue;
- "Defeat" accompanied by the name or photograph of the opposed candidate or "reject the incumbent"; and
- Campaign slogan(s) or word(s), e.g., on posters, bumper stickers and advertisements, that in context can have no other reasonable meaning than to support or oppose a clearly identified candidate, for example, "Nixon's the One," "Carter '76," "Reagan/Bush." 100.22(a).

"Only reasonable interpretation" test: In the absence of such "explicit words of advocacy of election or defeat," express advocacy is found in a communication that, when taken as a whole and with limited reference to external events, can only be interpreted by a "reasonable person" as advocating the election or defeat of one or more clearly identified candidate(s). 100.22(b).

Facilitation – Using corporate or labor organization resources or facilities to engage in fundraising activities in connection with any federal election (other than raising funds for the organization's separate segregated fund or other activities within the limited regulatory exemptions). 114.2(f). See chapter 5, section 1; chapter 6, section 3.

FEC identification number – Number assigned to a committee upon registration with the FEC and used for identification purposes only. This number is not a taxpayer identification number.

FECA – The Federal Election Campaign Act of 1971, as amended. (52 U.S.C. §30101 et seq.). Sometimes referred to as "the Act."

Federal funds – Funds that comply with the limits, prohibitions and reporting requirements of FECA. Also called "permissible funds." See, e.g., 300.2(g).

Federal government contractor – A person who enters into a contract, or is bidding on such a contract, with any agency or department of the US government and is paid, or is to be paid, for services, material, equipment, supplies, land or buildings with funds appropriated by Congress. 115.1(a).

Federal office – Includes President, Vice President, Senator and the following members of the House of Representatives: Representative, Delegate (the District of Columbia, American Samoa, Guam, Virgin Islands) and Resident Commissioner (Puerto Rico). 100.4.

Federation of trade associations – An organization representing trade associations involved in the same or allied line of commerce. 114.8(g).

Foreign national – (1) An individual who is not a citizen of the United States and has not been lawfully admitted to the United States for permanent residence, as defined in 8 U.S.C. §1101(a)(20); or (2) a foreign principal, as defined in 22 U.S.C. §611(b). 110.20(a)(3).

HLOGA – Honest Leadership and Open Government Act of 2007. Includes two major provisions for political committees: restrictions on the use of campaign funds for noncommercial air travel and disclosure of bundled contributions. See 52 U.S.C. 30104(i).

Host committee – Any local organization in a city hosting a political party's national nominating convention (e.g., any local civic association, business league, chamber of commerce, real estate board, board of trade or convention bureau):

- That is not organized for profit;
- Whose net earnings do not inure to the benefit of any private shareholder or individual; and
- That has as its principal objective the encouragement of commerce in, and the promotion of a favorable image of, the convention city.

9008.50(b).

Hybrid PAC – A committee that, in addition to making contributions, establishes a separate bank account to deposit and withdraw funds raised in unlimited amounts from individuals, corporations, labor organizations and/or other political committees, consistent with the stipulated judgment in *Carey* v. *FEC*. The funds maintained in this separate account will not be used to make contributions, whether direct, in-kind or via coordinated communications, or coordinated expenditures, to federal candidates or committees.

Identification – For purposes of recordkeeping and reporting, a person's full name and address and, in the case of an individual, his or her occupation (principal job title or position) and employer (organization or person by whom an individual is employed). 100.12, 100.20 and 100.21.

Identification number – See "FEC identification number."

Independent expenditure – An expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate and that is not made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his or her authorized committee or their agents, or a political party committee or its agents. 100.16.

Independent expenditure-only political committee (also known as an IEOPC, or colloquially as a Super PAC) **–** Political committee that makes only independent expenditures and does not make contributions to political parties or candidates. These committees may solicit and accept unlimited contributions from individuals, corporations, labor organizations and other political committees. They may not accept contributions from foreign nationals, federal government contractors, national banks or federally chartered corporations. Such committees must register with the FEC and comply with all applicable reporting requirements under the Act. See AO 2010-11 (Commonsense Ten).

In-kind contribution – A contribution of goods, services or property offered free or at less than the usual and normal charge. The term also includes payments made on behalf of, but not directly to, candidates and political committees (except for independent expenditures or other non-coordinated communications). 100.52(d).

Joint contribution – A contribution made by more than one person on a single check or other written instrument. 110.1(k)(1).

Labor organization – Any organization, agency or employee-representative committee or plan, in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work. 114.1(d).

Limited liability company (LLC) – A business entity that is recognized as a limited liability company under the laws of the state in which it is established. LLCs that are treated as partnerships under the IRS code may make contributions. LLCs that have publicly traded stock or are treated as corporations under the IRS code are prohibited from making contributions. 110.1(g).

Member – With respect to a membership organization (see below), a member is an individual or other entity that:

- Currently satisfies the requirements for membership in a membership organization;
- Affirmatively accepts the organization's invitation to become a member; and either
    - Has a significant financial attachment to the organization, such as a significant investment or ownership stake;
    - Pays annual dues in a specific pre-determined amount to the organization; or
    - Has a significant organizational attachment to the organization which includes affirmation of membership on at least an annual basis and direct participatory rights in the governance of the organization.

114.1(e)(2).

Membership organization – A trade association, cooperative, corporation without capital stock or local, national or international labor organization that:

- Is composed of members, some or all of whom are vested with the power and authority to operate or administer the organization, pursuant to bylaws or other formal organizational documents;
- Expressly states the qualifications for membership in its articles, by-laws or other formal organizational documents;
- Makes its articles, by-laws or other organizational documents available to its members upon request;
- Expressly seeks members;
- Expressly acknowledges the acceptance of membership, such as by sending membership cards or including the names of new members on a membership newsletter list; and
- Is not organized primarily for the purpose of influencing a federal election.

114.1(e)(1).

Memo entry – Supplemental or explanatory information on a reporting schedule. The dollar amount of a memo entry is not included in the total figure for the schedule.

Multicandidate committee – A political committee that has been registered at least 6 months, has more than 50 contributors and, with the exception of state party committees, has made contributions to at least 5 candidates for federal office. 100.5(e)(3).

MUR (Matter Under Review) – An FEC enforcement action, initiated by a sworn complaint or by an internal administrative action.

National committee – The organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the national level, as determined by the Commission. 100.13.

National party committee – A political committee established and maintained by a national political party. A party's national committee, House campaign committee and Senate campaign committee are considered national party committees, as determined by the Commission. 110.1(c)(2), 110.2(c)(2) and 110.3(b)(2).

Negative entry – An amount entered on a reporting schedule that is subtracted from the total balance for that schedule. Parentheses around a number (or a negative sign) indicate a negative entry.

Net debts outstanding – The total of a candidate campaign's unpaid debts incurred with respect to a particular election plus estimated costs to liquidate the debts plus costs of terminating political activity (if appropriate) minus cash on hand and receivables. 110.1(b)(3)(ii) and 110.2(b)(3)(ii).

Nonconnected committee – Any committee which conducts activities in connection with a federal election but which is not a party committee, an authorized committee of any candidate for federal office or a separate segregated fund. 106.6(a).

Nonelection year – A year in which there is no regularly scheduled federal election (i.e., an odd-numbered year).

Nonfederal account or committee – An account or organization established solely for activity in connection with nonfederal (state and local) elections. Distinguished from "political committee." Sometimes referred to as a "state PAC" or "state account."

Nonfederal election – An election for a state or local office.

Nonfederal funds – Funds that are not subject to the limitations and prohibitions of the Act. 300.2(k).

"One-third rule" – A formula used to ensure the treasury funds of a connected organization are not traded for voluntary contributions when the organization pays for prizes or entertainment to offer as an incentive to make a contribution to its SSF. Under the one-third rule, the SSF must reimburse the connected organization for costs that exceed one-third of the money raised. 114.5(b)(2).

Ongoing committee – A political committee that has not terminated and does not qualify as a terminating committee. 116.1(b).

Operating expenditures – See "Administrative expenses."

PAC – See "Political action committee."

Party committee – A political committee which represents a political party and is part of the official party structure at the national, state or local level. 100.5(e)(4).

Permissible funds – See "Federal funds."

Person – An individual, partnership or any group of persons (such as a political committee, corporation or labor organization), not including the federal government. 100.10.

Political action committee (PAC) – Popular term for a political committee that is neither a party committee nor an authorized committee of a candidate. PACs directly or indirectly established, administered or financially supported by a corporation or labor organization are called separate segregated funds (SSFs); PACs without a connected organization are called nonconnected committees. See 100.6(a) and 106.6(a).

Political committee – An entity that meets one of the following conditions:

- Any separate segregated fund upon its establishment.
- A state party committee or nonparty committee, club, association or other group of persons that receives contributions or makes expenditures, either of which aggregate over $1,000 during a calendar year.
- A local unit of a political party that: (1) receives contributions aggregating over $5,000 during a calendar year; (2) makes contributions or expenditures aggregating over $1,000 during a calendar year; or (3) makes payments aggregating over $5,000 during a calendar year for certain activities which are exempt from the definitions of contribution and expenditure.
- An authorized committee of a candidate (see authorized committee). 100.5.

Political party – An organization that nominates or selects a candidate for election to federal office whose name appears on the election ballot as the candidate of the organization. 100.15.

Principal campaign committee – A committee authorized by the candidate as the principal committee of his or her campaign. 100.5(e)(1).

Prior approval – Before a trade association solicits the member's restricted class, it must receive permission from the member corporation for permission to do so. The request for approval must inform the member corporation that:

- Corporate approval is necessary before the trade association or its SSF may conduct a solicitation; and
- The corporation may not approve solicitations by another trade association for the same calendar year. See 115.1.

Prohibited funds –Funds from entities who are prohibited from making contributions in connection with, or for the purpose of influencing, a federal election. 110.4(b) and (c), 110.20, 114.2 and 115.2. See chapter 2.

Public communication – A communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing (500 pieces of mail of substantially similar nature within 30 day period), telephone bank to the general public (500 calls of substantially similar nature within 30 day period), or any other form of general public political advertising. The term "general public political advertising" does not include communications over the internet, except for those placed on another person's website for a fee. 100.26.

Reattributed contribution – The portion of an excessive contribution that has been attributed in writing to another contributor and signed by both contributors. 110.1(k)(3)(ii).

Receipt – Anything of value (money, goods, services or property) received by a political committee.

Redesignated contribution – The portion of a contribution to an authorized committee (usually excessive) that has been designated by the contributor, in writing, to an election other than the one for which the funds were originally given. 110.1(b)(5) and 110.2(b)(5).

Refunded contribution – A contribution is refunded when the recipient committee deposits the contribution and sends the contributor a check for the amount (or a portion) of the contribution. See 103.3(b). Compare with "Returned contribution."

Restricted class – Those individuals within a corporation or labor organization who may be solicited for contributions to the organization's separate segregated fund and to whom the corporation or labor organization may distribute express advocacy communications at any time. Sometimes referred to as the "solicitable" or "eligible" class. 114.1(j), 114.3(a), 114.5(g), 114.7(a) and (h); and 114.8(c), (h) and (i). The restricted classes of different organizations are defined further in chapters 3 and 8.

Returned contribution – A contribution is returned when the recipient committee sends the original check (or other negotiable instrument) back to the contributor, without depositing it. See 103.3(a). Compare with definition of "Refunded contribution."

Runoff election – An election held after a primary or a general election when no candidate wins the previous election. 100.2(d).

Separate segregated fund (SSF) – A political committee established, administered or financially supported by a corporation or labor organization; popularly called a political action committee or PAC. 114.1(a)(2)(iii).

Solicitation – A request to make a contribution, including the provision of information about how to make a contribution or encouraging support for the SSF's activities or facilitating contributions to the SSF. AOs 2003-14 (Home Depot), 2000-07 (Alcatel USA), 1979-66 (Associated General Contractors PAC) and 1979-13 (Raymond International Inc. Employees' PAC) and AOs cited within.

Special election – A primary, general or runoff election which is not a regularly scheduled election and which is held to fill a vacancy in the House of Representatives or Senate. 100.2(f).

State party committee – A political committee which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the party at the state level. 100.14(a).

Stockholder – A person who has a vested beneficial interest in stock, the power to direct how that stock is voted (if it is voting stock) and the right to receive dividends. 114.1(h).

"Super PAC" – See "Independent expenditure only political committee" above.

Terminating committee – A political committee that is winding down its activities in preparation for filing a termination report. A terminating committee has ceased to make or receive contributions or make expenditures (other than for debt retirement purposes or winding-down costs). 116.1(a).

Trade association – A membership organization consisting of persons engaged in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in regular business for profit. No part of the net earnings of a trade association inures to the benefit of any member. 114.8(a).

Trade association federation – An organization representing trade associations involved in the same or allied line of commerce. 114.8(g).

Transfer – With regard to separate segregated funds, a payment by one committee to an affiliated committee. 102.6(a).

Treasury funds – Funds of the connected organization. See 114.5(b).

Twice-yearly solicitation – One of two written solicitations that a corporation or labor organization may direct each year to employees who are not within the organization's restricted class for contributions to the SSF. See 114.6 and appendix B.

Usual and normal charge – With regard to goods provided to a political committee, the term refers to the price of those goods in the market from which they ordinarily would have been purchased at the time they were provided. With regard to services, the term refers to the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered. 100.52(d)(2).

Voluntary contributions – Contributions which have been solicited in a manner that complies with the solicitation notice restrictions of 114.5(a) and is in accordance with other provisions of the Act. 114.1(i). See chapter 2.

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