



Federal Election Commission Campaign Guide

Corporations and Labor Organizations

January 2007

About this Guide

This *Guide* replaces the June 2001 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 January 2007. For updated information, please consult the monthly *Record* supplements to this *Guide* at www.fec.gov/info/publications.shtml#guides.

Federal Election Commission

Washington, DC 20463

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photo by James Landon Jones

Introduction

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 FEC regulations and advisory opinions (AOs). All regulatory citations are to Title 11 of the Code of Federal Regulations, Parts 100–116 and 9001–9039 (2001). Copies of AOs may be obtained from the FEC; in addition, each AO is summarized in the Commission's monthly newsletter, the *Record*. AOs are also reported in the Federal Election Campaign Financing Guide, published by Commerce Clearing House, Inc.

Italicized Words

Terms printed in italics in this Guide have specific definitions under the election law. Definitions of these terms can be found in Appendix G.

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
999 E Street, NW
Washington, DC 20463.

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 800 number, below. Persons in the Washington, DC, area may call locally.

The numbers are:

800/424-9530

202/694-1100

202/219-3336 (TDD)

Hearing-impaired persons may reverse the charges when calling long-distance on the TDD number.

Free Publications

In addition to this Guide, the FEC publishes a series of brochures and other publications on several aspects of campaign financing and the election law. Subscriptions to the Commission's newsletter, the *Record*, are available free of charge. Write or call the FEC for a list of publications currently available.

FEC Web Site

Filing forms and other informational materials, such as advisory opinions and recent changes in FEC regulations are also available on the FEC web site (www.fec.gov).

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).

The Law

The *Federal Election Campaign Act* (the Act) prohibits corporations and labor organizations from using their general treasury funds to make contributions or expenditures in connection with federal elections. 2 U.S.C. §441b(a). In spite of this broad prohibition, there are many ways in which a corporation or union may legally participate in federal election activities.

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.

The SSF

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

Federal election law refers to a corporate or labor 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.)

As the name implies, money contributed to a separate segregated fund 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 for the costs of operating and raising money for the SSF.

The connected organization may also exercise control over its committee. 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.

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CHAPTER I

Getting Started

I. Registering with the FEC

Registration Form

The registration form is FEC Form 1, the Statement of Organization. Blank forms can be obtained from the FEC. 102.2.

Initial Registration

Who Must Register

All SSFs must register with the FEC, regardless of the size of the fund. 102.1(c). A committee established exclusively for state and local (i.e., nonfederal) activity, however, does not need to register or file reports with the FEC.

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).

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 page 49.

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 he or she is unavailable. 102.7(a) and (b).

If the SSF does not already have an assistant treasurer and the treasurer is unavailable to sign a report, the committee may appoint an assistant treasurer to sign the report. An amended Statement of Organization identifying the assistant treasurer may be filed simultaneously, but it must be filed within 10 days of the appointment. 102.2(a)(2). See Section 6 of this chapter.

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 within 10 days. 103.3(a).
- Authorizing expenditures or appointing an agent (either orally or in writing) to authorize expenditures. 102.7(c).
- Monitoring contributions to ensure compliance with the Act's limits and prohibitions. 103.3(b) and 110.1(k)(3).
- Keeping the required records of receipts and disbursements for three years after the transaction is last reported in FEC filings. 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.¹

When the Commission brings an enforcement action against a *political committee*, the treasurer is usually named as a respondent along with the committee itself. In December 2004, the Commission approved a Statement of Policy² to clarify when, in the course of an enforcement proceeding, a treasurer is subject to Commission action in his or

¹ Liability for payment of debts is generally governed by state law. See, generally, AOs 1990-11, 1989-2 and 1975-102.

² 70 FR 3 (January 3, 2005).

her official or personal capacity, or both. The policy explains that in an enforcement action where a *political committee* is a respondent, the committee's treasurer will typically be subject to Commission action only in his or her official capacity. However, when information indicates that a treasurer has knowingly and willfully violated the Act, recklessly failed to fulfill duties specifically imposed by the Act, or intentionally deprived himself or herself of facts giving rise to the violation, the Commission will consider the treasurer subject to action in a personal capacity and make findings accordingly.

If a committee changes treasurers, the Commission may substitute the new treasurer as a respondent in the enforcement proceeding in his or her official capacity because an official capacity action is an action against the treasurer's position. If an outgoing treasurer is personally liable, the Commission may pursue that predecessor treasurer individually (therefore not substituting the incoming successor in a personal capacity). The successor treasurer would, however, be named in the official capacity.

Vacancy in Office

The SSF may not receive contributions or make expenditures when the treasurer's office is vacant and the committee has no assistant treasurer. 102.7(b). Thus, when vacant, the treasurer's job must be filled as soon as possible. Changes in the treasurer's office must be disclosed within 10 days on an amended Statement of Organization. 102.2(a)(2). See Section 6.

3. Naming the SSF

Include Full Name of Sponsor

The official name of an SSF must include the full name of the *connected organization* (including "Inc." or "Corp." if applicable). An SSF's *connected organization*—often called the sponsoring organization—is the organization that establishes, administers, or financially supports the SSF. 100.6(a) and 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 2000-34, 1999-20 and 1993-7.

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 and 1988-14.

(If a *connected organization* has a parent company or several subsidiaries, however, 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 2004-4, 2000-34, 1980-23 and 1980-10.

EXAMPLES: In AO 2000-34, 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, "Mid-Am PAC" was not a permissible abbreviation for Mid-American Dairy-men, Inc.'s SSF because it did not clearly identify the association sponsoring it.

4. Filling Out the Statement of Organization

Line-by-line instructions for filling out the Statement of Organization appear below. See the adjacent example of a correctly completed Form I.

Registration Form

FEC FORM 1	STATEMENT OF ORGANIZATION	Office Use Only
1. NAME OF COMMITTEE (in full) <input type="checkbox"/> (Check if name is changed) Example: If typing, type over the lines. 12FE4M5		
Critical Reason Inc, PAC		
ADDRESS (number and street) 101 Apriori Street		
<input type="checkbox"/> (Check if address is changed) Alexandria VA 00000		
COMMITTEE'S E-MAIL ADDRESS creasonpac@creason.com		
COMMITTEE'S WEB PAGE ADDRESS (URL) www.creasionpac.com		
COMMITTEE'S FAX NUMBER		
2. DATE 08 / 09 / 2005		
3. FEC IDENTIFICATION NUMBER C		
4. IS THIS STATEMENT <input checked="" type="checkbox"/> NEW (N) OR <input type="checkbox"/> 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 Immanuel Kant		
Signature of Treasurer  Date 01 / 09 / 2005		
NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.		
FES3AN042	Office Use Only	For further information contact: Federal Election Commission Toll Free 800-424-9530 Local 202-694-1100
		FEC FORM 1 (Revised 02/2003)

Fax Number

The committee is encouraged to provide a facsimile number, but is not required to do so.

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). 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 a new SSF after the Commission receives the first Statement of Organization. Leave this space blank if the committee is filing its first Statement.

Always include the ID number on reports, statements and other communications sent to the FEC after the initial registration. 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.

Line 1. Name and Address of the Committee

Name

Enter the full, official name of the SSF. 102.14(c). Also enter any abbreviated name that the committee plans to use to identify itself. See "Naming the SSF," above, for more guidance.

Electronic Address

In addition to providing the mailing address of the committee, all filers (whether electronic or paper) must include the URL for their web site, if they maintain one. Electronic filers must also include their e-mail address, if they have one. 102.2(a)(1)(vii).

Line 5. Type of Committee

Check box (e), "Separate Segregated Fund."

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").

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 association, a *trade association* or a cooperative (check all boxes that apply).

Affiliated Committees

List political committees 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 SSF 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.

Line 7. Custodian of Records

All federal political committees must keep records and accounts of their financial activities and retain them for three years after the relevant transaction is last reported in FEC filings. 102.9(a), (b) and (c) and 104.14(b).

On Line 7, enter the name and address of the person who has actual possession of those books and records. The committee's treasurer, assistant treasurer or another person (such as an accountant or bookkeeper) may serve as the custodian of records. 102.2(a)(1)(iii). The recordkeeping rules are discussed in detail in Chapter 5.

Line 8. Treasurer and Assistant

Provide the name and mailing address of the treasurer on Line 8. The Commission also urges all political committees to name an assistant treasurer (or "designated agent") on Line 8. Only a registered assistant treasurer may sign FEC reports and statements in the treasurer's absence. 102.7(a), 104.1(a) and 104.14(a).

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

Line 9. Designated Campaign Depository

List the name and address of each bank where the committee deposits funds. The committee must have at least one checking account. 103.2.

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 and 1979–53.

Signing and Dating the Form

The treasurer or designated assistant treasurer must sign and date the form on the bottom line. 104.14(a).

The signer's name must also be typed or printed where indicated.

5. Filing the Form

Send the completed Statement of Organization to the appropriate filing office (usually the FEC; see "Where to File" on page 51).

Only committees based in Puerto Rico and Guam are required to file copies of FEC reports and statements with the appropriate officer of the territory in which they are headquartered. All other states, territories, and the District of Columbia have received a waiver from the requirement to maintain copies of FEC statements and reports. See page 51 for details.

6. Updating Registration Information

Whenever any of the information disclosed on the Statement of Organization (Form 1) changes, the committee must report the change within 10 days by filing an amended Form 1 or, if the committee is not an electronic filer, by letter. 102.2(a)(2).

Amending Form 1

Electronic Filers

Committees filing electronically must make amendments to Form 1 electronically. The committee must complete the entire report, not just the sections requiring amendments.

Paper Filers

Committees filing on paper may either submit an amended Form 1 or report the changes by letter as described below.

Submitting the Amended Form 1

When submitting an amended Form 1, the committee needs to provide only:

- The full name and address of the SSF;
- The FEC ID number;

- The changed information;
- The date the change took effect; and
- The treasurer's name and signature.

The rest of the form may be left blank.

Reporting Changes by Letter

Instead of filing a new Form 1, a committee that files on paper may amend its Statement of Organization by sending the FEC a letter containing the information listed above. The treasurer or assistant treasurer must sign the letter.

7. Notification of Multicandidate Status

As the next chapter explains, a qualified *multicandidate committee* may give a *candidate* up to \$5,000 per *election* (rather than \$2,300). 110.2(b). An SSF generally qualifies as a *multicandidate committee* once it has:

- Received contributions from at least 51 persons;
- Been registered for at least 6 months; and
- Made contributions to at least five federal candidates. 100.5(e)(3).

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, 1997-25, 1997-13, 1986-42 and 1980-40. See below for more information on affiliation.

Once a committee qualifies as a *multicandidate committee*, the treasurer must file FEC Form 1M, "Notification of Multicandidate Status" within 10 days of satisfying the criteria for multicandidate status.³ 100.5(e)(3) and 102.2(a)(3). It is important to note that the committee must operate under the *contribution limits* for a *multicandidate committee* as soon as the criteria for multicandidate status are met. The treasurer must also indicate that the committee has qualified as a *multicandidate committee* on the Summary Page of each report filed (see page 71).

When making contributions to candidates, a multicandidate SSF must give the recipient *candidate* or campaign committee a written notification that it has qualified as a *multicandidate committee*.

³ Committees that notified the Commission of their multicandidate status on Form 3X prior to January 1, 1994, do not have to file Form 1M.

110.2(a)(2). For convenience, the statement may be pre-printed on the committee's checks, letterhead or other appropriate materials.

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).

Why Important

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. A single limit also applies to the aggregate contributions a person makes to committees *affiliated* with each other. 110.3(a)(1). (Application of the *contribution limits* to *affiliated* committees is explained in Chapter 2.) See also AOs 2004-32, 2004-23, 2001-18, 1999-40, 1997-25, 1997-13 and 1996-38.

EXAMPLE: Prior to becoming *affiliated*, X PAC (a *multicandidate committee*) contributed \$1,000 to a *candidate's* general election campaign, while Y PAC contributed \$250 to the same *candidate's* general election campaign and \$750 to the primary campaign. After becoming *affiliated*, X PAC and Y PAC'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.

Solicitable Class

Additionally, when two or more committees are *affiliated*, they may solicit each other's restricted class. 114.5(g)(1). AOs 2004-32, 1999-15 and 1995-12.

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).
- 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).

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

(c) City, State and ZIP Code
 Alexandria, VA 00000

2. FEC IDENTIFICATION NUMBER
 00000001

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 _____ and simultaneously qualified as a multicandidate committee through its affiliation with:
 Committee Name: _____
 FEC Identification Number: _____

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.):

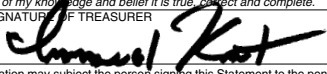
	Name	Office Sought	State/District	Date
(i)	Marcus Aurelius	House	NY/23	2/2/05
(ii)	Thomas Hobbes	House	VA/3	2/9/05
(iii)	Giadorno Bruno	Senate	CA	4/2/05
(iv)	Scott Erugina	Senate	ND	5/5/05
(v)	Tom Aquinas	House	MI/7	6/4/05

(b) **Contributors:** The committee received a contribution from its 51st contributor on: 7/1/2005

(c) **Registration:** The committee has been registered for at least 6 months. FEC FORM 1 was submitted on: 1/9/2005

(d) **Qualification:** The committee met the above requirements on: 7/9/2005

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: Immanuel Kant
 SIGNATURE OF TREASURER: 
 DATE: 7/11/2005

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

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)

FETAN048.PDF

mission may consider the following factors to determine whether two or more committees are *affiliated*. If one committee or its sponsoring organization:

- Owns a controlling interest in the voting stock or securities of another organization sponsoring a *political committee*;
- 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;
- Has the authority or ability to hire, appoint, demote or otherwise control the officers or employees of another sponsoring organization or committee;
- 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 them;
- 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;

- 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).
- 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).

- Provides or arranges for the provision of funds or goods in a significant amount or on an ongoing basis to another organization or committee, such as through payments for fundraising and administrative costs;
- Had an active or significant role in the formation of another organization or committee; 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)(A)-(J), 110.3(a)(3).

Circumstances Indicating Affiliation

When committees are not automatically *affiliated* under the conditions described above, the Com-

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.⁴

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 *affiliated* with the SSFs of the national and state divisions of the AFL-CIO.

Registration

An SSF must list *affiliated* political committees on its Statement of Organization, as explained in Section 4.

9. Affiliation & Corporate Restructuring

Disaffiliation

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. See AOs 2004-41, 2003-21, 2002-12, 2000-36, 2000-28, 1999-39, 1996-50, 1996-42 and 1996-23.

Impact of Disaffiliation

When SSFs become disaffiliated, they no longer share limits on the receipt and making of contributions, and neither of their connected organizations may solicit SSF contributions from the restricted class of the other's organization. Furthermore, 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*. AOs 2004-41, 2003-21, 2002-12, 2000-36, 2000-28 and 1996-42.

⁴ *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.

EXAMPLE: If, prior to disaffiliation, X PAC (a multicandidate PAC) gave \$2,000 to a *candidate* for the general election and Y PAC gave \$1,000 to the same *candidate* for the same election, then, after disaffiliation, the two PACs may each contribute just \$2,000 more to that *candidate* for the general election.

Mergers and Spin-Offs

When corporations merge, their PACs become *affiliated*. Newly *affiliated* PACs must take into account the contribution history of all of their formerly *affiliated* and newly *affiliated* PACs. See example above. AOs 2001-18 and 1997-25.

10. SSF and Nonconnected PAC

Nonconnected PAC Affiliated with SSF

In *advisory opinion* 1996-38, the Commission determined that, when a nonconnected PAC became *affiliated* with the SSF of a trade association, it could solicit only that SSF's restricted class and had to follow the rules governing SSF solicitations. See also page 107, "Solicitations by Trade Associations."

Joint Venture Partnerships/LLCs

The Commission has stated that, when a 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. The *affiliated* corporation is allowed to pay the establishment, administration and solicitation costs of the *nonconnected* committee; in that case, the *nonconnected* committee has to identify it as the *connected* organization on its Statement of Organization (Form 1). AOs 2004-42, 2003-28, 2001-18, 2001-7, 1997-13 and 1996-49.

Corporate Personnel and Nonconnected PAC

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

- Reimbursing the corporation for any use of facilities associated with the nonconnected PAC within a commercially reasonable time and at the usual and normal charge;

- Paying in advance for any use of corporate staff, customer/ mailing lists, catering services and any other goods and services that the *corporation* does not supply in the ordinary course of business (AO 1997-15); and
- Having a diversified leadership ensuring that individuals *affiliated* with a particular incorporated entity will not form the majority of the committee's board.

Under these circumstances, the nonconnected PAC is not considered to be *affiliated* with the SSF of the incorporated entity. AOs 2000-20, 1997-26 and 1997-15.

11. Operating Costs

Using Treasury Funds

The costs of running the SSF (operating expenditures) may be defrayed with the treasury funds of the *connected organization*, that is, with funds derived from commercial activities or dues payments. 114.5(b).

Treasury money can be used, for example, to pay for office space, phones, salaries, utilities, supplies, bank charges and fundraising activities. 114.1(b). There are no dollar limits on these disbursements, and they are not reported to the FEC.

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. 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 and 1980-59.

Trade associations sponsoring SSFs can solicit their members for donations to their administrative accounts under certain circumstances. See Appendix C. Regarding the payment of operating costs generally, see 114.5(b).

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. (The SSF may also pay only some expenses, such as bank service charges that are automatically deducted from its account,

while the *connected organization* pays others.) All disbursements by the SSF for these purposes are reportable as operating expenditures, as explained in Chapter 7.

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. These reimbursements are reportable. 114.5(b)(3). See also AOs 2000-3 and 1983-22.

12. Incorporating the SSF

An SSF may incorporate for liability purposes. 114.12(a). Political committees that incorporate only for liability purposes may make lawful contributions and expenditures. Note that incorporation of a *political committee* does not diminish the treasurer's liability for the committee's compliance with campaign finance law.

13. Limited Liability Companies and SSFs

Under FEC regulations, a *limited liability company (LLC)* may be treated as a *corporation*, depending upon its tax status. 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. 114.1-114.13.

An LLC that elects to be treated as a partnership by the IRS is treated as a partnership under FEC regulations and may make contributions and serve as the sponsoring organization for a *nonconnected committee*.⁵ 110.1(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 page 10 of this Guide and Appendix E.

⁵ See the *Campaign Guide for Nonconnected Committees*

CHAPTER 2

Understanding Contributions

I. What Is a Contribution

A *contribution* is anything of value given to influence a federal election. 100.52(a).

Although corporations and labor organizations are prohibited from making contributions in connection with federal elections, their SSFs may.

SSFs must view contributions from two different perspectives: they both make contributions and receive them. The Act limits the amounts that may be contributed by and to an SSF, and contributions from certain sources are prohibited altogether.

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.

Gifts of Money

Contributions exceeding \$100 in the aggregate must be made by check (or other written instrument). 110.4(c).

In-Kind Contributions

Definition

In-kind contributions include:

- Goods and services offered free of charge;
- Goods and services offered at less than the *usual and normal charge* (discounts are not contributions if they are offered in the ordinary course of business to both political and nonpolitical clients. AOs 1989–14, 1987–24, 1986–22 and 1985–28);
- Payments by a third party for goods and services rendered to a *candidate* or *political committee*.

100.52(d)(1) and 100.54.

Value

The dollar value of an *in-kind contribution* is subject to limits and must be reported. The value of a particular in-kind gift is determined as follows:

- **Goods** (such as equipment, supplies, facilities and mailing lists) are valued at their normal purchase or rental price.

- **Services** (such as advertising, printing or consulting) are valued at the prevailing commercial rate at the time the services are rendered (i.e., the amount that was paid or would have been paid for the services).
- **Discounts** 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).

Proceeds from Fundraisers and Sales

The entire amount paid to attend a political fundraiser or to purchase a fundraising item from a committee is a *contribution*. 100.53. The amount of the *contribution* is not affected if a portion of the money was used to defray the expenses of the fundraising program.

Loans

A loan to a *candidate* or *political committee* is a *contribution* to the extent that it remains outstanding. 100.52(b)(2).

Repayments made on a loan reduce the amount charged against the lender's *contribution* limit. However, a loan that exceeds the lender's or endorser's personal limit is unlawful even if repaid in full. 100.52(b)(1).

Loans from banks are not contributions if they are made under certain conditions. See page 17.

Endorsements and Guarantees of Loans

An endorsement or guarantee of a loan is a *contribution*. 100.52(b)(3). The amount guaranteed counts against the endorser's or the guarantor's limit only to the extent that the loan remains outstanding. Repayments on the loan proportionally reduce the amount charged against the guarantor's *contribution* limit.

If a loan has more than one guarantor, and if the loan agreement does not stipulate the portion of the loan for which each guarantor is liable, then the *contribution* of each guarantor is determined by dividing the amount of the loan by the number of guarantors. 100.52(b)(3).

2. Limits on Contributions Received by the SSF

\$5,000 Limit

An SSF may receive up to \$5,000 per year from any one contributor. 110.1(d).

Contributions from Spouses

A husband and wife each have separate \$5,000 limits, 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), 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. A *joint contribution* represents the personal funds of each donor, so each donor must sign either the check or an accompanying statement. 110.1(k)(1).

For the purposes of the *contribution* limits, a *joint contribution* is attributed equally to each donor, unless an accompanying statement indicates that the funds should be divided differently. 110.1(k)(2).

An SSF may seek a reattribution of an excessive *contribution*. See page 27 for more information.

Contributions from Partnerships

Partnerships are permitted to make contributions according to special rules. 110.1(e) and (k)(1). For further details, see Appendix E.

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 prohibited from making contributions to political committees, although it is permitted to establish an SSF. (See Section 6, “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 *contribution* limits for partnerships outlined in Appendix E. 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

An LLC must, at the time it makes a *contribution*, notify the recipient committee:

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

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

Cash Contributions and Anonymous Contributions

Contributions in cash are limited to \$100 in the aggregate. 110.4(c)(1). Anonymous contributions are limited to \$50. 110.4(c)(3).

3. 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 Multicandidate SSF

An SSF that has qualified as a *multicandidate committee* may contribute up to \$5,000 per *candidate*, per *election*. 110.2(b).

To qualify as a *multicandidate committee*, an SSF must:

Contribution Limits for 2007–08

	To each candidate or candidate committee per election	To national party committee per calendar year	To state, district & local party committee per calendar year	To any other political committee per calendar year ¹	Special Limits
Individual <i>may give</i>	\$2,300*	\$28,500	\$10,000 (combined limit)	\$5,000	\$108,200* overall biennial limit: - \$42,700* to all candidates - \$65,500* to all PACs and parties ²
National Party Committee <i>may give</i>	\$5,000	No limit	No limit	\$5,000	\$39,900* to Senate candidate per campaign ³
State, District & Local Party Committee <i>may give</i>	\$5,000 (combined limit)	No limit	No limit	\$5,000 (combined limit)	No limit
PAC (multicandidate)⁴ <i>may give</i>	\$5,000	\$15,000	\$5,000 (combined limit)	\$5,000	No limit
PAC (non-multicandidate) <i>may give</i>	\$2,300*	\$28,500*	\$10,000 (combined limit)	\$5,000	No limit
Authorized Campaign Committee <i>may give</i>	\$2,000 ⁵	No limit	No limit	\$5,000	No limit

* These contribution limits are increased for inflation in odd-numbered years.

1 A contribution earmarked for a candidate through a political committee counts against the original contributor's limit for that candidate. In certain circumstances, the contribution may also count against the contributor's limit to the PAC.

11 CFR 110.6. See also 11 CFR 110.1(h).

2 No more than \$42,700 of this amount may be contributed to state and local party committees and PACs.

3 This limit is shared by the national committees and the Senate campaign committee.

4 A multicandidate committee is a political committee with more than 50 contributors which has been registered for at least 6 months and, with the exception of state party committees, has made contributions to 5 or more candidates for federal office. 11 CFR 100.5(e)(3).

5 A federal candidate's authorized committee(s) may contribute no more than \$2,000 per election to another federal candidate's authorized committee(s). 2 U.S.C. 432(e)(3)(B).

- Receive contributions from at least 51 persons;
- Be registered with the FEC for at least six months; and
- Contribute to at least five 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.

Contributions from Nonmulticandidate SSF

During the 2007-08 *election cycle*, an SSF may contribute up to \$2,300 per *candidate*, per *election*, unless it qualifies as a *multicandidate committee*, as explained above. 110.1(b)(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. 100.2; 110.1(j)(1); 110.2(i)(1).

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*. Otherwise, there is no separate limit for a caucus or convention; it is considered part of the primary *election*.¹ 100.2(c)(1) and (e); AOs 2004-20, 1986-21 and 1986-17.

Candidates Not Running in an Election

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. 102.9(e); 110.1(b)(3)(i); 110.2(b)(3)(i).

Unopposed Candidates

A *candidate* has a separate *contribution* limit for an *election* in which he or she is running even if:

- The *candidate* is unopposed;
- A primary *election* is not held because the *candidate* was nominated in an earlier caucus or convention. 110.1(j)(4);
- A primary or general *election* for a particular office is not held because the *candidate* is unopposed; or
- The general *election* is not held because the *candidate* received a majority of votes in the previous *election*. (The date on which the *election* would have been held is considered the date of the *election*.) AO 1978-65.

110.1(j)(2) and (3); 110.2(i)(2) and (3).

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); 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*, contributions to major party (Republican and Democratic) Presidential campaigns are not permitted if the candidates receive public funds. (An exception: 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 the *election law*. Gifts to compliance funds are considered contributions and are subject to usual per-candidate, per-election limits. 9003.3(a)(1)(B).)

Contributions to Noncandidate Committees

Contributions to political committees other than *candidate* committees are subject to calendar-year limits.

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*. If an SSF is not a *multicandidate committee*, it may give up to \$28,500 per year to a *national party committee* during the 2007-08 *election cycle*.

The Republican and Democratic parties each have three national party committees subject to

¹ For example, the states of Utah and Connecticut have convention limits, as do certain districts in Texas and Virginia.

these limits. Thus, there is a separate \$15,000 or \$28,500 limit for each national committee, House campaign committee and Senate campaign committee. 110.1(c) and 110.2(c).

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), 110.14(d)(1) and (g).

Contributions to Other Political Committees

Any multicandidate SSF may make contributions of up to \$5,000 per year to any other type of *political committee* (e.g., a *state party committee*). 110.2(d). A *non-multicandidate committee* may make contributions of up to \$5,000 per year to another PAC and \$10,000 to a *state party committee* and its registered local affiliates. 110.1(d) and 110.1(c)(5).

Candidate Limits May Apply

A *contribution* from an SSF to a committee that is not a *candidate's* authorized committee may nevertheless count against the SSF's limit for that *candidate* if:

- The recipient committee is an unauthorized *single-candidate committee* (i.e., a *political committee* that supports only one *candidate*);
- The SSF knows that a substantial portion of its *contribution* will be given to or spent on behalf of a particular *candidate*; or
- The SSF retains control over the funds after making the *contribution*.

110.1(h); 110.2(h).

4. Designation

Designated Contributions

The Commission encourages SSFs, when contributing to candidates, to designate their contributions in writing for a particular *election* (for example, primary or general). The designation may be made either on the *contribution* check or in a signed statement accompanying the *contribution*. Only the contributor—not the recipient *candidate committee*—may designate a *contribution* for a particular *election*. 110.1(b)(2)(i) and (b)(4); 110.2(b)(2)(i) and (b)(4).

Undesignated Contributions

An undesignated *contribution* automatically counts against the SSF's limit for the next scheduled *election*. 110.1(b)(2)(ii) and 110.2(b)(2)(ii). 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 say "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 SSF should also be certain that the *contribution*, when aggregated with other contributions from the SSF for that same *election*, does not exceed the committee's per-*election* limit.

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*. 110.1(b)(3)(i), (ii) and (iii); 110.2(b)(3)(i) and (ii).

Effect of Date Made For Contributions Made by SSF

Designated Contributions

A *candidate* may always 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. 110.1(b)(3)(i), (ii) and (iii); 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 donor’s limit for the next *election*. I 10.1(b)(2)(ii); I 10.2(b)(2)(ii).

For the purposes of the per-*election* limits, then, it is important to distinguish the date a *contribution* is made from the date it is received by a *candidate*.

Effect of Date Made For Contributions Received by SSF

Determining the Date Made

The date a *contribution* is made is the date when the contributor relinquishes control of the funds. In practice this means that:

- An *in-kind contribution* is made on the date that the goods or services are provided to the recipient committee.
- A mailed *contribution* is made on the date of the postmark.
- A hand-delivered *contribution* is considered made on the date it is delivered to the *political committee* or to an agent of the committee.

I 10.1(b)(6); I 10.2(b)(6).

The date made is significant for determining what *contribution* limit applies. For instance, if a *contribution* is postmarked 12/31/2007 but received on 1/3/2008, the *contribution* would count against the contributor’s 2007 limit.

Redesignation of Contributions Made by SSF

Request by Recipient

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. I 10.1(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 *candidate* must refund the excessive portion to the SSF. I 10.1(b)(5)(ii) and I 10.2(b)(5)(ii).

The SSF may always request a refund from the *candidate* instead of providing the redesignation. I 03.3(b)(3); I 10.1(b)(5)(ii)(A)(1); I 10.2(b)(5)(ii).

Automatic Redesignation By Recipient Committee

When a non-*multicandidate committee* makes an excessive *contribution* to a *candidate’s* authorized committee, the recipient committee may automatically 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. I 10.1(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*. I 10.1(b)(5)(ii)(C). Note that multicandidate committees do not have the option of automatic redesignation.

5. 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. I 10.3(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.

Monitoring Limits

To facilitate reporting and to avoid exceeding *contribution* limits, *affiliated* SSFs must 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 personally responsible for monitoring *contribution* limits. 103.3(b). See “Affiliation & Corporate Restructuring” on page 7.

6. Prohibited Corporate and Labor Contributions

As explained on page ii, the *election* law prohibits corporations and labor organizations from making contributions and expenditures in connection with federal elections. 114.2(a) and (b). This prohibition applies to all types of incorporated organizations, except political committees (such as SSFs) that incorporate for liability purposes. 114.12(a).

The situations and actions described below result in prohibited corporate or labor contributions and therefore must be avoided.

General Treasury Funds

Corporations and labor organizations may not use their general treasury funds to make contributions to their SSFs or to other types of political committees or candidates.

In addition, national banks and federally chartered corporations may not make contributions in connection with any U.S. *election*—federal, state or local.² 114.2(a) and (b). See also AO 1997-19. (National banks and federally chartered corporations may establish SSFs, however.)

A narrow exception to the general rule prohibiting the use of treasury funds to make expenditures has been drawn for certain types of corporations. See “Independent Expenditures by Qualified Non-profit Corporations,” page 35.

Commingling of Funds

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

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 page ii.

² The prohibition does not apply to referendum-related activities. See *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978).

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) and (5). See *Collecting Agents*, page 28.

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 AO 1986-41.

Compensation for Services

If a *corporation* or *labor organization* pays for services rendered to a *political committee* or *candidate*, a prohibited *contribution* results. 100.54. See also *Incidental Use*, page 91. 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 114.1(a)(2)(iii). Other organizations *affiliated* with the *connected organization* (e.g., corporate subsidiaries) may help to pay the administrative costs of the SSF. AOs 1997-13, 1996-29 and 1983-19.

Legal and Accounting Services

A *corporation* or *labor organization* may provide a *party committee* with free legal and accounting services. 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.

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. 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.

Use of Corporate/Labor Facilities

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*, and they may direct their employees to work on these fundrais-

ers, 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 on page 91. 114.2(f) and 114.3(c)(2).

Extensions of Credit

A corporate vendor may not extend credit to a *political committee* for a longer period of time than is normally practiced in the creditor's trade. (Credit is permissible only if it is extended in the ordinary course of business.)

When 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*; or
- 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. See Chapter 8.

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. 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.

As an exception to this general rule on discounts, vendors of food and beverages may offer discounts on food and beverages sold to *candidate committees* and *party committees* (but not *SSFs*). 100.78. See page 93 for details.

Liability of Corporate/Labor Officers

An officer of a *corporation or labor organization* personally violates the law if he or she consents to the making of a prohibited corporate or labor *contribution*. 114.2(e).

7. Other Prohibited Contributions

Federal Government Contractors

Committees and candidates may not accept contributions from federal government contractors.

115.2. The prohibition applies to contributions from:

- 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.

Corporations that are government contractors may establish separate segregated funds. 115.3. See also AO 1985-23.

Foreign Nationals

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. Accordingly, it is a violation of federal law to knowingly provide substantial assistance to foreign nationals in the making of contributions, donations, expenditures, independent expenditures and disbursements in connection with federal and nonfederal elections. 110.20. 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; 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.³ 110.20(a)(3).

³ Corporations and labor organizations that qualify as foreign principals are prohibited from making contributions in connection with state and local elections in states where corporate and labor contributions would otherwise be permitted.

Immigrants

An immigrant is eligible to make a *contribution* if the immigrant has a green card indicating that he or she has been lawfully admitted for permanent residence. See 8 U.S.C. §1101(a)(20)

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 non-federal candidates (to the extent permitted by state law) and may establish an SSF to make contributions to federal candidates as long as:

- The foreign parent does not finance these activities (such as the payment of the SSF's establishment, administration or fundraising costs) through the subsidiary;
- No *foreign national* (including the foreign parent) participates in the operations or administration of the committee (such as the appointment of officers) or in any decisions to make contributions or expenditures in connection with any federal or nonfederal *election* (see 110.20(i) and AO 2000-17); and
- Neither the subsidiary nor the committee solicits or accepts contributions from foreign nationals. (See 110.20(g).)

Regarding domestic subsidiaries of foreign corporations generally, see AOs 2006-15, 2000-17, 1999-28, 1995-15, 1992-16, 1990-8 and 1989-29.

Contributions in the Name of Another

Contributions by one person in the name of another person are prohibited. This means that no one may make or assist someone to make a *contribution* in the name of another. It is also prohibited to knowingly accept a *contribution* in the name of another. 110.4(b). A prohibited *contribution* in the name of another could result, for example, if the *connected organization* reimburses an employee's *contribution* through a bonus, an expense account, or other means. (See also Reimbursements of Contributions, above).

8. Bank Loans

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

Conditions

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 which assures repayment (see below). 100.82(a)(1) through (4).

Methods of Assuring Repayment

A loan is made on a basis which assures repayment if it is obtained using one or more of the following authorized methods of securing the loan:

Traditional Methods

A committee may use one of the following traditional methods of securing the loan, or a combination of the two:

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 established 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 law's prohibitions and limits on contributions. 100.82(e)(1)(ii).

Pledge of Future Receipts

If the committee 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.

9. Other Receipts

Like bank loans, certain other SSF receipts are specifically excluded from the definition of *contribution* and thus are not subject to the limits and prohibitions affecting contributions. Regardless of whether they are contributions, however, all SSF receipts are reported.

Reportable receipts that are not subject to *contribution* limits include:

Transfers-In from Affiliated SSFs

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

Interest and Dividend Income

Interest and other earnings on invested funds are not contributions. See AOs 1999-8, 1997-6 and 1990-2 n.3. See also 104.3(a)(1), (a)(3)(x) and (a)(4)(vi).

Loan Repayments

While not a *contribution*, a repayment on a loan 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.

CHAPTER 3

Fundraising for the SSF

I. General Rules on Solicitations

The following general rules governing SSF solicitations are explained in this section:

- Contributions to the SSF must be voluntary;
- The SSF may not knowingly accept prohibited or excessive contributions;
- Only a limited class of individuals may be solicited;
- Solicitation of the general public is prohibited; and
- Special notices must be included.

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.

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 Section 8.

Limited Solicitees

An SSF or *connected organization* may solicit only a restricted class of persons associated with the *con-*

nected organization. The general public may not be solicited. See Sections 2, 3 and 4 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, e.g., AO 1983–38.

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).

Special Notices

Purpose and Rights

When the SSF or the *connected organization* solicits individuals for contributions, the solicitees must be informed of:

- The SSF's political purpose; and
- Their right to refuse to contribute without reprisal.

114.5(a)(3)–(5).

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;
- 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 6.)

“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” on page 43.

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). See page 37 for more information about disclaimer notices.

2. Corporations: Solicitable Personnel

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 of the above two groups.

An SSF may also solicit, at any time, the restricted class of any parent, subsidiary, branch, division or affiliate of the *connected organization*. 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). AO 2004-23.

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.
- Members of a board of directors who are not shareholders or employees but who receive regular compensation. AO 1985-35.
- Executive and administrative personnel of franchisees, licensees and agents. See AOs 1992-7, 1990-22, 1988-46 and 1985-31.
- Executive and administrative personnel of a partnership or LLC controlled by, or controlling, a *corporation* or its dominant shareholders. See AOs 2004-32, 2001-18 and 1989-8.

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

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

Who Is Not Included

- Professional employees represented by a labor union.
- Lawyers, consultants and other personnel employed by firms retained by the *corporation* and who are not employees of the *corporation*. AO 1984-55.
- Members of the board of directors who are not also executive and administrative personnel and who receive no compensation. AO 1977-18.
- 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).

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. I 14.1(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, 1996-10, 1994-36 and 1994-27.

Expanded Class

Twice a year, a *corporation* or its SSF may solicit employees who do not qualify as executive and administrative personnel, such as professionals represented by a labor union. Twice-yearly solicitations may also extend to the families of those workers. I 14.6. See Appendix B for more information on twice-yearly solicitations.

3. Labor Organizations: Solicitable Personnel

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. I 14.5(g)(2).

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.

I 14.1(e)(5).

For more information on affiliation between labor organizations, see page 5.

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. I 14.6(b); AO 1979-50.

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

4. Membership Organizations: Solicitable Personnel

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. I 14.7(a).

A *member* may be solicited only if the following two requirements are met:

- The organization qualifies as a membership organization, as defined below; and
- Those it labels as "members" qualify as members, as defined by the Act and Commission regulations.

Definition of Membership Organization¹

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:

- It is composed of members who have the authority to administer the organization according

¹ For purposes of internal communications, the definition of membership organization is broader. See "Communications," p. 77.

Who May Be Solicited

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 <hr/> Stockholders and Families	Executive and Administrative Personnel and Families <hr/> Members and Families	Executive and Administrative Personnel and Families <hr/> Noncorporate Members and Families	Executive and Administrative Personnel and Families <hr/> Noncorporate Members and Families <hr/> With Prior Approval, Corporate Members' Executive and Administrative Personnel, Stockholders and Families of Both
Twice Yearly^d	Nonexecutive and Nonadministrative Personnel and Families	Nonexecutive and Nonadministrative Personnel and Families <hr/> In Corporations that Employ Members of the Labor Organization, Nonmember Employees, Stockholders and Families of Both	Nonexecutive and Nonadministrative Personnel and Families	Association's Nonexecutive and Nonadministrative Personnel

- 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. Organizations other than trade associations may also send communications containing express advocacy to persons in this category. See Chapter 9 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.

to the organization's bylaws;²

- 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).

² Bylaws includes any formal organizational document.

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.

AOs 2003-13, 2000-15, 2000-4 and 1999-40.

Students, Lifetime Members & Retirees

The Commission will determine, on a case-by-case basis through the *advisory opinion* process, the membership status of individuals 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).

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), 110.3(a)(2)(iv) and 114.1(e)(5). AOs 2002-11 n.2 and 1998-19. See also, 100.5(g)(2), (3), and (4)

State Law Inapplicable

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

Corporate Members of Trade Associations

A *trade association* or its SSF must get permission from a *member corporation* in order to solicit that *member's* restricted class for contributions to the association's SSF. 114.8(d). (A *trade association* may also solicit its own restricted class at any time.) See Appendix C for more information about *trade association* solicitations.

Expanded Class

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

5. Solicitation Methods

The most common methods of soliciting SSF contributions from the restricted class are described below. Whichever method is used, the general rules on solicitations (see page 19) must be observed. 114.5. Moreover, the required recordkeeping information on contributors must be obtained when accepting contributions, as explained in Chapter 5.

Oral Solicitations

SSF solicitations may be made orally—for example, in a speech, a meeting, or over the phone. Literature about the SSF may be offered when requesting contributions.

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.

Solicitations in Internal Publications

If a *connected organization's* in-house 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.

EXCEPTION: A solicitation in an in-house 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; and
- Both the number and the percentage of unsolicitable persons receiving the publications are incidental.

As for what is considered “incidental,” the Commission has said in *advisory opinions* that 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. In the latter case, the newsletter could not publish a solicitation. See AOs 1999-6, 1994-21, 1980-139, 1979-50, 1979-15 and 1978-97.

What Constitutes a Solicitation

In addition to a straightforward request for contributions, an article about the SSF published in an in-house publication 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.

AO 1984-55, n. 2; AOs 1979-66 and 1979-13.

For example, an article that commends employees who have contributed to the SSF is considered a solicitation because it encourages support.

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, 2000-7, 1991-3, 1988-2, 1983-38 and 1982-65. But see also, AOs 1999-6 and 1979-13.

Outside of its restricted class, for example, 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;
- 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; and
- Have a public relations web site, stating the *connected organization's* operational support for the SSF and providing information that might lead to an inquiry about the SSF. AOs 2000-10 and 2000-7.

Solicitations Through the Internet

In several *advisory opinions*, the Commission approved proposals for using a corporate web site to provide information about the SSF or to solicit contributions for it. The various plans included measures to ensure that the web site would not solicit persons outside the restricted class. The *connected organization* or the SSF:

- Confined the solicitation to areas of the web site accessible only to the restricted class;
- Ensured that any part of the web site accessible to those outside the restricted class included a statement that Federal law prohibits soliciting contributions from outside the restricted class and that such contributions would be returned to the donor; and
- Closely monitored contributions to prevent the receipt of contributions from outside the restricted class.

AOs 2000-10, 2000-7 and 1995-33.

Solicitations at Conventions

Trade associations may make solicitations at a convention or annual meeting. For more information, see Appendix C.

Payroll Deduction

A corporate payroll deduction system can be used to collect contributions to the company's own SSF, to an *affiliated* SSF, or to the SSF of a *labor organization* representing the company's employees, as explained in Section 7 of this chapter.

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. (See "No Reverse Checkoff," below.) AOs 2000-15, 2000-11, 1999-33, 1999-31, 1999-6, 1999-3, 1997-25 and 1996-42. The FEC published a Statement of Policy on this subject in the *Federal Register*. 71 FR 38513 (7/7/06).

Electronic Signature Acceptable

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 e-mail 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 2001-4 and 1999-3.

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. The rules governing such combined payments are explained on page 29.

Deductions from Annuity Payments

Membership organizations may conduct checkoff plans in which retirees instruct the organization to regularly deduct PAC contributions from their annuity payments, along with other deductions. Such plans must follow the same restrictions as payroll deduction plans. AO 1999-6.

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 2001-4 n.4. See generally 114.5(a)(1).

Cooperative Shareholder Payment Deductions

In AO 1986-7, the Commission ruled that non-corporate members of an agricultural cooperative could authorize deductions for SSF contributions from the cooperative's payments to members for crop proceeds.

Trade Association SSFs

A *trade association* may use payroll deduction to collect contributions from the association's own executive and administrative personnel and their families. Also, corporate members may use a payroll deduction system to collect contributions for the SSF of a *trade association*. Permissible solicitation and collection methods for trade associations are discussed in Appendix C.

Credit Cards

Individuals may contribute to an SSF using credit cards. See, e.g., AO 1990-4. Treasurers should note the recordkeeping requirements that apply to credit card receipts on page 41.

6. Fundraising Events and Special Promotions

This section describes rules applicable to special events and promotions commonly used to raise money for an SSF. Organizations using these events must follow the general solicitation rules described in Section 1.

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. Note, however, that 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.

Promotional Items, Entertainment and Raffles

A *connected organization* may also provide tangible premiums to encourage SSF contributions, through raffles and other promotions. The aggregate cost of the prizes, however, may not be disproportionately numerous or valuable in comparison with the contributions raised by the raffle. 114.5(b)(2). If the cost of the prizes 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 its costs, as explained below. See AOs 1989-18 and 1981-7.

An SSF may not accept prizes donated by corporations other than the *connected corporation*. See, for example, AO 1991-23.

Reimbursement

The “One-Third Rule”

According to the “One-Third Rule,” an SSF must reimburse its sponsoring organization for 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, 1999-31, 1995-17, 1989-18 and 1981-7. (FEC rules provide the “One-Third Rule” as a reasonable standard for deciding whether an SSF must reimburse the *connected organization* for fundraising costs. The Commission may approve other methods through *advisory opinions*.)

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.

No Reimbursement for Usual Solicitation Costs

The “One-Third Rule” applies only to fundraising with promotional items, prizes and entertainment (other than food and drink), not to the other types of SSF fundraising activity discussed in this section. See AOs 1980-50 and 1979-72.

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 that is tax-exempt under 26 U.S.C. §501(c)(3) 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.

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. See Fundraising for the SSF, p. 19; Appendix B, Twice-Yearly Solicitations, p. 105; and AOs 2003-39, 2003-33, 2003-4, 1994-7, 1994-6 and 1994-3. See also AOs 1989-9, 1989-7, 1988-48, 1987-18 and 1986-44.

7. 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(l). 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

If the union wants to use the *corporation's* solicitation and collection system, it must reimburse the *corporation* for costs incurred in providing it to the union. 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*. 114.5(b). The Commission has considered alternative methods by which a *labor organization* can defray costs of payroll deduction in AOs 1981–39 and 1979–21.

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).

8. Handling Illegal Contributions

Depositing Questionable Contributions

If an SSF receives a *contribution* that appears to be excessive or prohibited, 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)(1). 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), (4) and (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 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.

The SSF is required to notify the contributors of the reattribution within 60 days of the treasurer's *receipt* of the *contribution*, and must offer the contributors the option to receive a refund instead. 110.1(k)(3)(ii)(B)(1)-(3).

Requested Reattribution

In other situations, the treasurer may request a reattribution 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.)
- 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) and (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).

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 7.

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.

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 made contributions to the SSF from their corporate practice accounts. These corporate (i.e., prohibited) contributions were endorsed to the *connected organization*, which deposited them into a general treasury account or a separate administrative account for the SSF. (See "Operating Costs" on page 8.) See, e.g., AOs 1992–20 and 1990–4.

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. See AO 1992–20.

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).

9. Collecting Agents

When a *connected organization* raises money for its SSF, it is acting as the committee's *collecting agent* and has certain responsibilities under the *election law*. Other entities may also act as collecting agents, such as *affiliated committees*.

As this section explains, a *collecting agent* has no reporting obligations under the law, but nonetheless the 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.

Who Is a Collecting Agent

The *collecting agent* must be connected to, or *affiliated* with, the SSF. 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).

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 and 1998-19.

Who Is Not a Collecting Agent

The *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 on the next page 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 Agent

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) and must comply with the other rules on solicitations explained in Section I 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 2000-4.

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).

Combined Payments

The *collecting agent* 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, or in a solicitation made on behalf of the *collecting agent* itself. 102.6(c)(2)

The contributor may write a single check to cover both his or her 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. 102.6(c)(3). AOs 1999-40 and 1997-9.

Solicitation Materials

Collecting agents using combined payments to collect SSF contributions must ensure that their solicitation materials contain the required information described in Section I of this chapter. 102.6(c)(2). The solicitation materials should convey the distinction 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 1990-4, 1987-17, 1987-6 and 1985-12.

Payroll Deduction

A *labor organization* may use an employer's payroll deduction system to collect both dues and voluntary SSF contributions. The employer may issue a single check to the *labor organization* representing both union dues and SSF contributions. 102.6(c)(3). The *labor organization*, in turn, acting as the *collecting agent* for its SSF, must forward the contributions to the SSF as explained below.

Deductions for Trade Association SSFs

Corporate members of a *trade association* may provide incidental services, including the use of an employee payroll deduction or checkoff system, to collect and forward contributions by their restricted class to the *trade association's* SSF. If a *corporation* provides these services for a *trade association* SSF, the *corporation* and its subsidiaries, branches, divisions and affiliates must also, upon written request, provide the same services at cost for a *labor organization* representing employees of the *corporation*. 114.8(e). The process must satisfy all other requirements regarding prior approval and voluntary contributions (see pages 19 and 107).

Transmitting Funds Directly

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).

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 5).

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 (see page 98). The *collecting agent* must keep separate records of all receipts and deposits of SSF contributions. 102.6(c)(4)(ii)(C).

Forwarding Contributions and Records

A *collecting agent* (or anyone 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 recordkeeping information that must be obtained for the committee's records varies, depending on the amount of each individual *contribution*. See Chapter 5 for complete instructions.

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.

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).

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*. 102.6(c)(7) and 102.8(b)(2).

Note that 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, for example, AOs 2003-29 and 1984-31.

10. Investing SSF Funds

In addition to collecting contributions, an SSF may raise money by earning interest and dividends on invested funds. For example, an SSF may invest contributions it has received in a savings account, money market fund or certificate of deposit. See, e.g., AOs 1986-18 and 1980-39.

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. See Chapter 1.

In addition, special reporting requirements apply to earned interest on invested funds, as explained in Chapter 7.

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.

CHAPTER 4

Supporting Candidates

I. Contributions

SSFs may make contributions to candidates and to their campaign committees. All contributions to federal candidates during the 2007-08 election cycle are subject to the following limits:

- **\$5,000** per candidate, per election, from an SSF that qualifies as a *multicandidate committee*.
- **\$2,300** 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*. 100.2(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, page 11.

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 donate goods or services to candidates and their committees.¹ Gifts of goods or services are in-kind contributions. As examples, an SSF makes an *in-kind contribution* when it:

- Pays for consulting, polling or printing services provided to a *candidate committee*;
- Donates office supplies or mailing lists to a campaign;
- Sponsors a fundraising event benefiting a *candidate*; or

¹ Note that 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 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 9 "Communications."

- Pays for a campaign advertisement on behalf of a *candidate* (if the advertisement does not qualify as an *independent expenditure*).

100.52(d)(1). See Chapter 2 for information on how to measure the value of an *in-kind contribution*.

In-Kind Contributions Designated for More Than One Election

The Commission has advised that in-kind contributions 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.

Allocation Among Candidates²

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 dance 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; 106.1(a) and (b).

Opinion Polls

Special FEC regulations pertain to the allocation of contributions of opinion poll results. See 106.4.

Earmarked Contributions

An SSF may act as a conduit for an *earmarked contribution*, i.e., a *contribution* that the individual

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

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).

If the *earmarked contribution* was solicited from the restricted class by a communication from the SSF's *connected organization* under 114.3 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. Note that, under these circumstances, the *contribution* automatically counts against the SSF's *contribution* limits regardless of whether the SSF exercised direction or control over the choice of recipient. 114.2(f)(2)(iii) and 114.2(f)(4)(iii). See also Candidate and Party Appearances, Solicitation by the Corporation or Labor Organization, page 81.

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.

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 in amounts of \$1,000. Those payments reduce the SSF's *contribution* by \$500 each month (i.e., half the repayment). 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. 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*);
- 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); 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, not the *Federal Election Campaign Act*, but the SSF must still disclose disbursements to state and local candidates, and must itemize the disbursements when the aggregate amount in a calendar year exceeds \$200 in its FEC reports. 104.3(b)(3)(ix); AOs 1986–27 and 1981–18.

SSFs active in both federal and nonfederal elections should also consult Appendix A.

2. Independent Expenditures

In addition to making contributions, an SSF may support (or oppose) candidates by making independent expenditures. Independent expenditures are not contributions and are not subject to limits (However, contributions made to a committee or to another person making independent expenditures are subject to limits, as explained below.).

Part 109; see AOs 2003-40, 2003-23 and 1999-37.

What Is an Independent Expenditure

An *independent expenditure* is an *expenditure* for a communication, such as a web site, 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. 104.4 and 109.20(a). See below.

When Is a Candidate “Clearly Identified”

A *candidate* is “clearly identified” if the *candidate’s* name, nickname, photograph or drawing appears, or the identity of the *candidate* is otherwise apparent. Examples include: “the President,” “your Congressman,” “the Democratic presidential nominee,” “the Republican *candidate* for Senate in the State of Georgia.” 100.17.

What Is “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 (candidate 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 ‘06”;

- 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,” *express advocacy* is found in a communication that, when taken as a whole and

with limited reference to external events, such as the proximity to the *election*, 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)(1) and (2).

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).

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.

Multiple page communications or multiple inserts in the same envelope in a *direct mail* piece are to be read all together as a whole. *MCFL*, 479 U.S. at 249.

What Is Not an Independent Expenditure

When an *expenditure* is made under the circumstances described below, it results in an *in-kind contribution* to a *candidate* rather than an *independent expenditure* and therefore counts against the SSF’s *contribution* limit for that *candidate*. 109.21(b).

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. AO 2003-23. See Appendix D, “Earmarked Contributions.”

Candidate-Prepared Material

Any *expenditure* to distribute or republish campaign material (print or broadcast) produced or prepared by a *candidate’s* campaign is an *in-kind contribution*, not an *independent expenditure*. 109.23.

Coordination with Candidate’s Campaign

Any *expenditure* that is *coordinated* with the *candidate’s* campaign is an *in-kind contribution*, not an *independent expenditure*. 109.20 and 109.21(b).

Coordination

A communication is *coordinated* if it is 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.³ 109.20(a).

In order for a communication to be considered *coordinated*, it must satisfy three criteria or “standards”: source of payment, content and conduct. Only a communication that satisfies all three criteria is considered *coordinated*. 109.21. See the discussion in Chapter 9, Section 1.

Disclaimer Notice Required

A communication representing an *independent expenditure* must display a disclaimer notice. See Section 4 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).

Contributing to Committees That Make Independent Expenditures

A *contribution* by an SSF to a committee that makes independent expenditures is subject to the SSF’s limit for that committee.

A *contribution* to a committee that supports only one *candidate*, however, is subject to the SSF’s per *candidate*, per *election* limit. 110.1(h).

Prohibitions Apply

Note that the same 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 corporations, labor organizations, federal government contractors and foreign nationals are prohibited.

³ For the purposes of 11 CFR part 109 only, agent is defined at 11 CFR 109.3

3. Electioneering Communication

Any broadcast, cable or satellite communication that is publicly distributed within 30 days of a primary or 60 days of a general *election*, refers to a *clearly identified federal candidate* and is targeted to the relevant electorate is an *electioneering communication*. 100.29(a).

Clearly Identified Candidate

A *candidate* is *clearly identified* if his or her name, nickname, photograph or drawing appears in the ad, or if the ad contains unambiguous reference to the *candidate* through titles such as “the President,” “your Representative” or “the incumbent.” 100.29(b)(2).

Public Distribution

A communication is “publicly distributed” 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).

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).⁴

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 *candidate*. 100.29(c)(2) and 100.132(a) and (b);

⁴ 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).

- Constitutes an *expenditure* or *independent expenditure*. 100.29(c)(3); or
- Constitutes a *candidate* debate or forum. 100.29(c)(4) and 110.13.

Prohibition on Corporations and Labor Organizations Making Electioneering Communications

Corporations and labor organizations are prohibited from making payments for an *electioneering communication* to those outside the restricted class. Accordingly, corporations and labor organizations may not provide funds for an *electioneering communication*. A *corporation* or *labor organization* will be considered to have provided funds if it knows, or has reason to know, that the person to whom it has provided funds intended to use them to pay for an *electioneering communication*. 114.14(a)(2). Also, persons who accept funds provided by a *corporation* or *labor organization* may not:

- Use those funds to pay for electioneering communications; or
- Provide any portion of those funds to any person for the purpose of defraying the cost of an *electioneering communication*.

Exceptions

The above prohibition does not apply to funds disbursed by a *corporation* or *labor organization* in the usual and normal course of business such as:

- Salary, royalties or income from bona fide employment;
- Interest earnings, stock or other dividends, or proceeds from the sale of investments; and
- Receipt of payments for the fair market value of goods provided or services rendered.

114.14(c).

Persons who receive funds from corporations or labor organizations for purposes that do not meet the exceptions mentioned above must be able to demonstrate through a reasonable accounting method that no portion of the funds were used to pay for an *electioneering communication*. 114.14(d).

4. Independent Expenditures and Electioneering Communications by Qualified Nonprofit Corporations

Although corporations and labor organizations are prohibited under the Act from making contributions or expenditures in connection with federal elec-

tions, a limited exception allows certain Qualified Nonprofit Corporations (QNCs) to make independent expenditures and electioneering communications (but not contributions). If a QNC makes a reportable (see Filing Reports, page 45) *independent expenditure* or *electioneering communication*, it must demonstrate its eligibility for QNC status. The following paragraphs explain these issues in greater detail.

Criteria for QNC Status

To qualify as a QNC, a *corporation* must meet the five requirements listed below:

Nonprofit Status

The *corporation* is a social welfare organization as described in 26 U.S.C. §501(c)(4). 114.10(c)(5).

Express Purpose

The *corporation's* organic documents, authorized agents or actual activities must indicate that its only purpose is issue advocacy, *election* influencing activity or research, training or educational activities tied to the *corporation's* political goals. 114.10(b) and (c)(1).

Business Activities

The *corporation* cannot engage in business activities. Business activities include the provision of goods, services, advertising or promotional activity that results in income to the *corporation*, other than in the form of membership dues or donations. Note, however, that if fundraising activities are expressly described as a request for donations to be used for political purposes, such as supporting or opposing candidates, they are not business activities. 114.10(b)(3) and (c)(2).⁵

Shareholder/Disincentives to Disassociate

A *corporation* cannot have shareholders or persons, other than employees and creditors, who:

- Have an equitable interest in the *corporation* or are otherwise *affiliated* in a way that would allow them to make a claim on the organization's assets or earnings; or

⁵ In May 1997 the U.S. Court of Appeals (8th Cir.) upheld the district court in *Minnesota Citizens Concerned for Life (MCCL) v. FEC*, ruling that the QNC Exception regulations conflict with the 8th Circuit's prior decision in *Day v. Holahan*, which is controlling law in that circuit. In *Day*, the court struck down a state law with requirements similar to those in the QNC Exception regulations. The courts found that the "no business activity" requirement violated MCCL's First Amendment rights. In July 1997, the 8th Circuit denied the Commission's petition for rehearing and suggestion for rehearing en banc of the MCCL case.

- Receive a benefit that they lose if they end their affiliation with the *corporation* or cannot obtain unless they become *affiliated*, e.g., credit cards, insurance policies, savings plans, education or business information (except that education and business information may be provided to enable the recipient to help promote the group's political ideas). These types of benefits are disincentives for individuals to disassociate themselves from the organization. 114.10(c)(3).

Relationship with Business Corporations and Labor Organizations

The *corporation* was not established by a *corporation* or a *labor organization*, does not accept direct or indirect donations from such organizations and, if unable to demonstrate that it has not accepted such donations, has a written policy against accepting donations from them. 114.10(c)(4).⁶

Certification of QNC Status

If a QNC makes independent expenditures that aggregate in excess of \$250 in a calendar year or electioneering communications that aggregate in excess of \$10,000 in a calendar year, it must certify that it is eligible for QNC status and report the independent expenditures and electioneering communications (see below). Certification may be made by filing FEC Form 5 (for independent expenditures) or FEC Form 9 (for electioneering communications), or by submitting a letter, by the due date of the first *independent expenditure* or *electioneering communication* report. The form or letter must contain the following information:

- Name and address of the *corporation*;
- Signature and printed name of the individual filing the qualifying statement; and
- A statement certifying that the *corporation* meets the above five qualifications of a QNC. 114.10(e)(1).

Filing Reports - QNC

A QNC must report the independent expenditures that exceed \$250 on FEC Form 5 or in a

⁶ Exception and Caution: Although a 501(c)(4) corporation may accept donations from a 501(c)(3) corporation, it must use that donation in a manner that is consistent with the 501(c)(3)'s tax exempt purpose, which, under the Internal Revenue Code, is never to make independent expenditures in support of, or in opposition to, any candidate. Tax exempt corporations are urged to consult with the Internal Revenue Code and Regulations.

signed statement with the appropriate authority. 114.10(e)(2) and 109.10(b), (c) and (d). QNCs must also report electioneering communications that aggregate in excess of \$10,000 in a calendar year on FEC Form 9. 114.10(e)(2).

Content of Independent Expenditure Report

The report (or statement) must include:

- The reporting person's name, mailing address, occupation and employer (if any);
- The name and mailing address of the person to whom the *expenditure* was made;
- The amount, date and purpose of each *expenditure*;
- A statement as to whether the *expenditure(s)* was in support of or in opposition to a *candidate* and the *candidate's* name and office sought; and
- The identification of each person who contributed more than \$200 for the purpose of making the independent expenditures. 109.10(e).

When to File Independent Expenditure Reports

The report is due at the end of the quarterly reporting period (see page 47) during which independent expenditures aggregating in excess of \$250 are made and at the end of each reporting period thereafter in which additional independent expenditures are made. 109.10(b) and 114.10(e)(2).

48-Hour Independent Expenditure Notices

QNCs that make independent expenditures at any time during a calendar year – up to and including the 20th day before an *election* – must disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more for the same *election*. This reporting requirement is in addition to the requirement to file 24-hour notices of independent expenditures each time that disbursements for independent expenditures aggregate at or above \$1,000 for the same *election* during the last 20 days – up to 24 hours – before an *election*. 2 U.S.C. §§434(b), (d) and (g). 109.10(d). See Chapter 6, "Filing FEC Reports."

Reporting Electioneering Communications

QNCs that make electioneering communications that aggregate more than \$10,000 in the calendar year must file the "24 Hour Notice of Disbursements/Obligations for Electioneering Communications" (FEC Form 9) with the Commission within 24 hours of the disclosure date. FEC Form 9 must be received by the Commission by 11:59 p.m. on the day following the disclosure date. 104.20(b).

Disclosure Date

The disclosure date is:

- The first date on which an *electioneering communication* is publicly distributed, provided that the person making the *electioneering communication* has made disbursement(s), or has executed contract(s) to make disbursements, for the direct costs of producing or airing one or more *electioneering communication* aggregating in excess of \$10,000; or
- Any other date during the same calendar year on which an *electioneering communication* is publicly distributed, provided that the person making the communication has made disbursement(s) or executed contract(s) to make disbursements for the direct costs of airing one or more electioneering communications aggregating in excess of \$10,000 since the most recent disclosure date. 104.20(a)(1)(i) and (ii).

Continuous Reporting of Electioneering Communications

Accordingly, the definition of “disclosure date” requires continuous reporting. After the first disclosure report, each time the direct costs of electioneering communications aggregate in excess of \$10,000, an additional disclosure report is due within 24 hours of the public distribution of an *electioneering communication*.

Disbursements made at any time for the direct costs of producing or airing the publicly-distributed *electioneering communication*, or other unreported electioneering communications, count toward the threshold. However, costs already reported for earlier electioneering communications are not included. 104.20(a)(1)(ii).

Last-Minute Expenditures

There are special reporting requirements for independent expenditures made after the 20th day but more than 24 hours before the day of the *election*. See page 67. 109.10(d).

Contributions Prohibited

Despite this exception for independent expenditures, the QNC is still prohibited from making monetary or in-kind contributions in connection with federal elections. 114.10(d)(3).

Solicitation by QNC

QNCs, when soliciting contributions, must inform donors that their donations may be used for political purposes, such as supporting or opposing candidates. 114.10(f).

Notice of Nonauthorization

When an *independent expenditure* is made to finance a communication containing *express advocacy* (*candidate advocacy*), the QNC must place a notice on the communication stating that the communication is paid for by the QNC and that it is not authorized by any *candidate* or *candidate's* committee. The notice must also include the permanent street address, telephone number or world wide web address of the QNC. 114.10(g) and 110.11(b)(3).

Political Committee Status

If the independent expenditures of a Qualified Nonprofit Corporation become so extensive that campaign activity becomes its “major purpose,” then the organization will be deemed a *political committee* and will be responsible for registering with the FEC and filing the more extensive reports that are required of political committees. MCFL 479 U.S. at 262.

5. Disclaimer Notices⁷

Any *public communication* made by a *political committee*, even those that do not contain a solicitation or *express advocacy*, must include a disclaimer. 110.11. Note that 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).

⁷ 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.

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

Authorized by Candidate

If a *candidate* or *candidate's* campaign authorizes an advertisement purchased by the SSF, the disclaimer notice must identify the SSF that paid for the communication along with the campaign or *candidate* who authorized the advertisement. 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 and 1994-13.

Not Authorized by Candidate

If an advertisement is not authorized by the *candidate* or the *candidate's* campaign, the notice must identify the SSF that paid for the communication, provide the permanent street address, telephone number or web site of the SSF, and state that it 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."

Clear and Conspicuous Placement of the Disclaimer

A disclaimer must be clearly and conspicuously displayed. A disclaimer is not clearly and conspicuously displayed if the print is difficult to read or if the placement is easily overlooked. 110.11(c)(1).

Television and Radio Ads

Authorized by Candidate's Committee

For both radio and television ads, the *candidate* must deliver an audio statement identifying himself or herself and stating that he or she has approved of the communication. In a television ad, the disclaimer must be conveyed by:

- A full-screen view of the *candidate* making the statement; or
- A voiceover with an image of the *candidate* occupying no less than 80% of the vertical screen height.

110.11(c)(3)(ii).

Additionally, television communications must contain a similar, clearly readable written statement that appears at the end of the communication for a period of at least four seconds with a reasonable degree of color contrast between the background and the disclaimer statement. The written statement must occupy at least four percent of the vertical picture height. 110.11(c)(3)(iii)(A) through (C).

Not Authorized by Candidate's Committee

For a radio or television communication that is not authorized by the *candidate's* committee, the disclaimer must include the name of the SSF responsible for the communication and the name of the committee's *connected organization*. In televised ads, the disclaimer must be accompanied by a full-screen view of the representative of the SSF, responsible for the communication stating the disclaimer on video or in voiceover. 110.11(c)(4).

Printed Communications

In printed communications, the disclaimer must be contained within a printed box set apart from the contents of the communication. The print size of the disclaimer 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) and (iii).

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.

Items Not Requiring Disclaimer

A disclaimer is not required:

- When it cannot be conveniently printed (e.g., on pens, bumper stickers, campaign pins, campaign buttons and similar small items);
- When its display is not practicable (e.g., on wearing apparel, on water towers and in sky-writing);
- 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); or
- In SSF solicitations and communications to the restricted class. 110.11(f)(2).

CHAPTER 5

Keeping Records

SSFs must keep records of their financial activities. Recordkeeping is the responsibility of the treasurer, even if the SSF appoints someone else to keep records of the committee's activity. 102.9.

1. Three-Year Retention of Records

A photocopy of each statement, disclosure report and notice filed by the SSF with the FEC, along with original back-up records relevant to the report or notice (such as bank statements, paid invoices, etc.), must be retained for three years after the document is filed. 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. The SSF must make these records available to the Commission for inspection upon request. 102.9(a)(4) and (c); 104.14(b)(2) and (3).

2. Receipts

Records Needed for Reporting

With respect to receipts, the *Act* only requires that records be kept for contributions. Nevertheless, committees are advised to keep records for all types of receipts in order to comply with the reporting requirements, detailed in Chapter 7.

The committee must maintain the following information for contributions 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).

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(c).

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 signed authorization to charge the *contribution*. The treasurer should retain a copy of the authorization form in the committee's records. See, e.g., AOs 1995-9, 1991-1 and 1990-4.

Deposit of Receipts

Once the treasurer receives a *contribution*, he or she must either deposit it or return it within 10 days. 103.3(a). Contributions not deposited within 10 days must be returned to their donors. AO 1992-29.

3. Recording Contributions

Identifying Contributions

Contributions from individuals and from groups other than political committees must be recorded as follows:

Contributions Aggregating over \$200

For each *contribution* that exceeds \$200, either by itself or when aggregated with (i.e., added to) previous contributions from the same donor to the SSF during the same calendar year, records must identify the:

- Amount;
- Date of *receipt*;
- Donor's name and address; and
- Donor's occupation and employer.

100.12 and 102.9(a)(2).

Contributions of More Than \$50

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

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

102.9(a)(1).

In addition, for any *contribution* over \$50, committees must retain a full-sized photocopy or digital image of the check. 102.9(a)(4).

Contributions of \$50 or Less

The Commission recommends two possible accounting methods:

- Keep the same records as those required for contributions that exceed \$50 (above); 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.

AO 1980–99; see AO 1981–48.

Contributions from Political Committees

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

Forwarding 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 “Collecting Agents,” page 28.

Possibly Illegal Contributions

A committee must keep a written record noting the basis for concern for each deposited *contribution* that:

- Requires a written reattribution from the contributor; or
- Requires confirmation that it is not from a prohibited source. 103.3(b)(5). See “Handling Illegal Contributions,” page 27.

4. Recording Other Receipts

The FEC recommends that SSFs keep records on the following receipts in order to fully comply with the reporting requirements (explained in Chapter 7):

- Transfers from *affiliated* SSFs;
- Bank loans;
- Interest and dividends received on invested committee funds; and
- Repayments on loans made by the SSF.

Committee records should contain the full name of the source and the date and amount of each *receipt*.

5. Recording Disbursements

The SSF's records must show figures for total disbursements by the SSF.

Disbursements by Check

All disbursements (except those made from a petty cash fund) must be made by check or similar draft drawn on an account maintained at the committee's designated campaign depository. 102.10 and 103.3(a).

Petty Cash 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

Each disbursement must be identified by:

- Date;
- Amount of the payment;
- Name and address of the payee; and
- Purpose of the disbursement (i.e., a brief explanation of why the disbursement was made, such as “dinner expenses” or “postage”). 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 records on contributions and expenditures made on behalf of candidates, regardless of the amount of the disbursement:

- 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).

Contribution Records

For all contributions, 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 credit card transactions, a monthly billing statement or customer *receipt* for each transaction must be retained, 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).

Transfers-Out

To facilitate reporting, records should 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).

6. Treasurer's Best Efforts

SSFs and their treasurers must make best efforts to obtain, maintain and 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 the

required information. 102.9(d) and 104.7(a). The criteria for making “best efforts” vary, depending on the type of transaction, as explained below.

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 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, in a follow-up request. Furthermore, if 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.

Solicitation Materials

To satisfy the “best efforts” standard, solicitation materials must include an accurate and clear statement of the law’s requirements of the collection and reporting contributor information. The following examples are acceptable wording that may be included in the solicitations (other statements of similar meaning may also be used):

- 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.
- To comply with Federal law, we must use 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. 104.7(b)(1)(i)(A).

The request and the statement must appear in a clear and conspicuous manner on any response material included in a solicitation. The request and statement will not be considered to be “clear and conspicuous” if:

- The request and statement are printed in smaller type than the solicitation and response materials;
- The printing is difficult to read; or
- The request and statement are placed where they may be easily overlooked.

104.7(b)(1)(ii).

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” on the previous page).

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 envelope for the response. Requests made by telephone must be documented in a memorandum. Committees must retain records of follow-up requests. 104.7(b)(2).

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 *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 memo Schedule A with its next regularly scheduled report, 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 to 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” on page 72 for instructions on filing amendments.

Documenting a Contribution’s Legality

In order to determine whether a *contribution* of questionable legality was made by a permissible source and was not excessive, the treasurer must make at least one written or oral request for evidence of the *contribution*’s legality. 103.3(b)(1). If the *contribution* cannot be determined to be legal, the treasurer must refund the *contribution* within 30 days of receiving it. See also page 27, “Handling Illegal Contributions.”

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).

CHAPTER 6

Filing FEC Reports

As explained in Chapter 1, a separate segregated fund (SSF) must register within 10 days of its establishment, regardless of how much money it raises or spends.

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).

I. Treasurer's Duties

General

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 page 43 for more information. 102.9(d); 104.7.
- Keeping the required records of receipts and disbursements. 102.9 and 104.14(d).
- Continuing to file required reports until the committee has filed a termination report, as explained in Chapter 8. 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. 102.7(a). See Chapter 1 for information on appointing an assistant treasurer.

Electronic Filing

The treasurer must obtain a password from the FEC and use it when filing any electronic report or statement. See also 104.18(g) and page 50 “Verification Requirements” for alternatives.

2. Filing Deadlines

Report on Time

Committee treasurers must file reports on time. The Commission cannot grant extensions to reporting deadlines. Filing reports late or not at all may result in enforcement action, including administrative fines. See below.

Filing Date

Unless sent by registered or certified mail, priority or express mail having a delivery confirmation or an overnight delivery service with an online tracking system, a report is considered to be filed on time if it reaches the appropriate federal and state filing offices by close of business on the filing date. 104.5(e). Thus, reports filed by first class mail or by hand delivery must be received by the FEC by the close of business on the filing date.

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 should reach the filing offices by the close of business on the last working day before the filing date.

Registered, Certified, Priority or Express Mailing Date

If a report is sent by registered or certified mail, or by priority or express mail having a delivery confirmation, it is considered filed on time if postmarked by the filing date. Exception: In the case of a *pre-election* report, the report must be postmarked at least three days before the filing date. 100.19(b) and 104.5(e).

Overnight Delivery

Reports sent by overnight delivery service are considered timely if they are:

- Received by the delivery service on or before the filing date;
- Scheduled for delivery on the next business day; and

- Recorded in the delivery service's online tracking system. 100.19(b)

Committees should keep the mailing receipt with its postmark, or a similar document if an overnight delivery service is used, as proof of filing. 104.5(i). Exception: In the case of a pre-election report, the report must be delivered to the overnight service at least three days before the filing date. 100.19(b)(1)(c)(ii).

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. (in Washington, D.C.) 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. If the report is accepted, the Commission will send the filer a receipt. 100.19(c).

An electronic filer that files its report on paper, instead of electronically, is considered a nonfiler. 104.18(e)(2).

Administrative Fines for Late Filers and Nonfilers

The Commission has implemented an Administrative Fines Program, based on amendments to the *Federal Election Campaign Act*,¹ 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.

If the Commission finds "reason to believe" (RTB) that a committee violated the law, the Commission will notify the committee in writing of its finding and the amount of the civil money penalty.² The committee will have 40 days to either pay the penalty or submit a written challenge to the Commis-

¹ On November 30, 2005, President Bush signed the Transportation, Treasury, Housing and Urban Development, Judiciary, District of Columbia and Independent Agencies Act, 2006, which extended the Administrative Fine Program to cover violations of 2 U.S.C. §434(a) that relate to reporting periods through December 31, 2008.

² The civil penalty is calculated according to a set schedule that may be viewed on the FEC web site (www.fec.gov/af.shtml). 111.43. In those cases where the report in question has not been filed, the civil money penalty included with the RTB finding will be based upon the estimated level of activity.

sion action. If the committee challenges the finding, the Commission will turn the case over to an independent reviewing officer. 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 2 U.S.C. §434(a) and, if so, will assess a civil money penalty. If the committee does not respond to the Commission's original RTB finding, the Commission will make a final determination with an appropriate civil money penalty. The committee will then have 30 days to pay the penalty or seek court review of the case.³ 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.

Deadline Information

To ensure timely filing, treasurers should consult the FEC's monthly newsletter, the *Record*, or the FEC web site (www.fec.gov) for up-to-date information on reports required for particular elections.

3. 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.

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; and possibly
- Pre-Election Reports

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

³ For more information on the Administrative Fines Program, see 111.30 to 111.46.

SSF Filing Schedule

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 *January 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.

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 Reports⁴

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,⁵ 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 each election year in the January *Record* and posted on the FEC web site (<http://www.fec.gov>).

Note that 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-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. The report is required only if the committee makes contributions or expenditures (including independent expenditures in connection with the general election) during that period; it 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).

30-Day Post-General Election Report

An SSF must file a post-general election report 30 days after the general election, regardless of activity. (Post-primary reports are not required.) A post-election report covers activity that occurred after the closing date of the last report through the 20th day after the general election. The report 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.

Monthly Filing Schedule

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 notify the FEC in writing before making such a change. Electronic filers must file the request electronically.

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 page 65 for more information.

⁴ This section also applies to special and runoff elections, and to conventions that have the authority to select the nominee.

⁵ 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).

4. Nonelection Year Filing

Nonelection years are years in which there are no regularly scheduled federal elections (i.e., odd-numbered years).

Semiannual Reports

During a *nonelection year*, quarterly filers automatically switch to a semiannual reporting schedule. Two semiannual 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

Monthly Filing Schedule

Reports covering each month's activity are due 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).

An SSF may change its filing schedule only once per calendar year. 104.5(c).

5. 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 web site. (Committees filing on a monthly basis are not required to file *special election* reports.) 104.5(h).

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). Committees should check with the FEC to verify whether a report has been waived.

6. 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. Committees that are required to file electronically, but that file on paper or fail to file, will be considered nonfilers and may be subject to enforcement action. 104.18(a)(2). See page 46, "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. Please note, however, that voluntary electronic filers 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" on page 45). Committees may, however, submit their electronic reports on 3.5" diskettes (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.⁶ 104.18(d). Committees filing electronically on diskette 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).

⁶ Available online at the FEC web site 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 Received⁷
- (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:

- Using a personal password obtained from the FEC (see below);
- Submitting a signed certification on paper along with the diskette; or
- Submitting 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 has examined the submitted report, and that, to the best of his or her knowledge, the report is true, correct and complete. 104.18(a).

Obtaining a Password

Requesting a Password

A committee’s treasurer or assistant treasurer can obtain a password by faxing a request to the password office at 202/219-0674. Requests may also be mailed to the Federal Election Commission, 999 E Street N.W., Washington, DC 20463. A password request must:

- Include the committee’s name and nine-digit FEC identification number;
- Be signed by the treasurer and also by the assistant treasurer if the assistant treasurer is the individual requesting the password;
- Include the treasurer’s phone number and, if applicable, the phone number of the assistant treasurer; and
- Be printed on the committee’s letterhead (if the committee has official letterhead).

A sample request can be viewed on the FEC’s web site at <http://www.fec.gov/electfil/passwords.shtml>.

Requests sent by fax can usually be processed within a few hours. However, committees are encouraged to request a password as early as possible. Requests received near a filing deadline may not be processed in time for a committee to use the password to file a timely report.

Assigning the Password

Once the password office receives the letter requesting a password, it will verify that the requester is listed as the treasurer (and assistant treasurer, if applicable) of that committee on that committee’s Statement of Organization (FEC Form 1). Only the committee’s treasurer and assistant treasurer can receive a password. If the requester is not correctly listed on the committee’s Form 1, then he or she must file an amended Statement of Organization before receiving a password.

If the requester is listed on the Statement of Organization, then a representative from the password office will call the requester and ask him or her to choose a password. This password will be assigned immediately. Passwords are case sensitive and must be entered exactly as initially assigned.

⁷ Including the outstanding balance of any loans.

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 within 10 days of the appointment to disclose the change. In order to do so, the new treasurer must request a password. Since the treasurer's name and signature do not appear on the committee's existing Statement of Organization, the new treasurer 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 Form 1 to indicate the change of position.

Special Requirements

The following documents have special signature and submission requirements:

- Schedule CI (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).

7. Where to File

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

Federal Filing

SSFs generally file reports and statements with the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. 105.4.

Note, however, that quarterly reports of independent expenditures supporting or opposing Senate candidates must be filed with the Secretary of the Senate. (It is important to note, however, that 24-

hour and 48-hour reports of independent expenditures are filed with the FEC and not with the Secretary of the Senate even if the communication refers to a Senate *candidate*. 104.4(b)(2) and (c) and 104.5(g).

State Filing

State Filing Waiver

All 50 states participate in the FEC's state filing waiver program; therefore, SSFs no longer have to file copies of their federal reports and statements because the states:

- Have provided the public with the means to access and duplicate the reports available on the FEC web site; and
- Have been granted a waiver by the Commission exempting them from the requirement to receive and maintain copies of FEC reports.

See 108.1(b).

For elections in Guam 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; or
- Maintains 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.

8. Public Review of Reports

All reports, notices 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 web site at <http://www.fec.gov/disclosure.shtml>. Copies of reports may also be purchased by mail. For more information, call 800/424-9530 ext. 3 or 202-694-1120.

Reports are also available for public review in designated state election offices.

"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 and 2003-24.

“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.

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 7

Completing FEC Form 3X

I. Reporting Forms

Form 3X

FEC Form 3X is the form used by SSFs to disclose receipts and disbursements. The same form is used for all types of reports, including quarterly reports, semiannual reports, pre- and post-election reports and termination reports.

The Form 3X booklet 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–H6: Allocation of Federal and Nonfederal Expenses (See Appendix A for information on the allocation schedules.)

Information entered on the Summary Page and Detailed Summary Page is based on information from the schedules. The schedules, therefore, are normally filled out first. The instructions in this Chapter (starting in Section 2) begin with Schedule A.

Paper Forms

Paper versions of FEC Forms should be typed; printing in ink is also acceptable as long as the forms are legible. Because reports will be photocopied, it is important that paper filers submit original documents (not copies) with the FEC. Committees submitting illegible documents will be required to refile.

Electronic Filing

Committees filing with the FEC can take advantage of the electronic filing program. Reports can be filed electronically on a 3.5" disk, via modem or via the Internet. For more information about the electronic filing requirement, see page 49 of this guide or contact the FEC.

Computerized Forms

A committee may use computer-produced versions of FEC Forms, but they must first be submitted to the Commission for approval. This rule applies even if the committee is using commercial software designed for FEC reporting. 104.2(d). Committees may also submit computer-generated Summary and Detailed Summary Pages, but these pages must be reproductions of the original FEC forms. See AO 1992–11.

The committee must send samples of its proposed forms and schedules to the FEC's Reports Analysis Division. 104.2(d); FEC Directive 37 (available through the FEC's Office of Public Records).

Forms Available on Faxline and FEC Web Site

Faxline

The reporting forms are available on the FEC's fax-on-demand service, Faxline 202/501-3413. Below are the document numbers of the reporting forms for SSFs:

- Form 1—Statement of Organization—#801
- Form 3X—Financial Reporting for SSFs Committees—#804
- Schedule A—Itemized Receipts—#825
- Schedule B—Itemized Disbursements—#826
- Schedule C and C-1—Loans—#827
- Schedule D—Debts and Obligations—#828
- Schedule E—Independent Expenditures—#829
- Schedule H1-H6 – Allocation -- #831

Web site

The forms mentioned above are also available on the FEC web site (www.fec.gov/info/forms.shtml).

2. Itemized Receipts: Schedule A

When to Itemize Receipts

Regardless of Amount

Several types of receipts must be itemized on

Schedule A regardless of amount. They include:

- Contributions from political committees and similar organizations;
- Transfers from affiliated SSFs;
- Loans received;
- Loan payments received; and
- Refunded contributions received from political committees.

\$200 Threshold

A receipt in any of the following categories must be itemized if it exceeds \$200 per calendar year, either by itself or when aggregated with other receipts from the same source:

- Contributions from individuals and groups other than political committees;
- Offsets to operating expenditures (rebates, refunds and returns of deposits), if the operating expenditures were paid by the SSF; and
- Other receipts (such as interest and dividends earned on invested funds).

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. See Chapter 5.

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. The committee must include those receipts in the total for Line 11(a)(ii), "Unitemized Receipts," on the Detailed Summary Page.

Categorizing Receipts

Before beginning to itemize the committee's receipts, separate them into the different categories listed on the Detailed Summary Page ("Contributions from Individuals," "Contributions from Political Committees," etc.; an illustration of a completed Detailed Summary Page appears on page 68). The receipts in each category must be itemized on a separate Schedule A designated for that category.

Indicate the type of receipt itemized on a particular Schedule A by checking the box for the corresponding line number from the Detailed Summary Page where indicated in the upper right corner of the schedule. The appropriate category of receipt may also be written at the top of each page.

Some categories may require several pages. The total for each category should be entered on the bottom line of the last page for that category.

Itemized Information

For each itemized contribution, provide:

- The full name and address (including zip code) of the contributor or other source;
- The name of the contributor's employer (if the contributor is an individual);
- The contributor's occupation (if the contributor is an individual);
- The date of receipt;
- The amount; and
- The aggregate year-to-date total of all receipts (within the same category) from the same source. 104.3(a)(3).

The space indicating the election for which an itemized contribution was made ("Receipt For") does not apply to SSFs; leave those boxes blank.

Special Employer Information

If a contributor is self-employed, that should be recorded in the Employer space. If a contributor is not employed, the Employer space should be left blank, but the Occupation space should always be completed (e.g., "unemployed," "retired," "homemaker").

Best Efforts Required

Note that committees and their treasurers must use "best efforts" to obtain and report the information listed above. See page 43 for more information.

Payroll Deductions

Once an individual's deductions aggregate over \$200 in a calendar year, report the total amount deducted from the donor'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, type "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, a corporate manager authorizes her employer 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 manager's first-quarter contributions (\$90 for six pay periods) as "unitemized contributions" on Line 11(a)(ii) in the April quarterly report.

Payroll Deductions

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
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.			<input checked="" type="checkbox"/> 11a		
NAME OF COMMITTEE (In Full) Critical Reason Inc. PAC			<input type="checkbox"/> 11b		
Full Name (Last, First, Middle Initial) A. Kant Immanuel			<input type="checkbox"/> 11c		
Mailing Address 3 Critiques Ave.			<input type="checkbox"/> 12		
City Konigsburg		State VA	<input type="checkbox"/> 13		
Zip Code 33333			<input type="checkbox"/> 14		
FEC ID number of contributing federal political committee. C			<input type="checkbox"/> 15		
Name of Employer Critical Reason Inc.		Occupation Brand Manager	<input type="checkbox"/> 16		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Aggregate Year-to-Date 285.00	<input type="checkbox"/> 17		
Date of Receipt payroll deduction*		Amount of Each Receipt this Period 90.00 (\$15.00 biweekly)**			

*Adding Extra Text/Explanation: When using FECFile electronic filing software, this information can be entered using the “memo text” window. To make a memo text entry, select the “view” menu on the FECFile toolbar. Select “All Transactions.” Single click (highlight) the transaction to which the memo text will be attached. Then select the “Edit” menu on the toolbar and select “memo text.”

**When using FECFile electronic filing software, enter this information in the “description” field.

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 the illustration on page 56.

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:

- Itemize the initial gift, if necessary, as a *memo entry* on Schedule A (see “When to Itemize Receipts,” on page 53). 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 AO 1989-6.

By June 30 (the closing date for the July quarterly report), 13 pay periods have passed, and the manager’s aggregate contributions are \$195—still below the \$200 itemization threshold. The manager’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 manager’s contributions reach \$285. Now the committee itemizes the total contributions received from the manager during the third quarter (\$90), providing the year-to-date total in the appropriate space. (See the illustration above.)

In-Kind Contributions

When determining whether to itemize an *in-kind contribution* received, follow the same guidelines listed above under “When to Itemize Receipts.” See page 9 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) (in order to avoid inflating the cash-on-hand amount). 104.13(a)(2).

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*. (A check drawn on a joint bank account but signed by only one person does not qualify as a *joint contribution*. Attribute the full amount of such a check only to the person who signed it. Alternatively, a reattribution may be sought using the procedures described below.)

For the purposes of itemization, report a *joint contribution* as though the joint contributors had given separately.

A *joint contribution* is itemized in items A and B in the illustration on page 57. In this case, the committee received a \$1,000 check from a married couple, signed by both spouses. Because there were no

In-Kind Contributions Received

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) <input checked="" type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 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			
Full Name (Last, First, Middle Initial) A. Hume, David		Date of Receipt 08 / 19 / 2006	
Mailing Address 1711 Empirical Ave.		Amount of Each Receipt this Period 3990.00	
City Alexandria		In-kind (raffle prize)*	
State VA			
Zip Code 33333			
FEC ID number of contributing federal political committee. C			
Name of Employer Critical Reason Inc.		Occupation Systems Analyst	
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Aggregate Year-to-Date	

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) <input checked="" type="checkbox"/> 21b <input type="checkbox"/> 22 <input type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 26 <input type="checkbox"/> 27 <input type="checkbox"/> 28a <input type="checkbox"/> 28b <input type="checkbox"/> 28c <input type="checkbox"/> 29 <input type="checkbox"/> 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			
Full Name (Last, First, Middle Initial) A. Hume, David		Date of Disbursement 08 / 19 / 2006	
Mailing Address 1711 Empirical Ave.		Amount of Each Disbursement this Period 3990.00	
City Alexandria		In-kind	
State VA			
Zip Code 33333			
Purpose of Disbursement Raffle Prize		Category/Type	
Candidate Name			
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	
State: District:			

*When using FECFile electronic filing software, enter this information in the "description" field.

instructions as to how to attribute the check, the committee must divide it equally between the two spouses—\$500 from each. 101.1(k)(2).

By contrast, if the committee received instructions to attribute \$100 to the husband and \$900 to the wife, the committee would itemize the wife's contribution. The husband's \$100 contribution would have to be itemized only if he had previously given more than \$100 in the same calendar year, since his total contributions would then aggregate over \$200.

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 3, Section 8.)

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:

- 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).

An example of how to report a reattribution is in the illustrations on pages 57 and 58. 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 (Gottfried Leibniz) and his spouse (Tina Leibniz).

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); 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:

Joint Contributions

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	
			<input checked="" type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input type="checkbox"/> 11c	<input type="checkbox"/> 12
			<input type="checkbox"/> 13	<input type="checkbox"/> 14	<input type="checkbox"/> 15	<input type="checkbox"/> 16
			<input type="checkbox"/> 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) Absolute Spirit Inc. PAC						
Full Name (Last, First, Middle Initial) A. Hegel, George			Date of Receipt MM / DD / YYYY 07 / 08 / 2005			
Mailing Address 33 Dialectic Circle			Amount of Each Receipt this Period 500.00			
City Arlington		State VA	Zip Code 33333			
FEC ID number of contributing federal political committee. C						
Name of Employer Absolute Spirit Inc.		Occupation System Designer				
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Aggregate Year-to-Date 575.00				
Full Name (Last, First, Middle Initial) B. Hegel, Marie			Date of Receipt MM / DD / YYYY 07 / 08 / 2005			
Mailing Address 33 Dialectic Circle			Amount of Each Receipt this Period 500.00			
City Arlington		State VA	Zip Code 33333			
FEC ID number of contributing federal political committee. C						
Name of Employer Prussian State Wine Shop		Occupation Proprietor				
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Aggregate Year-to-Date 500.00				

Memo Entries

Use a *memo entry* 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*.

Filers should exercise caution not to confuse "memo entries" with the "memo text" function used to supply additional information when filing electronically on FECFile.

Bounced Checks

If a committee reports the *receipt* of a check and later finds it cannot be negotiated because of insufficient funds in the donor'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* on a Schedule A for the appropriate line number.

Checks received and returned 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. 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.

Reattributions (July 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	
			<input checked="" type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input type="checkbox"/> 11c	<input type="checkbox"/> 12
			<input type="checkbox"/> 13	<input type="checkbox"/> 14	<input type="checkbox"/> 15	<input type="checkbox"/> 16
			<input type="checkbox"/> 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						
Full Name (Last, First, Middle Initial) A. Leibniz, Gottfried			Date of Receipt MM / DD / YYYY 06 / 14 / 2006			
Mailing Address 111 Monad Street.			Amount of Each Receipt this Period 6000.00			
City Strasburg		State VA	Zip Code 33333			
FEC ID number of contributing federal political committee. C						
Name of Employer Rationalist Solutions.		Occupation Vice President				
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Aggregate Year-to-Date 6000.00				
(Reattribution requested)*						

*For FECFile, use the "description" field.

- 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).

Reattributions (October Report)

SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS		FOR LINE NUMBER: (check only one)	PAGE OF
Use separate schedule(s) for each category of the Detailed Summary Page		<input type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 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			
Full Name (Last, First, Middle Initial) A. <u>Leibniz, Gottfried</u>		Date of Receipt MM / DD / YYYY <u>06</u> / <u>14</u> / <u>2006</u>	
Mailing Address <u>111 Monad Street.</u>		Amount of Each Receipt this Period <u>6000.00</u>	
City <u>Strasburg</u>	State <u>VA</u>	Zip Code <u>33333</u>	
FEC ID number of contributing federal political committee. <u>C</u>	MEMO* Originally reported 6/14/06 \$1,000 reattributed below**		
Name of Employer <u>Rationalist Solutions.</u>	Occupation <u>Vice President</u>		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Aggregate Year-to-Date <u>6000.00</u>		
Full Name (Last, First, Middle Initial) B. <u>Leibniz, Gottfried</u>		Date of Receipt MM / DD / YYYY <u>07</u> / <u>11</u> / <u>2006</u>	
Mailing Address <u>111 Monad Street.</u>		Amount of Each Receipt this Period <u>- 1000.00</u>	
City <u>Strasburg</u>	State <u>VA</u>	Zip Code <u>33333</u>	
FEC ID number of contributing federal political committee. <u>C</u>	MEMO Reattribution below		
Name of Employer <u>Rationalist Solutions.</u>	Occupation <u>Vice President</u>		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Aggregate Year-to-Date <u>5000.00</u>		
Full Name (Last, First, Middle Initial) C. <u>Leibniz, Tina</u>		Date of Receipt MM / DD / YYYY <u>07</u> / <u>11</u> / <u>2006</u>	
Mailing Address <u>111 Monad Street.</u>		Amount of Each Receipt this Period <u>1000.00</u>	
City <u>Strasburg</u>	State <u>VA</u>	Zip Code <u>33333</u>	
FEC ID number of contributing federal political committee. <u>C</u>	MEMO Reattribution		
Name of Employer <u>The Best of All Possible Firms</u>	Occupation <u>Attorney</u>		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Aggregate Year-to-Date <u>1000.00</u>		

*When using FECfile, this is entered automatically by checking the memo dialog box. For entries of more than 40 characters, use the memo text function.

**When using FECfile, enter this information in the "description" field.

Line 11(a). Contributions from Individuals and Other Persons/ Groups

Itemize contributions from individuals and other groups on Schedule A for Line 11(a)(i). Rules concerning when to itemize contributions from individuals are explained on page 54.

Line 11(b). Political Party Committees

If the committee has received any unsolicited contributions from party committees (including party organizations that do not qualify as political committees), itemize them on Schedule A for Line 11(b) and enter the total on the Detailed Summary Page.

Line 11(c). Other Political Committees

If the committee has received any unsolicited contributions from other types of political committees (including SSFs, nonconnected committees and committees that do not qualify as political committees), itemize them on Schedule A for Line 11(c) and enter the total on Line 11(c) of the Detailed Summary Page. 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-In

Itemize any transfers of funds received from affiliated SSFs on Schedule A for Line 12. See the example at right. Enter the total on Line 12.

Line 13. 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 8 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

3. Reporting Receipts: The Detailed Summary Page

Listed below are the categories of receipts found on the Detailed Summary Page. For each category, enter a total for the current period and for the calendar year to date. An illustration of a completed Detailed Summary Page can be found on page 68.

Line 11. Contributions Received

Report total monetary and in-kind contributions received, both itemized and unitemized.

Contributions Received (By Check)

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
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.		<input checked="" type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 17			
NAME OF COMMITTEE (In Full) Critical Reason Inc. PAC					
Full Name (Last, First, Middle Initial) A. Schopenhauer, Arthur		Date of Receipt MM / DD / YYYY 01 / 19 / 2006			
Mailing Address 50 Maya Ln. City: Leesburg State: VA Zip Code: 33333		Amount of Each Receipt this Period 300.00			
FEC ID number of contributing federal political committee. C		Aggregate Year-to-Date 300.00			
Name of Employer Critical Reason Inc.		Occupation Executive			
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Aggregate Year-to-Date 300.00			

Line 16. Refunds of Contributions
Itemize refunds of contributions made by the SSF on Schedule A for Line 16 regardless of their amount. See Section 5 for more information on how to report them. Enter the total on Line 16.

Line 17. 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. See Section 6 for more information on interest and dividends.

Line 18. Transfers from Nonfederal Account for Joint 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 a shared 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).

Other rules concerning these transfers are explained in Appendix A.

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
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.		<input type="checkbox"/> 11a <input type="checkbox"/> 11b <input checked="" type="checkbox"/> 11c <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 17			
NAME OF COMMITTEE (In Full) Alabama Moral Business Association PAC					
Full Name (Last, First, Middle Initial) A. National Moral Business Association PAC		Date of Receipt MM / DD / YYYY 07 / 30 / 2006			
Mailing Address 211 Fair Deal Ln. City: Kingdom of Ends State: VA Zip Code: 33333		Amount of Each Receipt this Period 2140.30			
FEC ID number of contributing federal political committee. C		Aggregate Year-to-Date 5695.45			
Name of Employer		Occupation			
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Aggregate Year-to-Date 5695.45			

must also file Schedule C. See Section 8 for information.

Line 15. 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.

If the *connected organization* made the original operating expenditure with its own funds, then the offset must be given to the *connected organization* and is not reportable.

4. Itemized Disbursements: Schedule B

When to Itemize Disbursements

Regardless of Amount

Several types of disbursements must be itemized regardless of amount:

- Transfers to *affiliated* SSFs;
- Contributions to candidates and political committees;

- Expenditures for allocated federal/nonfederal activity (on Schedule H4);
- Loan repayments; and
- Loans made by the SSF.

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: \$200 Threshold

A disbursement that does not fall under one of the categories listed above (such as a donation to a non-federal candidate) must be itemized if it exceeds \$200 when aggregated with other disbursements made to the same payee during the calendar year.

How to Itemize Disbursements

Categorizing Disbursements

Before beginning to itemize the committee's disbursements, separate them into the different categories listed on the Detailed Summary Page ("Operating Expenditures," "Contributions to Federal Candidates," etc; an illustration of a completed Detailed Summary Page appears on page 68). The disbursements in each category must be itemized on a separate Schedule B designated for that category.

Indicate the type of disbursement itemized on a particular Schedule B by checking the appropriate box for the corresponding line number from the Detailed Summary Page in the upper right corner of the schedule.

Some categories may require several pages. The total for each category should be entered on the bottom line of the last page for that category.

Itemized Information

Itemized disbursement information includes:

- Name of payee;
- Address of payee;
- Purpose of disbursement (a brief but spe-

Contributions to Candidates (By Check)

SCHEDULE B (FEC Form 3X) ITEMIZED DISBURSEMENTS		FOR LINE NUMBER: (check only one)	PAGE	OF
Use separate schedule(s) for each category of the Detailed Summary Page		<input type="checkbox"/> 21b <input type="checkbox"/> 22 <input checked="" type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 26 <input type="checkbox"/> 27 <input type="checkbox"/> 28a <input type="checkbox"/> 28b <input type="checkbox"/> 28c <input type="checkbox"/> 29 <input type="checkbox"/> 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				
Full Name (Last, First, Middle Initial) A. Friends of Karl Popper		Date of Disbursement MM / DD / YYYY 07 / 12 / 2006		
Mailing Address 51 Open Society Ln. City Albany State NY Zip Code 33333		Amount of Each Disbursement This Period 1000.00		
Purpose of Disbursement Contribution Candidate Name Karl Popper		Category/Type 011		
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		
State: NY District: 21				
Full Name (Last, First, Middle Initial) B. Wittgenstein for Congress		Date of Disbursement MM / DD / YYYY 08 / 10 / 2006		
Mailing Address 1661 Duckrabbit Ln. City Alexandria State VA Zip Code 22222		Amount of Each Disbursement This Period 1000.00		
Purpose of Disbursement Contribution Candidate Name Ludwig Wittgenstein		Category/Type 011		
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		
State: ND District: 00		2000 General debt		

Itemize contributions to federal candidates regardless of amount. See Chapter 2, Section 4 on "Designation" for contributions to retire debt.

cific description of why the disbursement was made—see Schedule B instructions and 104.3(b)(3)(i)(B));

- Category Code (see Instructions for Schedules B and E);
- Date of payment; and
- Amount. 104.3(b)(3); 104.9.

Additional Information on Candidates

Further information is required when itemizing a contribution to a candidate committee on Schedule B. Include the candidate's name and the office sought (including the state and, if applicable, Congressional district). When itemizing a contribution or loan to a candidate committee, specify the election for which the payment was made by checking the appropriate category in the election designation box. 104.3(b)(3)(v). See illustrations above.

Redesignations of Contributions Made

Use memo entries to show any redesignations of contributions made.

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 the illustration on page 62, the committee originally made a \$5,000 *contribution* to a candidate's campaign, intending it to count toward the primary *election*. The committee itemized the *contribution* in its year-end report. The following month, the campaign requested that the SSF redesignate \$4,500 to help retire debts from the previous general *election* campaign. The committee itemized the redesignation in its April quarterly report.

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), report 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.) An example is illustrated on page 63.

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."

In-Kind Contributions to Candidates

Disclosure of In-Kind Contribution Made:

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
			<input type="checkbox"/> 21b <input type="checkbox"/> 22 <input checked="" type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 26 <input type="checkbox"/> 27 <input type="checkbox"/> 28a <input type="checkbox"/> 28b <input type="checkbox"/> 28c <input type="checkbox"/> 29 <input type="checkbox"/> 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				
Full Name (Last, First, Middle Initial) A. Prytaneum Hotel				
Mailing Address 399 Agora Ave.			Date of Disbursement MM / DD / YYYY 08 / 19 / 2006	
City Athens State GA Zip Code 33333				
Purpose of Disbursement Meals			Amount of Each Disbursement this Period	
Candidate Name John Socrates			975.00	
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President			In-kind	
Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)				
State: GA District: 4				

Additional Reporting of Payment to Vendor --- If Made After Goods/Services Provided.

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
			<input type="checkbox"/> 21b <input type="checkbox"/> 22 <input checked="" type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 26 <input type="checkbox"/> 27 <input type="checkbox"/> 28a <input type="checkbox"/> 28b <input type="checkbox"/> 28c <input type="checkbox"/> 29 <input type="checkbox"/> 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				
Full Name (Last, First, Middle Initial) A. Prytaneum Hotel				
Mailing Address 399 Agora Ave.			Date of Disbursement MM / DD / YYYY 09 / 19 / 2006	
City Athens State GA Zip Code 33333				
Purpose of Disbursement Meals			Amount of Each Disbursement this Period	
Candidate Name John Socrates			975.00	
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President			MEMO (in-kind: see Schedule B, Line 23)	
Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)				
State: GA District: 4				

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.)

5. Reporting Disbursements: The Detailed Summary Page

Line-by-line instructions for filling out the Disbursements portion of the Detailed Summary Page are given below. See Section 4 for information on how to itemize disbursements on Schedule B. An example of a completed Detailed Summary Page appears on page 68. More information on reporting loans, debts and independent expenditures appears later in this chapter.

Line 21. Operating Expenditures

Operating expenditures—also called *administrative expenses* and fundraising expenses—are only reportable if the SSF pays for them. (Normally, the *connected organization* pays these expenses.)

Line 21(a)

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 (see Appendix A). Note, however, that Line 21(a) is rarely used by SSFs. See Appendix A.

Line 21(b)

Report the total of operating expenditures for unshared SSF activities (i.e., activities paid for exclusively from a federal account) on Line 21(b).

Itemize them on Schedule B for Line 21(b) once payments to any payee exceed \$200 in a calendar year.

Redesignation

Original Designation: Year-End 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)	PAGE	OF
<input type="checkbox"/>	21b	<input type="checkbox"/>	22	<input checked="" type="checkbox"/>	23
<input type="checkbox"/>	27	<input type="checkbox"/>	28a	<input type="checkbox"/>	28b
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	24
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	25
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	26
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	29
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	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)
Stoic Solutions Inc. PAC

Full Name (Last, First, Middle Initial)

A. Committee to Elect Marcus Aurelius

Mailing Address
109 Via Sacra Ln.

City: Rome State: NY Zip Code: 33333

Purpose of Disbursement: Contribution

Candidate Name: Marcus Aurelius

Office Sought: House Senate President

Disbursement For: Primary General Other (specify)

State: NY District: 23

Date of Disbursement: 08 / 12 / 2005

Amount of Each Disbursement this Period: 5000.00

Category/Type: 011

April 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)	PAGE	OF
<input type="checkbox"/>	21b	<input type="checkbox"/>	22	<input checked="" type="checkbox"/>	23
<input type="checkbox"/>	27	<input type="checkbox"/>	28a	<input type="checkbox"/>	28b
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	24
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	25
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	26
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	29
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	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)
Stoic Solutions Inc. PAC

Full Name (Last, First, Middle Initial)

A. Committee to Elect Marcus Aurelius

Mailing Address
109 Via Sacra Ln.

City: Rome State: NY Zip Code: 33333

Purpose of Disbursement: Contribution

Candidate Name: Marcus Aurelius

Office Sought: House Senate President

Disbursement For: Primary General Other (specify)

State: NY District: 23

Date of Disbursement: 11 / 12 / 2005

Amount of Each Disbursement this Period: \$000.00

Category/Type: 011

MEMO*
(As disclosed in 2005 year-end report)**

Full Name (Last, First, Middle Initial)

B. Committee to Elect Marcus Aurelius

Mailing Address
109 Via Sacra Ln.

City: Rome State: NY Zip Code: 33333

Purpose of Disbursement: Contribution

Candidate Name: Marcus Aurelius

Office Sought: House Senate President

Disbursement For: Primary General Other (specify)

State: NY District: 23

Date of Disbursement: 02 / 12 / 2006

Amount of Each Disbursement this Period: 4500.00

Category/Type: 011

MEMO
(Redesignation of above contribution)

* When using FECfile, this is entered automatically by checking the memo dialog box. For entries of more than 40 characters, use the memo text function.

** When using FECfile, enter this information in the "description" field.

Line 22. 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.

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. Examples of itemized contributions to candidates are provided on pages 60-61.

Line 24. Independent Expenditures

Unlike other categories of disbursements, independent expenditures are itemized on Schedule E, as explained on page 66. Enter the total from Schedule E, line (c), on Line 24.

Line 26. Loan Repayments Made

See Section 8 for information on how to itemize the payments on Schedules B and C. Enter the total paid on loans on Line 26.

Line 27. Loans Made

See Section 8 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 5. Enter the total amount refunded during the period on Line 28.

Line 29. Other Disbursements

“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

Returned or Voided Contributions

SCHEDULE B (FEC Form 3X)		Use separate schedule(s) for each category of the Detailed Summary Page		FOR LINE NUMBER: (check only one)		PAGE OF	
ITEMIZED DISBURSEMENTS		<input type="checkbox"/> 21b	<input type="checkbox"/> 22	<input checked="" type="checkbox"/> 23	<input type="checkbox"/> 24	<input type="checkbox"/> 25	<input type="checkbox"/> 26
		<input type="checkbox"/> 27	<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c	<input type="checkbox"/> 29	<input type="checkbox"/> 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							
Full Name (Last, First, Middle Initial) A. Al Cibiades for Congress				Date of Disbursement MM / DD / YYYY 08 / 12 / 2005			
Mailing Address 2020 Hubris Street				City State Zip Code Syracuse NY 00000			
Purpose of Disbursement Contribution				Category/Type 011		Amount of Each Disbursement this Period - 5000.00	
Candidate Name Al Cibiades				(check returned or voided)			
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		State: NY District: 25			

Refunded Contribution

SCHEDULE A (FEC Form 3X)		Use separate schedule(s) for each category of the Detailed Summary Page		FOR LINE NUMBER: (check only one)		PAGE OF	
ITEMIZED RECEIPTS		<input type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input type="checkbox"/> 11c	<input checked="" type="checkbox"/> 12	<input type="checkbox"/> 13	<input type="checkbox"/> 14
		<input type="checkbox"/> 15	<input type="checkbox"/> 16	<input type="checkbox"/> 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							
Full Name (Last, First, Middle Initial) A. Hegel for Congress				Date of Receipt MM / DD / YYYY 07 / 19 / 2006			
Mailing Address 33 Dialectic Ln.				City State Zip Code Leesburg VA 33333			
FEC ID number of contributing federal political committee. C				Amount of Each Receipt this Period 1000.00			
Name of Employer				Occupation			
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)				Aggregate Year-to-Date 1000.00			
(Contribution itemized in the July quarterly report)							

during a calendar year. Enter the total of itemized and unitemized other disbursements on the Detailed Summary Page.

6. 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

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)	PAGE	OF
			<input checked="" type="checkbox"/> 21b	<input type="checkbox"/> 22	<input type="checkbox"/> 23
			<input type="checkbox"/> 27	<input type="checkbox"/> 28a	<input type="checkbox"/> 28b
			<input type="checkbox"/> 24	<input type="checkbox"/> 25	<input type="checkbox"/> 26
			<input type="checkbox"/> 28c	<input type="checkbox"/> 29	<input type="checkbox"/> 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					
Full Name (Last, First, Middle Initial)					
A. Graphos Printing			Date of Disbursement		
Mailing Address 2345 Papyrus Street			MM / DD / YYYY 11 / 12 / 2005		
City Alexandria			State VA		
Zip Code 00000			Purpose of Disbursement PAC letterhead		
Candidate Name PAC letterhead			Category/ Type 001		
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President			Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		
State: District:			Amount of Each Disbursement This Period In-kind 500.00		

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 account. 102.10 and 103.3(a). See also AOs 1999-8, 1997-6, 1986-18 and 1980-39.

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. Itemize income tax payments on Schedule 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.

Nonfederal Contributions

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
			<input type="checkbox"/> 21b	<input type="checkbox"/> 22	<input type="checkbox"/> 23
			<input type="checkbox"/> 27	<input type="checkbox"/> 28a	<input type="checkbox"/> 28b
			<input type="checkbox"/> 24	<input type="checkbox"/> 25	<input type="checkbox"/> 26
			<input type="checkbox"/> 28c	<input checked="" type="checkbox"/> 29	<input type="checkbox"/> 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					
Full Name (Last, First, Middle Initial)					
A. Lycurgus for Governor			Date of Disbursement		
Mailing Address 10 Archon Street			MM / DD / YYYY 02 / 17 / 2006		
City Sparta			State IL		
Zip Code 00000			Purpose of Disbursement Nonfederal Contribution		
Candidate Name Nonfederal Contribution			Category/ Type 011		
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President			Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		
State: District:			Amount of Each Disbursement This Period In-kind 500.00		

committee does not report this type of investment as a disbursement because the money is still a committee asset. 104.3(a)(1). See also AO 1990-2. (See page 18 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 (FEC Form 1), 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).

7. Independent Expenditures

Schedule E

Itemize any *independent expenditure* which, by itself or when added to other independent expenditures made to the same payee during the same calendar year, exceeds \$200. Independent expenditures are itemized on Schedule E. A subtotal for itemized independent expenditures is entered on Line (a). Independent expenditures made (i.e., publicly dis-

Credit Card Transactions

SCHEDULE B (FEC Form 3X) ITEMIZED DISBURSEMENTS		FOR LINE NUMBER: (check only one)	PAGE OF
Use separate schedule(s) for each category of the Detailed Summary Page		<input checked="" type="checkbox"/> 21b <input type="checkbox"/> 22 <input type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 26 <input type="checkbox"/> 27 <input type="checkbox"/> 28a <input type="checkbox"/> 28b <input type="checkbox"/> 28c <input type="checkbox"/> 29 <input type="checkbox"/> 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			
Full Name (Last, First, Middle Initial)		Date of Disbursement	
A. Credit Card Corp.		MM / DD / YYYY 12 / 30 / 2006	
Mailing Address 101 Charge Street		Amount of Each Disbursement this Period	
City: Alexandria State: VA Zip Code: 33333		504.50	
Purpose of Disbursement Credit Card Payment (see below)		Category/Type 011	
Candidate Name John Amenable		Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President	
Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		State: District: 00	
Full Name (Last, First, Middle Initial)		Date of Disbursement	
B. Prime Cut Steakhouse		MM / DD / YYYY 11 / 01 / 2006	
Mailing Address 1643 Calbert Street		Amount of Each Disbursement this Period	
City: Washington State: DC Zip Code: 33333		237.25	
Purpose of Disbursement Fundraising Luncheon		Category/Type 011	
Candidate Name John Amenable		MEMO* See Schedule B, Line 23	
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	
State: ND District: 00			
Full Name (Last, First, Middle Initial)		Date of Disbursement	
C. Zack's House of Cakes		MM / DD / YYYY 11 / 01 / 2006	
Mailing Address 1223 Connecticut Ave		Amount of Each Disbursement this Period	
City: Washington State: DC Zip Code: 33333		267.25	
Purpose of Disbursement Fundraising Luncheon		Category/Type 011	
Candidate Name John Amenable		MEMO See Schedule B, Line 23	
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	
State: ND District: 00			

*In FECFile, click "memo" in the dialog box.

to and including the 20th day before an *election*—must disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more. This reporting requirement is in addition to the requirement to file 24-hour reports of independent expenditures each time that disbursements for independent expenditures aggregate to or above \$1,000 during the last 20 days—up to 24-hours—before an *election*. 2 U.S.C. §§434(b), (d) and (g). For information on such last-minute *independent expenditure* reports, see below.

Note: expenditures that have already been disclosed in a previous report do not have to be included on the 48-hour report.

The SSF must report a last-minute *expenditure* 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 web site's online program. 104.4(b)(2), 109.10(c) and 100.19(d)(3).

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).

Independent expenditures aggregating \$10,000 and above.

Once an SSFs independent expenditures in connection with a given *election* reach or exceed \$10,000 in the aggregate at any time up to and including the 20th day before an *election*, they must be reported within 48 hours of the date that the *expenditure* is publicly distributed. All 48-hour reports must be filed with and received by the Commission at the end of the second day after the *independent expenditure* is publicly distributed.

seminated) prior to payment should be disclosed as "memo" entries on Schedule E and as reportable debt on Schedule D. 104.11.

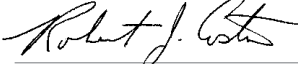
Independent expenditures of \$200 or less do not need to be itemized, though the committee must report the subtotal of those expenditures on Line (b). 104.3(b)(3)(vii)(C) and 104.4(a).

Enter the total of itemized and unitemized independent expenditures on Line (c) of Schedule E and on Line 24 of the Detailed Summary Page.

48-Hour Independent Expenditure Reports

SSFs and other persons who make independent expenditures at any time during a calendar year—up

Independent Expenditures

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 000000001
Check if <input type="checkbox"/> 24-hour notice <input type="checkbox"/> 48-hour notice		
Full Name (Last, First, Middle Initial) of Payee The Spartan Herald		Date 08 / 09 / 2006
Mailing Address 10 Archon Street		Amount 2500.00
City State Zip Code Sparta IL 00000		
Purpose of Expenditure Newspaper Ad	Category/Type 004	Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President State: GA District: 03
Name of Federal Candidate Supported or Opposed by Expenditure: Al Cibiades		Check One: <input type="checkbox"/> Support <input type="checkbox"/> Oppose
Calendar Year-To-Date Per Election for Office Sought 2500.00		Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)
Full Name (Last, First, Middle Initial) of Payee Image Communications Inc.		Date 08 / 22 / 2006
Mailing Address 123 Glossy Street		Amount 5000.00
City State Zip Code Chicago IL 00000		
Purpose of Expenditure Billboard Ads	Category/Type 004	Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President State: GA District: 03
Name of Federal Candidate Supported or Opposed by Expenditure: Al Cibiades		Check One: <input type="checkbox"/> Support <input type="checkbox"/> Oppose
Calendar Year-To-Date Per Election for Office Sought 2500.00		Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)
(a) SUBTOTAL of Itemized Independent Expenditures		7500.00
(b) SUBTOTAL of Unitemized Independent Expenditures		0
(c) TOTAL Independent Expenditures		7500.00
Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or authorized committee or agent of either, or (if the reporting entity is not a political party committee) any political party committee or its agent.		
Signature 		Date 10 / 02 / 2006

candidate in the primary, and an additional \$5,000 in independent expenditures with respect to the same *candidate* in the general, then again no 48-hour report is required and the expenditures are disclosed on the SSF's next 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.

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.

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. 11 CFR 104.4(f). Expenditures that have already been disclosed in a previous report do not have to be included on the 48-hour report.

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 outside of the 20-day window before an election when 24-hour reports are required:

- 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, but 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

Last-Minute Independent Expenditure Reports (24 Hour Notices)

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 indepen-

dent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$1,000.

The SSF must report a last-minute *expenditure* a second time on a Schedule E filed with its next regular report. 104.4(a).

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 web site's online program. 11 CFR 104.4(c) and 109.10(d).

Certification

All 24- and 48-hour reports must contain, among other things, a verification under penalty of perjury as to whether the *expenditure* was made in cooperation, consultation or concert with a *candidate*, a *candidate's* committee, a *political party committee* or an agent of any of these. 11 CFR 104.4(d)(1) and 109.10(e)(1)(v).

For reports filed on paper, the treasurer must sign the Schedule E. For reports filed by email, the treasurer must type his or her name on the Schedule E following the certification.

8. Reporting Loans

Continuously itemize 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); 104.3(b)(3)(iii) and (vi); 104.3(d); 104.11. Procedures for reporting loans and loan repayments are explained below.

Reminder: 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”).

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 on the back of 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 9).

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).

Finally, 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

Detailed Summary Page

DETAILED SUMMARY PAGE of Receipts		
FEC Form 3X (Rev. 02/2003)	Page 3	
Write or Type Committee Name Critical Reason Inc. PAC		
Report Covering the Period: From:	MM / DD / YYYY 07 / 01 / 2006	To: MM / DD / YYYY 09 / 30 / 2006
I. Receipts	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
11. Contributions (other than loans) From:		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A)	10562.27	
(ii) Unitemized	9982.57	
(iii) TOTAL (add Lines 11(a)(i) and (ii))	20544.84	97967.46
(b) Political Party Committees	0	0
(c) Other Political Committees (such as PACs)	0	0
(d) Total Contributions (add Lines 11(a)(iii), (b), and (c)) (Carry Totals to Line 33, page 5)	20544.84	97967.46
12. Transfers From Affiliated/Other Party Committees	2156.85	5605.69
13. All Loans Received	0	0
14. Loan Repayments Received	0	0
15. Offsets To Operating Expenditures (Refunds, Rebates, etc.) (Carry Totals to Line 37, page 5)	250.00	250.00
16. Refunds of Contributions Made to Federal Candidates and Other Political Committees	1000.00	1000.00
17. Other Federal Receipts (Dividends, Interest, etc.)	181.69	851.88
18. Transfers from Non-Federal and Levin Funds		
(a) Non-Federal Account (from Schedule H3)	0	0
(b) Levin Funds (from Schedule H5)	0	0
(c) Total Transfers (add 18(a) and 18(b))	0	0
19. Total Receipts (add Lines 11(d), 12, 13, 14, 15, 16, 17, and 18(c))	24133.38	105675.03
20. Total Federal Receipts (subtract Line 18(c) from Line 19)	24133.38	105675.03

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).

9. Reporting Debts Other Than Loans

Unpaid bills and written contracts or agreements to make expenditures are considered debts. 100.112. 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.¹ 104.3(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.

for Line 17 (“Other Federal Receipts”) if the payments aggregate over \$200 from the same source during the calendar year.

Itemize 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. Schedule C instructions (see the back of the page) explain what information must be disclosed. (Note that separate Schedule C forms are used to itemize loans received and loans made.)

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,

¹ 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 until payment is due. 104.11(b); see 116.6(c)

Detailed Summary Page (Page 2)

DETAILED SUMMARY PAGE of Disbursements		
FEC Form 3X (Rev. 02/2003)	Page 4	
II. Disbursements	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
21. Operating Expenditures:		
(a) Allocated Federal/Non-Federal Activity (from Schedule H4)		
(i) Federal Share	0	0
(ii) Non-Federal Share	0	0
(b) Other Federal Operating Expenditures	1195.00	2542.91
(c) Total Operating Expenditures (add 21(a)(i), (a)(ii), and (b))	1195.00	2542.91
22. Transfers to Affiliated/Other Party Committees	0	0
23. Contributions to Federal Candidates/Committees and Other Political Committees	24200.00	60975.00
24. Independent Expenditures (use Schedule E)	18751.88	18751.88
25. Coordinated Party Expenditures (2 U.S.C. §441a(d)) (use Schedule F)	0	0
26. Loan Repayments Made	0	0
27. Loans Made	0	0
28. Refunds of Contributions To:		
(a) Individuals/Persons Other Than Political Committees	120.00	120.00
(b) Political Party Committees	0	0
(c) Other Political Committees (such as PACs)	0	0
(d) Total Contribution Refunds (add Lines 28(a), (b), and (c))	120.00	120.00
29. Other Disbursements	500.00	990.00
30. Federal Election Activity (2 U.S.C. §431(20))		
(a) Allocated Federal Election Activity (from Schedule H6)		
(i) Federal Share	0	0
(ii) "Levin" Share	0	0
(b) Federal Election Activity Paid Entirely With Federal Funds	0	0
(c) Total Federal Election Activity (add Lines 30(a)(i), 30(a)(ii) and 30(b))	0	0
31. Total Disbursements (add Lines 21(c), 22, 23, 24, 25, 26, 27, 28(d), 29 and 30(c)) ..	50966.88	88579.79
32. Total Federal Disbursements (subtract Line 21(a)(ii) and Line 30(a)(ii) from Line 31)	50966.88	88579.79

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

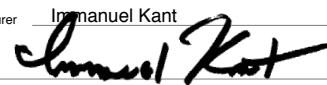
Continuously report a debt owed to an SSF on Schedule D if the debt exceeds \$500 or has been outstanding 60 days. 104.3(d) and 104.11. Payments received on the debt are also reported on Schedule D until the debt is retired. The payments must also be reported on the appropriate line number of the Detailed Summary Page and itemized on Schedule A if necessary.

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 8 for more information.

Summary Page

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.	
Critical Reason Inc. PAC				12 FEB 4 M5	
ADDRESS (number and street)		101 Apriori Street			
<input type="checkbox"/> Check if different than previously reported. (ACC)		Alexandria		VA 00000	
2. FEC IDENTIFICATION NUMBER		CITY		STATE ZIP CODE	
C 000000001					
3. IS THIS REPORT		<input checked="" type="checkbox"/> NEW (N) OR		<input type="checkbox"/> AMENDED (A)	
4. TYPE OF REPORT (Choose One)		(b) Monthly Report Due On:		Nov 20 (M11) (Non-Election Year Only)	
(a) Quarterly Reports:		Feb 20 (M2) <input type="checkbox"/> May 20 (M5) <input type="checkbox"/> Aug 20 (M8) <input type="checkbox"/>		Dec 20 (M12) (Non-Election Year Only)	
<input type="checkbox"/> April 15 Quarterly Report (Q1)		Mar 20 (M3) <input type="checkbox"/> Jun 20 (M6) <input type="checkbox"/> Sep 20 (M9) <input type="checkbox"/>		Jan 31 (YE)	
<input type="checkbox"/> July 15 Quarterly Report (Q2)		Apr 20 (M4) <input type="checkbox"/> Jul 20 (M7) <input type="checkbox"/> Oct 20 (M10) <input type="checkbox"/>			
<input checked="" type="checkbox"/> October 15 Quarterly Report (Q3)		(c) 12-Day PRE-Election Report for the:		Primary (12P) <input type="checkbox"/> General (12G) <input type="checkbox"/> Runoff (12R) <input type="checkbox"/>	
<input type="checkbox"/> January 31 Year-End Report (YE)		<input type="checkbox"/> Convention (12C) <input type="checkbox"/> Special (12S)		Election on [] / [] / [] in the State of []	
<input type="checkbox"/> July 31 Mid-Year Report (Non-election Year Only) (MY)		(d) 30-Day POST-Election Report for the:		General (30G) <input type="checkbox"/> Runoff (30R) <input type="checkbox"/> Special (30S) <input type="checkbox"/>	
<input type="checkbox"/> Termination Report (TER)		<input type="checkbox"/> Election on [] / [] / [] in the State of []			
5. Covering Period		07 / 01 / 2006 through		09 / 30 / 2006	
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		Immanuel Kant			
Signature of Treasurer					
		Date 10 / 13 / 2006			
NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.					
Office Use Only		FEC FORM 3X (Rev. 02/2003)			

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.

Once a committee has received its FEC identification number, it must include that number in all reports, statements, notices and other written communications with the FEC.

Line 3. New or Amended Report

Check the appropriate box to indicate whether the report is new (N) or amended (A).

Line 4. Type of Report

Check the appropriate box under (a) indicating the type of disclosure report being filed (quarterly, monthly, pre-election or post-election); see Chapter 6.

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.

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.

10. The Summary Page

Line 1. Name and Address

Fill in the SSF's full name (including any abbreviations used) and mailing address. (See "Naming the SSF" on page 2.)

Line 6. Cash on Hand

What Is 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)

On this line enter cash on hand as of January 1st of the reporting year.

Summary Page (Page 2)

SUMMARY PAGE OF RECEIPTS AND DISBURSEMENTS		
FEC Form 3X (Rev. 02/2003)		Page 2
Write or Type Committee Name Critical Reason Inc. PAC		
Report Covering the Period: From: MM / DD / YYYY To: MM / DD / YYYY 07 / 01 / 2006 To: 09 / 30 / 2006		
	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6. (a) Cash on Hand January 1, YYYY	2006	87820.25
(b) Cash on Hand at Beginning of Reporting Period	118894.35	
(c) Total Receipts (from Line 19)	30333.38	111875.03
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	149227.73	199695.28
7. Total Disbursements (from Line 31)	57166.88	107634.43
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	92060.85	92060.85
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	0	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	0	
<input checked="" type="checkbox"/> This committee has qualified as a multicandidate committee. (see FEC FORM 1M)		
For further information contact: Federal Election Commission 999 E Street, NW Washington, DC 20463 Toll Free 800-424-9530 Local 202-694-1100		

committee may have to itemize contributions and other receipts included in the beginning cash-on-hand balance. See “When to Itemize Receipts,” on page 53. 104.12.

Treasurer’s Name and Signature

The treasurer must sign and date Form 3X at the bottom of the cover page. Only a treasurer or assistant treasurer designated on Form I (Statement of Organization) may sign the report. 104.14(a). See Chapter I for more information on the treasurer’s responsibilities. See also Chapter 6, Section 5 “Electronic Filing.”

II. 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 #3 by checking the appropriate box that the document is an amended report. In addition to the Summary Page, 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, if appropriate. Transactions originally reported correctly do not have to be itemized again. The Commission recommends that the treasurer attach a cover letter explaining the change.

Line 6(b) Cash on Hand at Beginning of Reporting Period.

The amount entered on this line should be the same as your cash on hand at the close of books of your last report.

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

Electronic Filers

Electronic filers must electronically resubmit the entire report, not just the amended portions. The amendments must be formatted to comply with the Electronic Filing Specifications Requirements mentioned in Chapter 6, Section 5.

CHAPTER 8

Termination and Debt Settlement

I. Committees with No Outstanding Debts

An SSF may terminate its registration and reporting obligations by filing a termination report, provided that:

- The committee no longer intends to receive contributions or make expenditures;
- The committee has no outstanding debts or obligations (102.3); and
- The committee is not involved in an enforcement action (MUR), an audit or litigation with the FEC.

Termination Report

When filing a termination report, the treasurer checks the “Termination Report” box on Line 4(a) of the Summary Page of Form 3X.

The termination report must disclose:

- All receipts and disbursements not previously reported, including an accounting of debt retirement; and
- The purposes for which any remaining SSF funds will be used. 102.3(a).

The committee’s reporting obligation ends when the Commission notifies the committee that the termination report has been accepted.

Disposal of Remaining Funds

An SSF may use its remaining funds for any lawful purposes, including turning them over to the *connected organization’s* treasury, refunding them to their donors or giving them to charity. See AOs 1992-10, 1991-21, 1986-32, 1983-4 and 1979-42.

2. Committees with Outstanding Debts: Debt Settlement

Eligibility for Debt Settlement

A committee that has outstanding debts but wants to terminate may settle its debts for less than the

full amount owed to the creditors.¹ This option is available only to a *terminating committee*—i.e., a committee which no longer intends to support candidates and which receives contributions and makes expenditures only for the purpose of paying winding-down *administrative expenses* (if any) and retiring debts. 116.1(a) and 116.2(a).

(An *ongoing committee*—i.e., an SSF that does not qualify as a *terminating committee*—is not eligible for debt settlement and must continuously report debts until they are extinguished. 104.3(d), 116.1(b) and 116.2(b).)

Debt Settlement Rules

A *commercial vendor* (incorporated or unincorporated) may forgive or settle debts owed by an SSF without incurring a *contribution* if:

- Credit was initially extended in the ordinary course of business;
- 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(a) and 116.4(d)(1);
- The SSF undertook all reasonable efforts to satisfy the outstanding debt, such as fundraising, reducing overhead costs and liquidating assets. 116.4(d)(2); and
- 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).

Creditor’s Rights

No *commercial vendor* or other creditor is required to forgive or settle debts owed by SSFs. 116.4(e). A creditor is also not required to pursue activities that are unlikely to result in the reduction of the debt.

¹ Debt settlement plans are subject to FEC approval. 116.2(a) and 116.8(c).

Debt Settlement Plans

Once a terminating SSF has reached an agreement with a creditor, the treasurer should 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.

Debts Subject to Settlement

The types of debts that are subject to debt settlement requirements include:

- Amounts owed to commercial vendors;
- Debts arising from advances by the SSF staff and other individuals;
- Salary owed to SSF employees (if the SSF uses its own funds to pay salaries); and
- Loans owed to political committees or individuals, including candidates. 116.7(b).

Debts Not Subject to Settlement

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 do not apply to bank loans.

Completing Form 8

Step-by-step instructions for completing Form 8 are available as a separate packet. The treasurer must sign and date the first page of Form 8. The terminating SSF must either have the creditor sign and date the second page of Form 8, or attach a copy of the signed agreement between the creditor and the SSF. 116.7(e)(2).

Commission Review

The Commission reviews each debt settlement plan to ensure compliance with the rules discussed above. 116.8(c). 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

General Rule

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). Payments to creditors should be disclosed on this report.

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 7 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). 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).

3. Committees with Outstanding Debts: 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 above. 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 is not involved in any matter before the Commission (such as a MUR or an audit).
- 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 SSF's last report disclosed that the debts owed to the committee were not substantial.
- 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 outstanding debts and obligations exceed the total of the committee's reported cash on hand balance.

102.4(a) and FEC Directive 45, available from the Public Records Office.

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.

For more information, see FEC Directive 45.

Corporations and labor organizations are generally prohibited from using their treasury funds to make contributions or expenditures in connection with a federal *election* or campaign. 2 U.S.C. §441b. (There is a limited exception for Qualified Non-profit Corporations. See p. 35.) However, corporations and labor organizations may undertake other activities that, because they are outside the Act's definitions of *contribution* and *expenditure*, are allowed by the Act and Commission regulations. This part discusses two broad areas of permissible activity: communications and use of facilities.

CHAPTER 9

Communications

I. Introduction: Basic Terms

While corporations and labor organizations may pay for certain *election*-related communications, the content of those communications is determined by the audience for which they are intended. When a *corporation* or *labor organization* communicates with its restricted class (as defined below), it may issue communications that contain *express advocacy* and solicitations for candidates and parties, and it may coordinate its communications with the *candidate* or party. However, when those organizations communicate with an audience that is beyond its restricted class, *express advocacy* or *coordination* with the *candidate* or party (beyond that *coordination* specifically permitted by the regulations) will result in a prohibited *expenditure* or *contribution*. The following paragraphs define several terms that are key to understanding corporate/labor communications.

Restricted Class

Corporations and Labor Organizations

For purposes of sending communications, the restricted class of corporations (except trade associations) and labor organizations includes the same people who may be solicited for contributions to the *corporation/labor organization's* separate segregated fund. See Chart, page 78 and Chapter 3.

Trade Associations

For purposes of communications, the *trade association's* restricted class is comprised of:

- Noncorporate members and their families;
- In the case of corporate members, the individual corporate representatives with whom the *trade association* normally conducts the association's activities (114.8(h)); and
- Executive and administrative personnel and their families. 114.8(l). See Chart, page 78.

Express Advocacy

Express advocacy is a communication advocating the *election* or defeat of a *clearly identified* federal *candidate*. Express advocacy can be accomplished either by using certain "explicit words of advocacy

of *election* or defeat" or by structuring the message in such a manner that reasonable minds could not differ as to the advocacy of the message. See page 33.

Coordination with Candidate or Political Party

Communications with the Restricted Class

Communications to the restricted class may be *coordinated* with a *candidate* or agent of a *candidate*. 114.3(a)(1). See "Determining Coordination," below. While *coordination* does not transform the restricted class communication into an *in-kind contribution*, it may jeopardize the independence of future communications to those outside the restricted class by the corporate/*labor organization* or its SSF. 114.2(c).

Communications Beyond the Restricted Class

When making a communication beyond the restricted class, corporations and labor organizations may consult with a *candidate* or agent of a *candidate* or *political party* only to the extent expressly permitted in FEC regulations as explained below. Coordination may result in a prohibited corporate or labor *in-kind contribution*. 109.20.

Coordination Defined

A communication is *coordinated* if it is 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(a).

Determining Coordination¹

There is a three-pronged test to determine whether a communication is *coordinated*. PACs are subject to the same *coordination* test that would be applied to communications paid for by other persons. 109.21(a)(1) and 109.22.

¹ As of the date of this publication, several aspects of the coordinated communication rules are being challenged in the U.S. District Court for the District of Columbia. *Shays v. FEC III*, 1:06CV01247.

Definition of Restricted Class

	Corporations	Labor Organizations	Membership Organizations	Trade Associations
Solicitation for SSF	Executive and Administrative Personnel and Families <hr/> Stockholders and Families	Executive and Administrative Personnel and Families <hr/> Members and Families	Executive and Administrative Personnel and Families <hr/> Noncorporate Members and Families	Executive and Administrative Personnel and Families <hr/> Noncorporate Members and Families <hr/> 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	Same as Above	Executive and Administrative Personnel and Families <hr/> Noncorporate Members and Families <hr/> Individuals, Representing Corporate Members, with Whom the Association Normally Conducts Association Business

A communication must satisfy all three prongs of the test to be considered a “*coordinated* communication.” 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”). 109.21(a).

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*” (see above);
- A *public communication* that republishes, disseminates or distributes *candidate* campaign materials, unless the activity meets one of the exceptions at 109.23(b) discussed in the conduct standards below;
- 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* primary or general 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
- 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.

For communications that refer to both a party and a *clearly identified* Federal *candidate*, see 109.21(c)(4)(iv). 109.21(c)(4)(i)-(iv).

Conduct Prong

A communication that satisfies any one of the six standards described below meets the conduct prong. If the communication also meets the content and payment prongs, it is *coordinated*. 109.21(a).

Request or Suggestion

This conduct standard may be met in two ways:

- If the person 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; or
- If a person 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).

Material Involvement

This conduct standard is met 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).

Substantial Discussion

A communication meets this standard if it is created, produced or distributed after one or more substantial discussions between the person 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).

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.²
- 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

² The term “commercial vendor” is defined at 116.1(c).

campaigning and campaign communications. Note that these services would have to have been rendered within 120 days of the purchase of the communication.

- 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.

Former Employee/Independent Contractor.

This standard applies to communications paid for by 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 prior to the production of the communication.

The standard requires that the former employee use or convey material information about the plans, projects, activities or needs of the *candidate* or *political party committee*, or material information used by the former employee in serving the *candidate* 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. 109.21(d)(5).³ See “Safe Harbor for Use of a Firewall,” and “Safe Harbor for Publicly Available Information” below.

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. 109.21(d)(6).⁴

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 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 Endorsements and Solicitations by Federal Candidates

A communication in which a *candidate* endorses or solicits funds for another federal or nonfederal *candidate* is not a *coordinated* communication with respect to the endorsing federal *candidate* unless the communication promotes, supports, attacks or opposes the endorsing *candidate* or another *candidate* seeking election to the same office as the endorsing *candidate*. 109.21(g).

Safe Harbor for the 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 effectively prevent the flow of information between employees or consultants providing service to the person paying for the communication and those employees or 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. 109.21(h).

³ 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 (d)(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)(3)

⁴ Please note that 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 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).

Safe Harbor for Publicly Available Information

The standard 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* or *political party's* web site; and
- Any publicly available web site. 109.21(d)(3).

2. Paying for Communications to the Restricted Class

Either the *connected organization* or its SSF may pay for communications to the restricted class.

Connected Organization Pays

When the *connected organization* pays for such communications, it (rather than the SSF) must report the payments on FEC Form 7, once the payments exceed \$2,000 for all candidates running in the same *election* (primary or general). The payments are not considered contributions. 104.6(a).

SSF Pays

In an *advisory opinion*, the Commission permitted the SSF of a membership organization to pay for a *candidate* appearance – a type of communication to the restricted class. The payment was not considered a *contribution* and the SSF had to report it as “other disbursements” on FEC Form 3X. For any payments requiring itemization on Schedule B, the SSF was to:

- Describe the type of expense;
- Name the *candidate* making the appearance;
- Indicate that the payment was for an internal communication; and
- Cite the *advisory opinion* on the report.

The \$2,000 reporting threshold (for filing Form 7) did not apply. AO 2000-3.

3. Candidate and Party Appearances

Corporations and labor organizations may sponsor an appearance by a *candidate*, a *candidate's* representative or a party representative. The preparations and activities undertaken by the *corporation* or *labor organization* in connection with the appearance vary with the type of audience. The three types of audience are:

- The restricted class of the *corporation* or *labor organization*;
- Other employees and their families; and
- The general public.

The rules for *candidate* and party representative appearances before each type of audience are discussed below.

Appearances Before Restricted Class

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*. 114.3(c)(2)(i).

Express Advocacy

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

Coordination with the Candidate

The *corporation* or *labor organization* may confer with the *candidate/party* representative on the structure, format and timing of the appearance. However, *coordination* with the *candidate/party* representative may compromise the independence of future communications to individuals beyond the restricted class by either the *corporate/labor organization* or its SSF. See “Determining Coordination” above. 109.21, 114.2(c), 114.3(a) and (c)(2).

Solicitation by the Candidate

The *candidate/party* representative may solicit and accept contributions before, during or after the appearance. This includes leaving telephone numbers, addresses and mailing envelopes at the appearance site. 114.3(c)(2)(ii).

Solicitation by the Corporation or Labor Organization

The *corporation* or *labor organization* may, at a *candidate/party* representative appearance, suggest that

its restricted class make contributions to a *candidate* or party, but may not collect any contributions, as detailed below.

Contributions Sent Directly to Candidate/Party

The *corporation* or *labor organization* can instruct the audience to send their contributions directly to the *candidate*/party if they follow these guidelines:

- The *corporation*/*labor organization*'s directors, officers and other representatives may not collect contributions before, during or after the appearance. 114.3(c)(2)(iii); and
- The *corporation* or *labor organization* may provide the address but it may not provide stamps or envelopes addressed to the *candidate*/party. 114.2(f)(2)(ii).

Contributions Earmarked Through the SSF

In addition to soliciting contributions to be sent directly to the *candidate*/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 separate segregated fund (SSF) of the *corporation*/*labor organization* and must be considered contributions both to and from the SSF. They will count, therefore, against the limits of both the contributor and the SSF. For information on SSF solicitation and collection of earmarked contributions, see page 31. 114.2(f)(2)(iii).

Presence of People Outside the Restricted Class

The *corporation* or *labor organization* may, to a limited degree, allow the attendance of the following individuals who are outside 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).

Appearances by Other Candidates/Party Representatives

Because the appearance is before the restricted class and *express advocacy* (*candidate* advocacy) is allowed, 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).

Reporting Appearances Before the Restricted Class⁵

When Reporting Required

Corporations and labor organizations must report disbursements for communications to the restricted class if:

- The communication (e.g., appearance) contains *express advocacy* (*candidate* advocacy) (Note, however, if the communication is primarily devoted to subjects other than *express advocacy* (e.g., issue advocacy), then no reporting is required.); and
- The costs for all candidates running in the same *election* aggregate over \$2,000. 100.134(a).

If the above two criteria are met, the *corporation* or *labor organization* must report the costs of the communications on FEC Form 7. 104.6(a).

Frequency of Filing

FEC Form 7 must be filed quarterly during a calendar year in which a regularly scheduled general *election* is held, beginning with the first reporting period the aggregate costs for all candidates running in the same *election* exceed \$2,000. The *corporation* or *labor organization* must continue to file quarterly and pre-general *election* reports if it makes additional disbursements for communications (containing *express advocacy*) 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*, 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*;

⁵ These reporting requirements also apply to Distributing Publications to the Restricted Class on page 85.

- Whether the communication was in support of, or in opposition to, a particular *candidate*; and
- The cost of the communication. 104.6(c).

Exception When SSF Pays Costs

Note, however, that communications costs (described in this chapter) that are paid for by the SSF (instead of the *connected organization*) do not count as contributions or expenditures. In such instances, the SSF, rather than the *connected organization*, reports the communications costs as “other disbursements” (Form 3X, line 29), and the *connected organization* does not report the expense on Form 7.AO 2000-3. See “Using the SSF’s Own Funds” on page 8.

Appearances Before All Employees and Their Families

Who May Attend

A *corporation/labor organization* may sponsor *candidate/party* representative appearances that are attended by all *corporate/labor organization* employees and their families, *corporate* stockholders or *labor organization* members and their families, as well as other honored guests, speakers, participants and the news media (if invited). 114.4(b)(1).

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).

Express Advocacy

The *candidate* may expressly advocate his/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 *corporate/labor organization* 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. See “Determining Coordination” above. 109.21, 114.2(c) and 114.4(b)(1)(vii).

Solicitation by the Candidate/Party Representative

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

Solicitation by the Corporation or Labor Organization

The *corporation* (any employees) or *labor organization* (any officials, members or employees) 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).

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). See also “Public Debates,” next page.
- 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).
- The term “similar opportunity” means similar circumstances and amount of time for the appearances, except if such similarity is clearly impractical. 114.4(b)(1)(vi).

Appearances Before the General Public

Corporate/labor-sponsored appearances by a *candidate* or party representative before the general public are divided into three categories:

- Officeholder/professional (i.e., noncampaign-related) appearances;
- Public debates; and
- Public appearances at educational institutions.

These three categories are discussed below.

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. AOs 2004-14, 1999-2, 1996-11 and 1992-6. This type of appearance can occur under the following circumstances:

Speaker Not Appearing as Candidate

The speaker is NOT appearing in his capacity as a federal *candidate* but rather as a current federal officeholder or as a lecturer.

Issue Topics

The speaker may speak about issues of interest to the sponsoring organization, including legislative issues, but must avoid reference to the campaign.

No Express Advocacy

Neither the speaker nor the *corporation* or *labor organization* may expressly advocate the *election* or defeat of a *clearly identified candidate*.

No Solicitation

Neither the speaker nor the *corporation* or *labor organization* may solicit contributions before, during or after the event.

Similar Opportunity Not Required

Corporations and labor organizations need not provide other candidates with similar opportunities to speak because the speaker is appearing in his/her professional capacity rather than as a *candidate*.

Proximity to Election Day

The appearance may occur at any time, even shortly before an *election*, because the speaker is not appearing to promote his/her candidacy.

Press Coverage

The speaker may participate in a press conference at or near the site of the event. The speaker may speak at the press conference regarding the issues discussed at the event under the following conditions:

- The sponsoring organization may identify—but may not use the press conference to endorse—the speaker as a *candidate*.
- Neither the speaker nor the sponsoring organization may expressly advocate the *election* or defeat of any *candidate* during the press conference.
- The disbursements for the press conference must be de minimis. That means that

the sponsoring organization may contact only those news organizations it customarily contacts when holding press conferences for other purposes.

Payment of Travel Expenses

The sponsoring organization may pay the speaker's travel expenses as long as no part of the his/her trip is campaign related. If any campaign-related activity is conducted at a stop, the entire stop is campaign related and travel expenses cannot be paid by the sponsoring organization.⁶ AO 1996-11.

Public Debates

Sponsorship

Candidate debates may be sponsored by a broadcaster, a bona fide newspaper, a magazine or other periodical publication, or a tax-exempt nonprofit organization (a 501(c)(3) or 501(c)(4) organization) that neither supports nor opposes any *candidate* or party. 110.13(a) and 114.4(f)(2).

Corporate Donations

A *corporation* or *labor organization* may donate funds to a tax-exempt nonprofit organization (a 501(c)(3) or 501(c)(4) organization) that neither supports nor opposes any *candidate* or party to defray the cost of staging a *candidate* debate. 114.4(f)(1) and (3).

Debate Structure

The debates must be structured such that they do not promote or advance one *candidate* over another; and they must include at least two candidates, meeting face to face. 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.

⁶ In AO 1996-11, 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.

Appearance at Educational Institutions

Any school, college or university (incorporated nonprofit tax exempt “private” school⁷ or unincorporated tax exempt “public” school) may make its facilities available to any *candidate/political committee* or, in some cases, *political party* representatives. 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. Note that if the institution makes its facilities available at a discount or for free, it must make reasonable efforts to ensure that the appearance does not constitute a campaign appearance or event. The following paragraphs further explain this concept.

Facility Rental for Campaign Events: Usual and Normal Fee

Any school, college or university may make its facilities available to any *candidate/political committee* in the normal course of business for the usual and normal rental fee. 110.12 and 114.4(c)(7)(i).

Facility Use for Academic Events: Discount or Free

Any public or private educational institution may allow groups associated with the institution to invite candidates/*political party* representatives to address students, faculty, the academic community and the general public on the institution’s premises free or at a discounted cost provided it:

- Makes reasonable efforts to ensure that the appearances constitute communications in an academic setting (speeches, question and answer sessions) and are not conducted as campaign rallies or events;
- Does not expressly advocate the *election* or defeat of any *clearly identified candidate(s)* or any candidates of a *clearly identified political party*; and
- Does not favor any one *candidate* or party over any other in allowing such appearances. 110.12 and 114.4(c)(7)(ii).

Hosting Candidate Debates

Educational institutions may also host *candidate* debates, as described on page 84.

Hosting Officeholder/Professional Appearances

Educational institutions may also host officeholder/professional appearances as described on page 84.

⁷ Tax exempt nonprofit institutions are advised to review the Internal Revenue Service requirements regarding the effect of political activity and continuing nonprofit status.

Media Coverage

Corporations and labor organizations may invite the media to cover any of the appearances discussed above. However, if any media coverage occurs, the *corporation* or *labor organization* must give equal access to all news media representatives. This means providing to its customary media contacts advance information regarding the appearance and allowing all representatives of news media to cover the event, using a pooling arrangement if necessary. 114.3(c)(2)(iv) and 114.4(b)(1)(viii). See also Endorsements, page 87.

4. Publications

A *corporation* or *labor organization* may distribute publications (e.g., print, broadcast, video, computer based materials) to its restricted class and to the general public. As with campaign appearances, however, the rules are more restrictive for distributing publications to the general public than to the restricted class. The rules for distributing publications to both audiences are discussed in greater detail below. See also AOs 1999-25, 1997-16 and 1996-21.

Distribution of Publications to 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(s)* or a party’s *candidate*. 114.3(a).

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. See “Determining Coordination” above. 109.21 and 114.3(a). See also AO 1996-1.

Solicitation

The material 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 page 81. 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).

Reporting Requirements

Disbursements for communications to the restricted class that aggregate over \$2,000 for any *election* must be reported if the communications contain *express advocacy* and are not primarily devoted to other subjects. See Reporting Appearances Before the Restricted Class, page 82 for specific requirements and processes. 100.134(a) and 104.6.

Distribution of Publications to General Public: General Guidelines

No Express Advocacy

A *corporation* or *labor organization* may distribute certain publications to the general public as long as the publications do not expressly advocate the *election* or defeat of a *clearly identified candidate* or the candidates of a *clearly identified party*.

No Coordination

Except as discussed below, the publications may not be *coordinated* with any candidates or political parties. This action would result in a prohibited corporate or labor *in-kind contribution*. See “Determining Coordination” above.

No Solicitation

Additionally, the publications may not solicit contributions for a *candidate* or party. This action would result in a prohibited corporate or labor *contribution* or *expenditure*.

Voting Records of Incumbent Candidate

A *corporation* or *labor organization* may distribute the factual voting records of incumbent candidates on legislative matters.

No Express Advocacy

Neither the voting records nor any accompanying materials may expressly advocate the *election* or defeat of a *clearly identified candidate(s)* or the candidates of a *clearly identified party*. 114.4(c)(4).

No Coordination

Decisions as to content and distribution of a voting record must be made by the *corporation* or *labor organization* without *coordination* with the *candidate* or *political party*. See “Determining Coordination” above. 109.21 and 114.4(c)(4).

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 (26 U.S.C. §501(c)(3) or (c)(4)) organizations or they may prepare and distribute their own voter guides. See also “Nonpartisan Candidate Information on the Internet” on page 87.

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 (Type 1). 114.4(c)(5)(i).
- The other is based on answers to questions submitted by the organization to the candidates (Type 2). 114.4(c)(5)(ii).

Rules for Preparing and Distributing Either Type of Voter Guide⁸

- Distribution of the guides may not be *coordinated* with the *candidate*. 109.21.
- The guides must include at least two candidates in the same *election*.
- The guides cannot contain *express advocacy*.
- They may include biographical information such as education, employment, offices held and community involvement. 114.4(c)(5).

Further Rules for Preparing and Distributing Type 2 Voter Guides

Type 2 Voter Guides are subject to the following further restrictions:

- No *candidate's* response may receive greater prominence or substantially more space than any other *candidate's* response. 114.4(c)(5)(ii)(C). All candidates for a particular Congressional seat must be given equal opportunity to respond. 114.4(c)(5)(ii)(B).
- Questions must be sent, in the case of the primary elections, to all Presidential candidates in one party; and, for the general *election*, to all on the ballot in the state where the guides are distributed or to those candidates who are on the ballot in enough states to win a majority of electoral votes. All of these candidates must be given equal opportunity to respond. 114.4(c)(5)(ii)(B).
- The guides may not contain an electioneering message. 114.4(c)(5)(ii)(D).
- The guides may not contain scores or ratings of responses in such a way as to convey an electioneering message. 114.4(c)(5)(ii)(E).

⁸ In June 1997, the First Circuit Court of Appeals, in *Clifton v. FEC* (114 F.3d 1309 (1st Cir. 1997)) found invalid the voter guide regulation "only insofar as it limits any contact with candidates to written inquiries and replies and imposes an equal space and prominence restriction." The court remanded to the district court the issue of whether the part of the regulation prohibiting and "electioneering message" is unconstitutionally vague. The district court declared the electioneering message provision governing voter guides to be invalid because it was unseverable from those struck down by the appeals court. (*Clifton v. FEC*, No. 96-66-P-H (D. Maine, April 30, 1998)). See also the Commission's clarification of the "safe harbor" for coordination with candidates. 68 Fed Reg 440-441 (1/3/03).

Nonpartisan Candidate Information on the Internet

In *Advisory Opinions* 1999-25 and 1999-24, the Commission allowed nonprofit corporations and a nonpartisan LLC (treated as a partnership for tax purposes and not *affiliated* with any *political action committee, candidate* or party) to place on their web sites material containing information provided by candidates about their positions on issues. The Commission determined that the web sites constituted exempt nonpartisan political activities designed to encourage individuals to vote or to register to vote. 2 U.S.C. §431(9)(B)(ii). The web sites fell within the exemption because, among other factors, they gave equal time and space on the site to all qualified candidates and did not:

- Attempt to determine the party or *candidate* preference of the viewers;
- Score or rate the candidates or expressly advocate their *election* or defeat; or
- Coordinate with the candidates. (For a discussion of Internet use by employees, see "Individual Volunteer Activity" in Chapter 10.)

5. Endorsements

A *corporation* or *labor organization* may endorse a *candidate* and may communicate the endorsement:

To the Restricted Class

At Appearance by Candidate/Party Representative or in Publication

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 (see pages 81 and 85) (no more than a de minimis number of copies of the publication that includes the endorsement may be distributed beyond the restricted class). 114.4(c)(6). For examples, see AOs 2000-10, 1999-16, 1997-22, 1997-16, 1996-21 and 1996-1.

Reporting Requirements

Expenditures for communications to the restricted class that aggregate over \$2,000 for any *election* must be reported if the communications contain *express advocacy* (*candidate* advocacy) and are not primarily devoted to other subjects. See "Reporting Appearances Before the Restricted Class," page 82 for specific requirements and processes. 100.134(a) and 104.6.

To the Public, by Press Release or Press Conference

Usual Media Contacts

A *corporation* or *labor organization* may publicly announce an endorsement that has already been made, and it may state the reasons for it through a press release or a press conference, as long as the press release or notice of the press conference is distributed only to the organization's usual media contacts. 114.4(c)(6)(i).

Coordination with the Candidate

The *corporation* or *labor organization* may communicate with candidates only 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. The actual announcement may not be *coordinated* with the *candidate*, *candidate's* agents or the *candidate's* authorized committee. 114.4(c)(6)(ii). See also 109.21.

6. Registration and Get-Out-the-Vote Drives

To the Restricted Class

Express Advocacy

Corporations and labor organizations may conduct voter registration and get-out-the-vote (GOTV) drives urging the restricted class to register with a particular party or to vote for a particular *candidate*. 114.3(c)(4).

Transportation

The *corporation* or *labor organization* may provide transportation to the place of registration or to the polls but cannot condition that service on support of a particular *candidate* or party. 114.3(c)(4).

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 candidates or to register with a particular *political party*. 114.3(c)(3).

Beyond the Restricted Class

Express Advocacy

When registration and GOTV drives are directed to people outside the restricted class (other employees, their families and the general public), the *corporation* or *labor organization* may not expressly advocate the *election* or defeat of a *clearly identified candidate* or the candidates of a *clearly identified party*. 114.4(d)(1).

No Coordination

Registration and GOTV drives beyond the restricted class cannot be *coordinated* with any *candidate* or any *political party*. 109.21 and 114.4(d)(2).

No Targeting

The *corporation* or *labor organization* may not aim the drive primarily at those voters registered with, or intending to register with, the party favored by the *corporation* or *labor organization*. 114.4(d)(3).

Services Available to Everyone

The services and voter information must be made available regardless of the voter's political preference. 114.4(d)(4).

Written Notification

During the drive, the *corporation* or *labor organization* must provide written notice of the nonpreferential nature of the service to those who receive the information or assistance. 114.4(d)(6).

Payments to Individuals Conducting the Activity

The *corporation* or *labor organization* may not pay the individuals conducting the drive based on the number of persons assisted who support a particular *candidate* or *political party*. 114.4(d)(5).

7. Voter Education

In addition to providing rules on voter drives, Commission Regulations apply to the dissemination of voter information.

Voter Advertisements

A *corporation* or *labor organization* may pay for public advertisements urging voter registration and voting as long as they do not expressly advocate the *election* or defeat of a *clearly identified candidate* or party's *candidate*. The advertisement may not be *coordinated* with any *candidate* or *political party*. 109.21 and 114.4(c)(2) and (3).

Distribution of Official Voter Information

A *corporation* or *labor organization* may distribute voter information produced by official election administrators, as described below.

Types

- Absentee ballots, if permitted by state law;
- Registration-by-mail forms; and
- Instructional materials. 114.4(c)(3)(i) and (ii).

No Express Advocacy

The voter information may not contain *express advocacy* (*candidate advocacy*) and may not encourage registration with a particular party. 114.4(c)(3)(iv).

No Coordination

Corporations and labor organizations may not coordinate the content, reproduction or distribution of the information with any *candidate* or *political party*. 109.21 and 114.4(c)(3)(v).

Donations for Official Publications

The *corporation* or *labor organization* may make a donation 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).

8. Exception: Independent Expenditures by Qualified Nonprofit Corporations

There is one very limited exception to the Act's prohibition on corporate and *labor organization* independent expenditures. A Qualified Nonprofit Corporation (QNC) may make independent expenditures that support (or oppose) *clearly identified* federal candidates. Such independent expenditures by QNCs are not subject to the prohibition on corporate expenditures in 2 U.S.C § 441b. 114.2(b) and 114.10. This very limited exception is explained on page 35.

CHAPTER 10

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 (e.g., computers, phones, office equipment, furniture and rooms) in connection with federal elections. Described below are rules that apply to the use of facilities; note particularly when the user must reimburse the organization and when payment must be made in advance of the facility use.

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. See pages ii and 8.

I. Individual Volunteer Activity

Incidental Use

Corporate employees and stockholders and *labor organization* employees, members and officials may make occasional, isolated or incidental use of corporate/*labor organization* facilities for their own individual volunteer activities in connection with a federal *election*. Note that the Commission has said that the use of facilities during one hour per week or four hours per month is considered "incidental use." 114.9(a)(1)(iii). Note, however, that 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.

Reimbursement

Incidental Use

When the individual's use of the facilities is occasional, isolated or incidental, the individual must reimburse the organization to the extent that his/her activity increased the *corporation/labor organization's* overhead or operating costs. 114.9(a)(1) and (b)(1).

Activity Exceeding Incidental Use

When the individual's use of facilities exceeds the time frame of "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. 114.9(a)(2) and (b)(2).

Internet Activities

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*. Exempt Internet activities include:

- Sending or forwarding *election*-related email;
- Providing a hyperlink to a campaign or committee's web site;
- Engaging in campaign-related blogging;
- Creating, maintaining or hosting an *election*-related web site; and
- Paying a nominal fee for a web site or other forms of communication distributed over the Internet.

This exemption is contingent on the individual completing the normal amount of work for which the employee is paid, or is expected to perform, that the activity would not increase the overhead or operating costs of the organization, and that the activity is not 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) and (b).

2. Use in Fundraising

Corporations and labor organizations are generally prohibited from using their resources or facilities to engage in fundraising activities in connection with a federal *election* (except for fundraising for their own SSF—see Chapter 3. See also Appearances Before the Restricted Class, Solicitation by the Corporation or Labor Organization, page 81). There are, however, three narrow exceptions.

Use of Staff

Corporate/labor officials or employees may direct subordinates to plan, organize or carry out fundraising as part of their work, using corporate/labor organization resources, only if the corporation or labor organization receives advance payment for the fair market value of the services, including compensation, benefits and overhead. However, using coercion to urge anyone to engage in fundraising on behalf of, or make a contribution to, a candidate or political committee is prohibited. 114.2(f)(2)(i)(A) and (iv). See also AO 1998-16.

Use of Customer/Client Lists

A corporation or labor organization may, in connection with a fundraiser, use the organization's lists of customers, clients or vendors or others not in the restricted class to send invitations or solicit contributions only if the organization receives advance payment for the fair market value of the lists. 114.2(f)(2)(i)(C).

Use of Catering or Food Services

In connection with a fundraiser, the corporation or labor organization may operate or obtain catering or other food services only if the corporation or labor organization receives advance payment for the fair market value of the services. 114.2(f)(2)(i)(E).

Advanced Payment

In Advance

"In advance" means before the staff services, the lists or the catering services 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 advanced payment. For example, the candidate, the organization's separate segregated fund, the party or an individual may make the advanced payment.

Effect on Contribution Limits

Payments by the candidate or the candidate's committee will be considered campaign expenditures. Payments by any other person will be considered in-kind contributions to the candidate, subject to limits and reporting requirements.

Advance Payment for Use of Resources and Facilities

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
		<input checked="" type="checkbox"/> 21b	<input type="checkbox"/> 22	<input type="checkbox"/> 23	<input type="checkbox"/> 24
		<input type="checkbox"/> 27	<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c
		<input type="checkbox"/> 29	<input type="checkbox"/> 30a	<input type="checkbox"/> 30b	<input type="checkbox"/> 30c
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					
Full Name (Last, First, Middle Initial)					
A. Critical Reason Inc.			Date of Disbursement		
Mailing Address 101 Apriori Rd.			MM / DD / YYYY 03 / 10 / 2006		
City Alexandria State VA Zip Code 33333					
Purpose of Disbursement Catering services			Amount of Each Disbursement this Period		
Candidate Name Gottlob Frege			1000.00		
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President			Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		
State: District:					
Full Name (Last, First, Middle Initial)					
B. Frege for Congress			Date of Disbursement		
Mailing Address 11 Sense-Reference Rd..			MM / DD / YYYY 03 / 11 / 2006		
City Bismarck State ND Zip Code 33333					
Purpose of Disbursement fundraiser/catering			Amount of Each Disbursement this Period		
Candidate Name Gottlob Frege					
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President			Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		
State: ND District: 00					
Full Name (Last, First, Middle Initial)					
C. Bacon in 2006			Date of Disbursement		
Mailing Address 101 New Organon Rd.			MM / DD / YYYY 03 / 11 / 2006		
City Albany State NY Zip Code 00000					
Purpose of Disbursement fundraiser/catering			Amount of Each Disbursement this Period		
Candidate Name Francis Bacon			-400.00		
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President			Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		
State: NY District: 10					

3. Use of Offices and Equipment

If a committee or individual other than an employee or *stockholder* of a *corporation*, or a *member* or *official* of a *labor organization*, uses the *corporatelabor organization facilities* in connection with a federal campaign, the user must reimburse the organization within a commercially reasonable time and at the usual and normal rental charge.¹ Facilities used for these purposes might include office space, telephones, computers, typewriters, copy machines and furniture. 114.9(d).

4. Meeting Rooms

At Discount or for Free

A *corporation* or *labor organization* may offer its meeting rooms to a *candidate* or a *political committee* at a discount or for free if:

- It customarily makes the meeting rooms available to clubs, civic or community organizations or other groups at a discount or for free;
- It makes the meeting rooms available on the same terms given to the other groups using the meeting rooms; and
- It makes the meeting rooms available to any other *candidate* or *political committee* upon request. 114.13.

At Normal and Usual Rental Charge

Alternatively, a *corporation* or *labor organization* may, at its discretion, rent its meeting rooms to a *candidate* or *political committee* provided the corpo-

¹ If the connected organization's SSF makes use of the organization's facilities in connection with a federal campaign, the SSF must pay for the use of the facilities in advance. AO 1984-24. However, neither reimbursement nor advance payment for the use of a corporate resource or facility is permissible in situations in which a corporate employee provides campaign-related services to federal candidates and the initial disbursement for the resource or facility is made by the corporation. AO 1984-37.

Advance Payment for Use of Resources and Facilities (cont.)

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
<input type="checkbox"/> 21b	<input type="checkbox"/> 22	<input checked="" type="checkbox"/> 23	<input type="checkbox"/> 24	<input type="checkbox"/> 25	<input type="checkbox"/> 26
<input type="checkbox"/> 27	<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c	<input type="checkbox"/> 29	<input type="checkbox"/> 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					
Full Name (Last, First, Middle Initial) A. Frege for Congress			Date of Disbursement MM / DD / YYYY 03 / 11 / 2006		
Mailing Address 11 Sense-Reference Rd.			Amount of Each Disbursement this Period		
City State Zip Code Bismarck ND 33333			600.00		
Purpose of Disbursement In-kind (fundraiser/catering)			Category/Type 011		
Candidate Name Gottlob Frege			Amount of Each Disbursement this Period		
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President			600.00		
Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)					
State: ND District: 00					
Full Name (Last, First, Middle Initial) B. Bacon in 2006			Date of Disbursement MM / DD / YYYY 03 / 11 / 2006		
Mailing Address 101 New Organon Rd.			Amount of Each Disbursement this Period		
City State Zip Code Albany NY 00000			400.00		
Purpose of Disbursement In-kind (fundraiser/catering)			Category/Type 011		
Candidate Name Francis Bacon					
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President					
Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)					
State: NY District: 10					

ration or *labor organization* is reimbursed within a commercially reasonable time and at the usual and normal commercial rental rate. 114.2(f)(2)(B) and 114.9(d).

EXAMPLE: If Corporation XYZ allows a civic group to use its meeting rooms at a 20 percent discount from the usual and normal rental rate, Corporation XYZ may allow Candidate A to use the meeting rooms at the same 20 percent discount as is given to the civic group. If it allows Candidate A to rent the meeting rooms at the 20 percent discount, Corporation XYZ must allow any other candidates who so request to use the meeting rooms, and it must give them the same 20 percent discount.

Alternatively, if Corporation XYZ rents its meeting rooms to Candidate A at the usual and normal rental rate, it is not required to allow any other *candidate* to use the rooms.

5. Transportation

Use of Corporate/Labor Airplane

A *candidate* or any other person traveling on behalf of the campaign or another *political committee* may use an airplane that is not licensed to offer commercial services (i.e., one that is not licensed to operate for compensation or hire under Federal Aviation Administration rules at 14 CFR parts 121, 129 or 135). In order to avoid receiving a *contribution* from the owner or lessor of the airplane (e.g., a *corporation* or *labor organization*), each campaign traveler must pay the owner or lessor within seven days of the beginning of the flight as follows:

- In the case of travel between two cities with regularly scheduled first-class airline service, the campaign must pay the lowest unrestricted and non-discounted first-class airfare available for the dates traveled or within seven calendar days thereof;
- In the case of travel between two cities served by regularly scheduled coach airline service where at least one is not served by regularly scheduled first-class airline service, the campaign must pay the lowest unrestricted and non-discounted coach airfare available for the dates traveled, or within seven calendar days thereof; and
- In the case of travel between two cities not served by regularly scheduled first-class or coach airline service, the campaign must pay the charter rate for a comparable commercial airplane of sufficient size to accommodate all of the campaign travelers, including members of the news media, and security personnel. 100.93(c).

Other Non-Commercial Transportation

If a campaign uses other non-commercial means of transportation owned or leased by a *corporation* or *labor organization*, the campaign must reimburse the owner or lessor the usual and normal fare or rental charge for a comparable commercial conveyance capable of accommodating the same number of campaign travelers, including any members of the news media, and security personnel. Payment for the travel must be made 30 days from the *receipt* of the invoice, but no more than 60 days following the date the travel commenced. 100.93(d).

6. 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).

CHAPTER 11

Other Uses of Treasury Funds

In addition to the communications described above, a *corporation* or *labor organization* may use its treasury funds for other activities affecting the political process at the federal level. These activities are not considered contributions, and they are not reportable by the organization that conducts them. Listed below are descriptions of these activities along with pertinent guidelines.

1. Legal and Accounting Services¹

A *corporation* or *labor organization* may offer free legal and accounting services to *candidate* committees, party committees and other political committees provided that:

- The *corporation* or *labor organization* paying for the services is the regular employer of the person performing the services;
- 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 or Chapter 95 or 96 of the Internal Revenue Code; 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, 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).

¹ This section does not limit the legal and accounting services that a connected organization may provide to its SSF for administration and solicitation purposes.

2. Donations to Nonfederal Candidates and Committees

A *corporation* or *labor organization* may make donations to nonfederal candidates and to organizations not involved in federal elections, if permitted by state law. However, national banks, federally chartered corporations and foreign nationals are prohibited from making contributions or expenditures in connection with state and local elections. 110.20 and 114.2(a).

3. Donations for Party Office Building

A *corporation* or *labor organization* may donate money or anything of value to a state, district or local *party committee* specifically for the purpose of constructing or purchasing a party office building. 114.1(a)(2)(ix). 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. (This exemption does not apply to national party committees. 100.56, 100.114, and 300.12(d)).

The building fund exemption does not cover expenditures for rent, operating costs, property taxes or other *administrative expenses* incurred by a *party committee*. See AOs 2001-12, 2001-1, 1998-8, 1998-7, 1997-14, 1988-12, and 1986-40.

In *Advisory Opinion* 2001-1, the Commission determined that the building fund exemption also covers compensation paid to a person who raises funds exclusively for the party's office building accounts.

4. Corporate Vendor Discounts

A corporate 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.

5. Employee Participation Plans

A *corporation* or *labor organization* may set up a political giving program for its employees. Such a program is often called an employee participation plan or a trustee plan.

What the Plan Involves

The *corporation* or *labor organization* pays for 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 for Presidential Conventions

Individuals, businesses (including 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.

Donations to Host Committees

Businesses (including corporations), labor organizations, other organizations and individuals may donate funds, goods and services 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

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

Discounts Provided to National Committees

Commercial vendors may provide goods and services to the national convention committee 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).

Samples Provided to National Committees

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

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 (as defined above), provide the convention 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).

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. (Note, however, that these arrangements are not limited to “official providers” but include a variety of promotional arrangements.)

Reporting Promotional Arrangements

The convention committee must disclose, as a *memo entry*, any promotional arrangements with commercial vendors in its FEC reports. 9008.9(b).

Discounts, Samples and Promotional Arrangements with Other Organizations

Under the same terms as those described above, commercial vendors may provide goods and services for convention use to host committees and municipal funds. The recipients must disclose the activity on reports to the FEC. 9008.52(a) and 9008.53(a).

A. Shared Federal and Nonfederal Activities

This appendix explains rules that apply when a committee chooses to support both federal and nonfederal candidates. The rules do not apply to committees that conduct only activities related to federal elections.

As explained below, a committee engaging in both federal and nonfederal election activity has two options:

- 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).

The second 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 or committees, however, the committee may have to allocate the costs between the two accounts. This means that the committee must pay for at least some of the costs from its federal account, and follow specific rules (explained below) for payment.

I. 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 *Federal Election Campaign Act*. 102.5(a)(1)(ii) and (2).

Reportable Nonfederal Activity

A registered SSF must file FEC reports on all its financial activity, including activity which supports nonfederal candidates. 104.10 As explained in Chapter 7, SSF disbursements for nonfederal elections should 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* or committee in a calendar year.

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.

2. Using Two Accounts

Alternatively, a committee or *connected organization* may set up two accounts—an SSF for federal election activity and a second account (sometimes referred to as a “state PAC”) for nonfederal activity.

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.)

Transfers from the Nonfederal Account

The committee may not *transfer* funds from the *nonfederal account* to the federal account except under the circumstances described below. 102.5(a)(1)(i) and 106.6(e)(1)(i).

Collecting Agent Activity

A *nonfederal account* may act as a *collecting agent* for contributions to the federal account without triggering registration requirements. 102.6(b)(1) and (2). See also AOs 2003-29 and 1984-31. Collecting agent procedures are described on page 28.

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 or committees. The *transfer* must be made according to the rules described in Sections 4, 5 and 6 of this Appendix. 102.5(a)(1)(i) and 106.6(e)(1)(i).

3. Allocation Between Accounts

When a committee uses separate accounts for activities connected with both federal and nonfederal elections, the committee may have to allocate its expenses between the two accounts to ensure that the federal account pays its share of the costs associated with that activity. Allocation is not required, however, if shared expenses are paid entirely by the federal account or if the *connected organization* pays all administrative and solicitation expenses. AO 1991-35.

Failure to allocate expenses when required could result in a *contribution* by the *nonfederal account* to the federal account—a violation of federal law. 102.5(a)(1)(i).

The main types of activities that require allocation are described below.

Expenses Requiring Allocation

Generic Voter Drives

A generic voter drive is an activity directed at the general public that urges support for candidates of a particular party or associated with a particular issue, but does not refer to particular candidates. Generic voter drive expenses are allocated the same way as administrative expenses. See 106.6(b)(1)(iii). See section 5.

Generic Public Communications

Public communications that refer to a *political party* but do not refer to any *clearly identified* federal or nonfederal candidates are allocated the same way as administrative expenses. 106.6(b)(1)(iv). See section 5.

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 both federal and nonfederal candidates, regardless of any reference to a *political party*. 106.6(f)(3).

Allocable in-kind contributions include, for example, payments for fundraising activities conducted on behalf of both federal and nonfederal candidates and payments for communications that support both federal and nonfederal candidates.

An *independent expenditure* may be allocated if it advocates the *election* or defeat of both federal and nonfederal candidates.

As explained above, an SSF may allocate direct *candidate* support expenses only if it uses separate federal and nonfederal accounts to pay for them.

See Section 4, below, for more information about allocating *candidate* fundraising activities. See Section 5 for information about allocating communication costs.

Administrative Expenses

Administrative expenses include, for example, rent, salaries and supplies. Such expenses must be allocated only if:

- The committee maintains separate federal and nonfederal accounts, and
- The committee pays for its own *administrative expenses* from both accounts. (Normally, the *connected organization* pays such expenses.) See Section 6 for more information.

106.6(b)(1)(i); AO 1991–35.

Committee Fundraising

Similarly, costs associated with 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. (Normally, the *connected organization* pays for fundraising.) 106.6(b)(1)(ii). See Section 7 for more information.

Non-Allocable Expenses

Generally, communications and voter drives that refer to a federal *candidate(s)* but 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)(i) and (iii).

Similarly, communications and voter drives that refer to a nonfederal *candidate(s)* but do not reference any federal *candidate(s)* may be financed with nonfederal funds, regardless of whether the communication refers to a party. 106.6(b)(2)(ii) and (iv).

Payment Options

Committees with separate federal and nonfederal accounts must use one of the following two methods to pay allocable expenses:

- **Payment from Federal Account:** The committee may pay the entire amount from its federal account (SSF), 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 must include the account's receipts and disbursements in its FEC reports. 106.6(e)(1)(ii), 106.6(e)(2) and (3).

Timing of Internal Transfers

The committee must *transfer* funds from the *non-federal 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) & (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 page 102.

4. Allocation Ratios

Flat Minimum Federal Percentage

Used For:

- Administrative expenses (if not paid by the *connected organization*), including rent, utilities, office supplies and salaries that are not directly attributable to a *clearly identified candidate*;
- Generic voter drives including voter identification, voter registration and get-out-the-vote drives or any other activity that encourages support for a *political party* or a particular issue without mentioning any federal or nonfederal *candidate*;
- Public communications that refer to a *political party* but do not refer to any *clearly identified* federal or nonfederal *candidate*; and
- Direct fundraising costs not paid for by the *connected organization*. 106.6(b)(1)(i).

Calculation:

These expenses must be paid for with at least 50% federal funds. 106.6(b)(1) and (c).

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.

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. 106.6(f)(3).

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.

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 event. 106.6(d).

5. Reporting Allocated Administrative, Generic Voter Drive and Generic Public Communications Expenses

Required Forms

- **Schedule B**—Itemized Disbursements
- **Schedule HI**—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

Allocation Ratio

Allocation of administrative expenses, generic voter drive costs and generic public communications is governed by a flat minimum federal percentage. At least 50% of such expenses must be paid for with federal funds. 106.6(c).

PACs that opt to spend more than 50% federal funds for administrative expenses, generic voter drives or generic public communications must indicate the allocation ratio used on Schedule H1. If a different ratio is used for one or more categories, a separate H1 must be filed for each category with each report. 104.10(b)(1).

Payments

The PAC must make all allocable payments for administrative expenses, generic voter drive and generic public communications from its federal account (or separate allocation account). 106.6(e)(1). Each payment must be itemized on Schedule H4, and the federal and nonfederal shares must be included in the total for Line 21(a) (Allocated Federal/Nonfederal Activity) of the Detailed Summary Page. 104.10(b)(4).

The “event year-to-date” figure entered for each payment represents the total spent on all allocated *administrative expenses* as of the date of payment.

Transfers

The PAC may *transfer* the nonfederal portion of an administrative, generic voter drive or generic *public communication* expense within the 70-day window described in Section 3. 106.6(e)(2)(ii). The committee reports these transfers from the *nonfederal account* to the federal account on Schedule H3. The amount is also included on Line 18(a) (Transfers from Nonfederal Funds) of the Detailed Summary Page. 104.10(b)(3).

6. Allocating Committee Fundraising Expenses

When Required

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. However, the federal account could pay 100 percent of the costs without reimbursement and avoid the need to allocate.

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 7.

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, i.e., 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.

The committee must also give each fundraising program a unique name or code. 104.10(b)(2) and 106.6(d).

Payments

The SSF must pay for 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.

Transfers

The committee reports transfers from the *non-federal account* to the federal account for shared 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 3. 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 should be noted on a Schedule H2 filed with the PACs next report.

If an adjustment indicates that the *nonfederal account* paid more than its allocable share of expenses for the event, the PAC 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.

If an adjustment indicates that the federal account paid more than its share of allocable expenses, the PAC 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.

7. 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: Each *election* year Hapworth PAC, an SSF with separate federal and nonfederal accounts, sponsors a fundraising dinner-dance to benefit federal and nonfederal candidates in a particular state.

In 2008, 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. In past *election* years 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. In 2008, Hapworth 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 \$1,000. 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, Hapworth PAC uses “Dinner-Dance 2008” 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 2008.” 104.10(a)(1).

Allocation Ratio

Because the dinner-dance is a fundraising event for candidates, the committee allocates the \$1,000 expected total costs according to the “funds received ratio” (i.e., funds received by federal candidates compared with funds received by all candidates).

Since Hapworth 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, Hapworth 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

Hapworth PAC pays the bills for the event from its federal account (or separate allocation account) and reports the payments on Schedule H4. (See illustration.) 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 2008” (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. An illustration is provided here.

Transfer of Funds

To cover the nonfederal share of the costs of the dinner-dance, Hapworth PAC transfers \$500.00 from the *nonfederal account* to the federal account. The amount transferred is one half of the \$1,000.00 total payments for the ballroom. The *transfer* is made within the 70-day window described in Section 3 (page 99). 106.6(e)(2)(ii)(B).

Hapworth PAC reports the *receipt* of the *transfer* on Schedule H3, as illustrated here. The amount is also included on Line 18(a) of the Detailed Summary Page.

Adjustments

At a later date, Hapworth 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 2008” (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.

8. 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, regardless of whether there is a reference to a *political party*, the costs must 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: Hapworth PAC, an SSF, maintains a separate *nonfederal account* for use in state and local elections. During the 2008 *election year*, Hapworth 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. Equal space in the advertisements will be devoted to each *candidate*. The total cost for running the advertisements is \$4,250.

Required Forms

- Schedule B: Itemized Disbursements (if communications are in-kind contributions)
- Schedule E: Itemized Independent Expenditures (if communications qualify)
- 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, Hapworth PAC lists “Newspaper Campaign ‘08” as the unique identifier for the activity. The committee will use “Newspaper Campaign ‘08” to refer to the advertisements in all future reports. 104.10(a)(1).

Allocation Ratio

Because “Newspaper Campaign ‘08” 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. 106.6(f)(3)(i). In this case, the ratio of space devoted to federal candidates to space used for all candidates is 1/4. (The committee would base its allocation on time if the advertisements were broadcast.)

Expressing the allocation ratio in percentages, Hapworth PAC enters 25 percent federal and 75 percent nonfederal in the appropriate spaces on Schedule H2, as illustrated above.

Payments

Hapworth PAC makes all allocable payments from its federal account (or separate allocation account) and itemizes them on Schedule H4, as illustrated. 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 “Newspaper Campaign ‘08” as of the date of payment. An illustration is provided at the right.

Transfer of Funds

The nonfederal share is 3/4 of the \$4,250 total cost. The committee transfers \$3,187.50 from the *non-federal account* to the federal account. The *transfer* is made during the permissible 70-day window, as described in Section 3. 106.6(e)(2)(ii)(B).

Hapworth PAC reports the *receipt* of the *transfer* on Schedule H3, as illustrated above. The amount is also included on Line 18(a) of the Detailed Summary Page.

B. Twice-Yearly Solicitations

Twice a year, a *corporation* or *labor organization* and its separate segregated fund (SSF) may expand its solicitation to include certain individuals outside its restricted class. Outlined below are guidelines for conducting a twice-yearly solicitation.

I. Who May Be Solicited Twice Yearly

By Corporations: Nonmanagerial Personnel¹

Twice a year, a *corporation* (or its SSF) may solicit all its employees, including those not considered executive and administrative personnel and employees represented by labor organizations. The families of employees may also be included in a twice-yearly solicitation. 114.6(a).

Employees whose wages are not subject to income tax withholding, however, may not be solicited under this provision (or under the regular provision for soliciting executive and administrative personnel). See 114.1(c)(3). See also AO 1999-20.

By Labor Organizations: Nonmembers

Twice a year, a *labor organization* (or its SSF) may solicit all employees of a *corporation* that employs members of the *labor organization*. Included are:

- Executive and administrative personnel of the *corporation*;
 - Workers who are not represented by the *labor organization*;
 - Employees of subsidiaries and other affiliated corporations;
 - The *corporation's* stockholders;
 - All the employees of the *labor organization*; and
 - The families of all those listed above.
- 114.5(g)(2) and 114.6(b); AOs 1990–25 and 1979–50.

¹ These rules apply to all corporations, including incorporated membership organizations.

2. Custodial Arrangement

Before conducting a twice-yearly solicitation, the *connected organization* or SSF must appoint a custodian to receive contributions. 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 or employee of the *corporation* or its SSF. In the case of labor organizations, the custodian may not be an officer, employee or *member* of the union or its SSF. 114.6(d)(1): Exception: 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).

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 to the SSF's account. Contributions that appear to be illegal must be treated as described on page 27. 114.6(d)(2)(i), (iii) and (iv).

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 exceed \$200. (See Chapter 5.) 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 noncontributors or small contributions of \$50 or less.² I 14.6(d)(2)(ii) and (3).

Information to the Custodian

In order to accurately keep records on each donor's aggregate contributions, the custodian needs a list of previous contributors and the year-to-date total of each one's contributions to the SSF. I 14.6(d)(4).

3. Collection Methods

Written Solicitations

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. I 14.5(a)(5) and I 14.6(c).

No Payroll Deduction

Corporations and labor organizations may not use payroll deduction for twice-yearly solicitations. I 14.6(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. This must be done within a reasonable time so that the *labor organization*, if it wishes, may also make a twice-yearly solicitation at that time. I 14.6(e)(4).

Availability of Method to Labor Organization

A *corporation* must make available to the *labor organization* the method it uses for soliciting and collecting contributions. 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*. I 14.6(e)(3).

Note that if the *corporation* does not use the twice-yearly provision, 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. I 14.6(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.)

The unions may conduct twice-yearly solicitations independently, or they may participate in a joint solicitation mailing.

A combined mailing may contain requests for contributions to each participating union's SSF. I 14.6(e)(5).

² Exceptions: information may, upon request, be made available to the FEC, the Secretary of State, law enforcement officials and judicial officers. I 14.6(d)(3)(i).

C. Solicitations by Trade Associations

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* obtains the corporate *member's* written approval for solicitation; second, the association conducts the solicitation.

I. Request for Corporate Approval

Required Information

A *trade association* must make a written request to the *member corporation* for permission to solicit the *member's* restricted class. (The request may be sent to the corporate representative with whom the association normally conducts its activities.)

This 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. I 14.8(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). I 14.8(d)(3) and (5).

Publication in Association's Magazine

A *trade association* may publish in its internal magazine or newsletter a form for obtaining solicitation approval from corporate members. The form must include the required information described above, and the form's wording must be sufficiently specific

so as not to be considered a solicitation for contributions. AOs 1981–41 and 1980–65. (See page 23 for rules about solicitations in internal publications.)

Request Made at Convention

At its convention, annual meeting or similar event, a *trade association* may request solicitation approvals from corporate members and may set up a booth for this purpose. The requests must be in writing (e.g., handout forms), must include the required information and may not contain a solicitation for contributions. 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, 1978–83 and 1978–17. (Solicitations conducted at conventions are discussed in Section 4.)

2. Approval by Corporate Member

Written Approval

Before a *trade association* may solicit the restricted class of one of its corporate members, the association must obtain written authorization from the *member corporation*. The *member* must designate the calendar year for which the solicitations are authorized; the authorization automatically expires on December 31 of the designated year.

There is no limit on the number of companies 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. I 14.8(d).

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.

Approval Using the Internet and the Web

The Commission approved a proposal whereby a *trade association* distributed a “permission to

solicit” form to its members on the Internet and on a members-only web site. The Commission’s conclusion was based on the determination that the “permission to solicit” form did not otherwise constitute a solicitation. AO 2000-10.

Use of Electronic Signatures

In another *advisory opinion*, the Commission advised that a *trade association PAC* could accept corporate members’ electronic signatures as written authorization to solicit the restricted class of their corporate members. The *trade association* could obtain the electronic authorization through e-mail or its web site. In either case, the *trade association* had to verify that:

- The permission-to-solicit forms were available only to authorized corporate representatives; and
- Each electronic signature came from the corporate representative.

Furthermore, a copy of the electronic approval had to be maintained, in a readily available form, for three years. AO 2000-22.

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 for each year. For example, a *trade association* could ask a *member corporation* to approve solicitations for five consecutive years. The *corporation* would have to submit a signed statement for each year approved; the five statements and signatures could appear on one form or on five separate forms. I 14.8(d)(1) and (4); AO 1984-61.

Corporate approval of *trade association* solicitations in no way limits the *corporation’s* right to solicit contributions for its own SSF. I 14.8(e)(2).

Content of Approval

Scope

A *corporation’s* authorization may limit the scope of the solicitations to particular members of the restricted class (for example, limit it to stockholders). I 14.8(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. I 14.8(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. I 14.8(d)(2).

3. Who May Be Solicited

Parent Corporation

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. I 14.8(f).

Subsidiary Corporation

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. I 14.8(f).

Nonstock Corporation

A *trade association* may (with prior approval) solicit the individual members of a *member non-stock corporation*, only if the individual members have rights and interests that correspond closely to those of stockholders. AO 2000-4, 1999-16 and 1999-15.

4. Solicitations at Convention

A *trade association’s* convention or annual meeting may be the site of impermissible solicitations if the association inadvertently solicits executive and administrative personnel of corporations that have not given prior solicitation approval. To avoid making inadvertent unlawful solicitations at such conventions or meetings, trade associations should observe the following guidelines, based on several *advisory opinions*.

Permissible Solicitations

A *trade association* may solicit SSF contributions from a booth at a convention, provided that:

- The booth is not publicized prior to the convention;
- The booth's signs inform contributors of the solicitation restrictions;
- The *trade association* maintains a list of corporate members that have approved solicitations for the current year; and
- Funds are not accepted from individuals who are not solicitable.

AOs 1995-14, 1978-83 and 1978-17.

Impermissible Solicitations

An impermissible solicitation will occur, even if unintended, when a *trade association* provides information to employees (of a *corporation* that has not given its solicitation approval) on how to contribute to its SSF or when it encourages support of the SSF. AOs 1979-66 and 1979-13.

EXAMPLES: A pre-convention mailing that mentions an SSF fundraising event or a booth is a solicitation. A convention sign saying "Ask Us for Information About the PAC Fundraiser" or informing attendees about a fundraising booth is also a solicitation. AOs 1976-96 and 1976-27.

Other Permissible Activities

Simply requesting a corporate *member's* approval for solicitations is not a solicitation for contributions. AO 1981-41. Moreover, providing merely factual, historical or statistical information on the SSF, or explaining the legal requirements which apply to its activities, is not a solicitation. See "What Is Not a Solicitation" on page 24.

5. 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. Donations for these purposes (such as a raffle, door or lottery prize) are not contributions as long as the donor qualifies as a *member* of the association. See "Definition of Member," page 23, and "Operating Costs" page 8. See also AOs 1995-28, 1995-17, 1989-18 and 1980-59. Note, however, that when goods or services 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 "Reimbursement," page 26. See also AOs 1995-17 and 1989-18.

Funds received for an SSF's administrative, operating or solicitation expenses must be kept in a separate account from the SSF contributions. AO 1981-19.

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 donated by nonmember individuals are in-kind contributions, they are not subject to the reimbursement rules discussed above. Similar contributions by nonmember corporations are prohibited. AOs 1995-17 and 1989-18, n. 4.

Payroll Deduction

A corporate *member* of a *trade association* 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 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. I 14.8(e)(3).

6. Trade Association Federations

A federation of trade associations may also establish a separate segregated fund. 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. I 14.8(g)(1). As examples, in *advisory opinions* the Commission has ruled that an organization of *affiliated trial lawyers' associations*

was a *trade association federation*, while a statewide Chamber of Commerce was not. AOs 1985–37 and 1977–44.

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 on page 5. I 14.8(g)(1). See also AO 1995-12. Local corporate members or state leagues may also act as collecting agents for the SSF of an *affiliated* organization. AO 1998-19.

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. I 14.7(k)(1) and I 14.8(g)(1)(i) and (ii).

D. Earmarked Contributions

An *earmarked contribution* is one which the contributor directs (either orally or in writing) to, or spends on behalf of, a *clearly identified candidate* or *candidate's* committee through an intermediary or conduit. Earmarking may take the form of a designation, instruction or encumbrance and may be direct or indirect, express or implied. 110.6(b)(1).

I. Conduits

Who Is a Conduit

Anyone who receives and forwards an *earmarked contribution* to a *candidate 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, 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*, *labor organization* or other entity prohibited from making contributions in connection with federal elections may act as a conduit for

an *earmarked contribution*. A separate segregated fund, however, may act as a conduit. 110.6(b)(2)(ii); 114.3(c)(2)(ii).

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). See also AOs 2004-19 and 1986-4.

2. 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 affected when the conduit exercises direction or control over the contributor's choice of the recipient *candidate*. 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 check. For examples of how the Commission has viewed the “direction or control” rule in specific situations, see AOs 2003-23, 1986-4, 1981-57 and 1980-46.

Solicited Earmarked Contributions

Note that if a committee, when making a solicitation, requests the contributor to earmark the funds for a specific *candidate*, the cost of the solicitation incurred by the committee is an *in-kind contribution* to the *candidate*, subject to the *contribution* limits. AO 1980-46.

Effect on Unregistered Organization

An unregistered organization acting as a conduit should be aware that conduit activity could result in a *contribution* by the organization, under the circumstances described above. In such a case, the activity may trigger registration requirements for the unregistered organization.

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); 110.6(c)(1)(iii).

Transmittal Report

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).

Contributions Exceeding \$50

When an *earmarked contribution* exceeds \$50, the accompanying report must contain the name and address of the original contributor, the date the *contribution* was received by the conduit and the amount. 102.8(b) and 110.6(c)(1)(iv). The report should also state the *election* designated by the contributor, if any. 110.1(b)(3)(i).

Contributions Exceeding \$200

When an *earmarked contribution* exceeds \$200, the accompanying report must contain the full name and address of the contributor, the contributor's occupation and employer, the date the *contribution* was received by the conduit and the amount. 102.8(b) and 110.6(c)(1)(iv). The report should also state the *election* designated by the contributor, if any. 110.1(b)(3)(i).

4. Reporting Conduit Activity

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. 110.6(c)(1)(v).

Report Filed with the Government

Separate Segregated Fund

A conduit SSF must disclose its activity on its next regularly scheduled FEC report. 110.6(c)(1)(ii).

Unregistered Entity

An individual or other unregistered entity acting as a conduit must disclose the activity in a letter to the FEC within 30 days after forwarding the *earmarked contribution*. 110.6(c)(1)(ii).

The letter should contain all the information listed below for SSF conduits.

Contributions Deposited in SSF's Account

Schedule A

If an *earmarked contribution* passes through an SSF's account, the committee reports the following information on Schedule A:

- The name and mailing address of each person making an *earmarked contribution* (including earmarked contributions of \$200 or less) (110.6(c)(1)(iv)(A));
- The occupation and employer of each individual making an *earmarked contribution* exceeding \$200 (110.6(c)(1)(iv)(A));
- The *candidate* designated by the contributor as the recipient of the *contribution* (110.6(c)(1)(iv)(B));
- The *election* for which the *contribution* was designated, if any (see 110.1(b)(3)(i));
- The amount of the *earmarked contribution* (110.6(c)(1)(iv)(B)); and
- The date the *contribution* was received by the conduit (110.6(c)(1)(iv)(B)).

Schedule B

Once the SSF has forwarded the *contribution* to the *candidate* (after depositing it in its own account), the committee reports on Schedule B:

- The *candidate* designated by the contributor (110.6(c)(1)(iv)(B));
- The date the *contribution* was forwarded (110.6(c)(1)(iv)(C));
- The amount forwarded to the *candidate* (110.6(c)(1)(iv)(B));
- The *election* designated by the contributor, if any (see 110.1(b)(3)(i));
- The name of the contributor (110.6(c)(1)(iv)(A));
- A notation that the *contribution* was forwarded in the form of a check drawn on the conduit's account (110.6(c)(1)(iv)(C)); and
- A statement indicating that the conduit's limit was also affected, if appropriate (110.6(d)(2)).

Earmarked Contributions

SCHEDULE A (FEC Form 3X)		FOR LINE NUMBER: (check only one)		PAGE OF	
ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page			
<small>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.</small>					
NAME OF COMMITTEE (In Full) Unmoved Movers Inc. PAC					
A. Full Name (Last, First, Middle Initial) Joe Aristotle			Date of Receipt MM / DD / YYYY 08 / 19 / 2006		
Mailing Address 11 Lambda Street City: Stagira State: NY Zip Code: 33333			Amount of Each Receipt this Period _____ 500.00		
FEC ID number of contributing federal political committee. C _____			Earmarked for Thomas Aquinas Senate, NY.		
Name of Employer Unmoved Movers Inc.		Occupation President		Aggregate Year-to-Date _____ 500.00	
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) _____					

SCHEDULE B (FEC Form 3X)		FOR LINE NUMBER: (check only one)		PAGE OF	
ITEMIZED DISBURSEMENTS		Use separate schedule(s) for each category of the Detailed Summary Page			
<small>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.</small>					
NAME OF COMMITTEE (In Full) Unmoved Movers Inc. PAC					
A. Full Name (Last, First, Middle Initial) Friends of Thomas Aquinas for Senate			Date of Disbursement MM / DD / YYYY 08 / 25 / 2006		
Mailing Address 12 Summa Ln. City: Rome State: NY Zip Code: 33333			Amount of Each Disbursement this Period _____ 500.00		
Purpose of Disbursement Contribution		Category/Type 011		Earmarked by Joe Aristotle and transmitted by committee check.	
Candidate Name Thomas Aquinas		Disbursement For: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) _____			
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		State: _____ District: _____			

5. 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. The information in this section is based on AOs 1995-15 and 1991-29, in which the Commission ruled on programs designed for subsequent earmarking of payroll deductions. See also “Earmarked Contributions” on page 31.

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 in which they are contributing. The SSF must forward the earmarked contribu-

Undeposited Contributions

If the SSF forwards the contribution without depositing it first (i.e., the transfer is in the form of the contributor’s original check), the committee must itemize the same information listed above in memo entries on Schedules A and B. 110.6(c)(1)(v). The entries should indicate that the contribution was passed on in the form of the contributor’s original check and, if appropriate, should indicate that the conduit’s limits for that candidate were affected. 110.6(d)(2).

tions to the named candidate within 10 days of the designation of the funds.

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 assures that the funds will not be used until the contributor designates them for a specific candidate. In one program (AO 1995-15), funds that were left undesignated past the deadline set for designation were available for use by the SSF.

Reporting

The committee must report 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.

When contributors subsequently designate candidates to receive funds from their ledger accounts, the SSF should report the designations as memo entries on Schedule A. (See “Contributions Deposited in SSF’s Account,” above.) The entries must also indicate that the funds were collected through payroll deduction.

The SSF must report the amount forwarded to the *candidate* on Schedule B (See “Contributions Deposited in SSF’s Account,” above), including a notation that it was an *earmarked contribution*.

E. Contributions from Partnerships/LLCs³

Outlined below are special rules concerning contributions received by SSFs from partnerships. This section may be relevant to membership organizations whose members include partnerships or LLCs that are treated as partnerships for tax purposes. 110.1(e) and 110.1(g).

I. Contribution Limits

Contributions received by an SSF from a partnership may not exceed \$5,000 per year. 110.1(d). A *contribution* from a partnership also counts proportionately against each contributing partner's \$5,000 per year limit for the same *political committee*. 110.1(e) and (g)(2).

Note, however, that certain partnerships and partners may be prohibited from contributing. See "Prohibited Partnership/LLC Contributions," below.

2. Attribution Among Partners

Formula

A portion of the partnership *contribution* must be attributed to each contributing partner.⁴ If all partners within the organization are contributing, the partnership may attribute the *contribution* according to each partner's share of the firm's profits. However, if the partnership attributes a *contribution* on another basis agreed to by the partners, or if it attributes contributions only to certain partners, the following rules must be observed:

- The contributing partners' profits must be reduced (or their losses increased) by the amount of the *contribution* attributed to them; and
- The profits (or losses) of only the contributing partners must be affected.

³ For more information on contributions from limited liability companies, see Chapter 1, Section 13 and Chapter 2, Section 2.

⁴ 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.

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. 110.1(e).

Notice to Recipient Committee

Because a *contribution* from a partnership is a *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). However, unlike other joint contributions, the signature of each contributing partner is not required. 110.1(g)(5), (k)(1) and (2).

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. Unlike a partnership, a professional *corporation* is prohibited from making any contributions because contributions from corporations are unlawful. 114.2(b).⁵ See also 114.7(d).

Partnerships with Corporate Members

Because contributions from corporations are prohibited, a partnership or an LLC with corporate members may not attribute any portion of a *contribution* to the corporate partners. 110.1(e), 110.1(g)(2) and 114.2(b).

A partnership or LLC composed solely of corporate partners may not make any contributions. AO 1981-56.

⁵ However, an individual member of a professional corporation may contribute a check drawn on his or her nonrepayable corporate drawing account since the check represents a contribution from the individual rather than the corporation. See 102.6(c)(3).

Partnerships or LLCs with Foreign National Members

Similarly, because contributions from foreign nationals are prohibited, a partnership may not attribute any portion of a *contribution* to a partner who is a *foreign national*. 110.20(b).

Partnerships or LLCs with Federal Government Contracts

A partnership or LLC that is negotiating a contract with the federal government or that has not completed performance of such a contract is prohibited from making contributions. However, an individual partner in such a firm may make contributions from personal funds (rather than from funds drawn on the partnership's account). 115.4. See also AO 1991-1.

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* on Schedule A. Moreover, an *in-kind contribution* itemized on Schedule A must also be itemized on a Schedule B for operating expenditures. 104.13(a) and (b). However, any information about a partner itemized as a *memo entry* on Schedule A does not have to be reported on Schedule B.

4. Reporting Partnership/LLC Contributions

Included in Total Figure

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)(iii)).

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) and (b).

F. 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.

I. 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, Washington, DC 20224, Attention: E:EO (202/622-8100 or 1-877/829-5500) or on line at www.irs.gov/polorgs.

Committees that need to obtain a taxpayer ID number should call 1-800/TAX-FORM 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, Media Bureau, 445 12th Street SW, Washington, DC 20554 (202/418-1440) or online at www.fcc.gov/mb/policy/political/.

3. Hatch Act

For information on the Hatch Act, which regulates political activity by federal employees, contact the Office of Special Counsel, 1730 M Street, NW, Washington, DC 20036 (1-800/854-2824 or 202/254-3650), or online at www.osc.gov/hatchact.htm.

G. Definitions

Words and phrases found in italics throughout this book are defined below.

Act — The *Federal Election Campaign Act of 1971* (2 U.S.C. §431 et seq.), as amended. 100.18.

Administrative Expenses — The costs of operating a separate segregated fund, including salaries, rent and supplies, and other operating costs. 114.1(b).

Advisory Opinion (AO) — A formal ruling from the Commission regarding the legality of a specific activity proposed in an advisory opinion request (AOR). Part 112. For information on requesting an AO, see page i.

Affiliated — Established, financed, maintained or controlled by the same organization. Affiliated political committees are considered one *political committee* for purposes of *contribution* limits. 100.5(g); 110.3(a).

Authorized Committee — See Candidate Committee.

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) through (d); 100.142(a) through (d); 103.2.

Campaign-Related Activity — Activity that involves soliciting, making or accepting contributions to the *candidate's* campaign or communications expressly advocating the nomination, *election* or defeat of any *candidate*. Note, though, that the absence of solicitation and *express advocacy* does not preclude the determination that the event is campaign related. AOs 1996-11, 1994-15, 1992-6 and 1988-27.

Candidate — An individual seeking nomination or *election to federal office* becomes a *candidate* when he or she and agents acting on his or her behalf raise contributions or make expenditures that exceed \$5,000. 100.3.

Candidate Committee — A *principal campaign committee* or any other *political committee* authorized in writing by a federal *candidate* to receive contributions and make expenditures on his or her behalf. 100.5(f)(1). The Act and FEC regulations refer to *candidate committees* as “authorized committees.”

Clearly Identified Candidate — A *candidate* is *clearly identified* when his or her name or picture appears in a communication or when his or her identity is apparent by unambiguous reference. 100.17; 106.1(d); 109.1(b)(3).

Collecting Agent — An organization that collects and transmits contributions to a separate segregated fund (SSF). A *collecting agent* may be the SSF's *connected organization* or an organization or committee 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 — An organization that uses its treasury funds to establish, administer or solicit contributions to a separate segregated fund. 100.6.

Contribution — A payment, service or anything of value given to influence a federal *election*. 100.52(a).

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. 1) the communication must be paid for by a person other than a federal *candidate*, a *candidate's* authorized committee or *political party committee*, or any agent of any of the foregoing; 2) one or more of the four content standards set forth in 11 CFR 109.21(c) must be satisfied; and 3) one or more of the five conduct standards set forth in 11 CFR 109.21(d) must be satisfied. 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.

Corporation – Any separately incorporated entity (other than a *political committee* that has incorporated for liability purposes only). 100.8(b)(4)(vi); 114.12(a). The term covers both for-profit businesses (including C and S corporations) and nonprofit incorporated organizations, as well as corporations without capital stock, incorporated membership associations, incorporated trade associations, incorporated cooperatives and professional corporations.

Delegate – An individual who is or seeks to become a *delegate* to a national nominating convention or to a state or local convention, caucus or primary held to select delegates to a national nominating convention. 110.14(b)(1).

Delegate Committee – A group organized for the purpose of influencing the selection of delegates. The term includes a group of delegates, a group of individuals seeking to become delegates and a group of individuals supporting delegates. 110.14(b)(2).

Direct Mail – A communication to the general public using either a commercial mailing firm or mailing lists purchased from a *commercial vendor*. 100.87(a), 100.89(a), 100.147(a) and 100.149(a).

Disbursement – Any purchase or payment made by a *political committee*.

Earmarked Contribution – A *contribution* that the contributor directs (either orally or in writing) to a *clearly identified candidate* or *candidate committee* through an intermediary or conduit. Earmarking may take the form of a designation, instruction or incumbrance and may be direct or indirect, implied or express. 110.6(b)(1).

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 from the end of one general *election* for a given *federal office* to the end of the following general *election* for that office. The number of years in an *election cycle* differs according to the *federal office* sought. The *election cycle* spans:

- Two years for House candidates;
- Four years for Presidential candidates; and
- Six years for Senate candidates. See 100.3(b).

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 federal candidate*, 2) is publicly distributed within 60 days of a general *election* or 30 days of a primary (or preference *election*, convention or caucus of a *political party* that has authority to nominate a *candidate*), and 3) is targeted to the relevant electorate, in the case of House and Senate candidates. 100.29(a).

Expenditure – A purchase or payment made in connection with or for the purpose of influencing a federal *election*. A written agreement to make an *expenditure* is considered an *expenditure*. 100.111(a); 100.112; 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* (*candidate advocacy*): by use of certain “explicit words of advocacy of *election* or defeat” and by the “reasonable person” test. 100.22.

“Explicit words of advocacy of *election* or defeat”: The following words convey a message of *express advocacy* (*candidate 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 ‘96”;
- 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;

(cont.)

Express Advocacy (cont.)

- “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* (*candidate* 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). See page 33.

Facilitation – Facilitation is the use of 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). Facilitation results in a prohibited *contribution* to the committee that benefits from the activity. 114.2(f)(1).

Family – For the purposes of solicitation, a *family* includes a mother, father, sons and daughters who live in the same household. AO 1980–102.

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

Foreign National – A *foreign national* is either: (1) an individual who is not a citizen of the United States and has not been lawfully admitted to the U.S. 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).

Government Contractor – A person who enters into a contract with any agency or department of the United States government and is paid for services, materials, equipment, supplies, land or buildings with funds appropriated by Congress. Part 115.

Host Committee – Any local organization (e.g., any local civic association, business league, chamber of commerce, real estate board, board of trade or convention bureau):

- That represents a state or city with respect to the convention;
- That is not organized for profit;
- Whose net earnings do not strengthen 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. 9008.51 and 9008.52(a).

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 authorized committee or their agents, or a *political party committee* or its agents. 100.16; 109.20.

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. 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 – An employee-representative membership association that deals with employers on grievances, labor disputes, wages, working conditions, etc. 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 or expenditures. 110.1(g).

Member – With respect to a *labor organization*, a *trade association*, a cooperative or other incorporated membership organization, a *member* is an individual or other entity that:

- Satisfies the requirements for membership in a membership organization;

Definitions

- Affirmatively accepts the organization's invitation to become a *member*; and
- Maintains a long-term and continuous bond with the organization by :
- Having a significant financial attachment, such as a significant investment or ownership stake;
- Paying annual dues; or
- Having direct participatory rights in the governance of the organization.

Membership Organization – A *labor organization* or a *trade association*, cooperative or other incorporated membership organization that:

- Is composed of members;
- Expressly states the qualifications for membership in its articles and by-laws;
- Makes its articles, by-laws and other organizational documents available to its members;
- Expressly seeks members;
- Acknowledges the acceptance of membership, such as by sending membership cards to new members or including them on a membership newsletter list; and
- Is not organized primarily for the purpose of influencing a federal *election*.
- 100.8(b)(4)(iv)(A) and 114.1(e).

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. A *memo entry* is often used to disclose additional information about an itemized transaction that is included in the total receipts or disbursements for the current report or a previous report.

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 Party Committees – Political committees established and maintained by a national *political party*. A party's national committee, House campaign committee and Senate campaign committee are defined as national party committees. 110.1(c)(2) 110.2(c)(2); 110.3(b)(2); 300.10(a); 300.11(a).

Negative Entry – A negative amount, shown in parentheses on a reporting schedule. The amount is subtracted from the total for that Schedule.

Net Debts Outstanding – The total of a *candidate committee's* unpaid debts with respect to a particular *election*, including 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); 110.2(b)(3)(ii).

Nonconnected Committee – A *political committee* that is not a *candidate committee*, a *party committee* or a separate segregated fund.

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*.

Nonfederal Election – An *election* for state or local office.

Nonpartisan Tax-Exempt Organization – An organization which is exempt from federal taxation under 26 U.S.C. §501(c)(3) or (4) and which does not support, endorse or oppose candidates or political parties. 110.13(a)(1); 114.4(b)(5)(ii), (c)(1)(i)(A) and (c)(4).

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 – Acronym for *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 – Funds which do not violate the Act's limits or prohibitions.

Political Action Committee (PAC) – Popular term for a *political committee* that is neither a *party committee* nor a *candidate committee*. PACs sponsored by a *corporation* or *labor organization* are called separate segregated funds (SSFs); PACs without a corporate or labor sponsor are called nonconnected committees.

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 exempt party activities.
- An authorized committee of a *candidate* (see *candidate 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).

Prohibited Funds – Funds from entities who are prohibited from making contributions or expenditures in connection with, or for the purpose of influencing, a *federal election* (i.e., corporations, labor organizations, foreign nationals and federal government contractors). 110.4; 114.2; 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 or telephone bank to the general public, Internet communications placed on another person's web site for a fee or any other form of general public political advertising. 100.26.

Receipt – Anything of value (money, goods, services or property) received by a *political committee*.

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*. 103.3(a). 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 at any time and who may receive communications containing *express advocacy* from the organization. 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 Chapter 3.

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. 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 or financially supported by a *corporation* or *labor organization*; popularly called a *political action committee* or PAC. 114.1(a)(2)(iii).

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).

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 (other than to receive contributions for debt retirement

purposes) or make expenditures other than for payment of debts and obligations or for winding-down costs. 116.1(a).

Trade Association – A membership organization consisting of persons engaged in a similar or related line of commerce. A *trade association* is organized to promote and improve business conditions and does not engage in regular business for profit; the net earnings of a *trade association* do not accrue 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).

Unauthorized Single-Candidate Committee – A *political committee* not authorized by any *candidate*, which makes contributions or expenditures on behalf of only one *candidate*. 100.5(e)(2) and (f)(2).

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).

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