

# Campaign Operations, Part 1: Campaign Fundraising



February 22, 2012

Tab #3



## Objectives – Part 1

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- Review How Contributions Work
- Evaluate Methods for Curing Excessive Contributions
- Identify Sources of Support
  - Individuals/Persons, PACs, Parties, Unregistered Organizations
  - Coordinated v. Independent Expenditures
- Discuss Contributions with Tricky Reporting
  - 48-Hour Notices
  - Partnerships/LLCs
  - Joint Fundraising

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## Contributions – The Basics

- **Per Election Limits**
  - \$2,500 (indexed) from individuals, persons, non-multicandidate committees
  - \$5,000 from multicandidate committees
  - Only for election in which candidate participates
  - Includes in-kind contributions
- **Accounting Method**
  - If candidate loses primary, must return general election \$\$ within 60 days
  - During primary: cash on hand  $\geq$  general election \$\$

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### CAMPAIGN FUNDRAISING

#### I. Per Election Basis (*Guide*, p. 17)

##### A. Subject to Limit

1. **Limits are per election, per candidate.**
  - a) **\$2,500/election** (indexed for inflation) from individuals, persons, non-multicandidate committees.
  - b) **\$5,000/election** from multicandidate committees.
2. The value of an in-kind contribution (usual and normal charge) counts against same contribution limit as gifts of money.

##### B. Candidates Who Lose in the Primary

1. Entitled to limit only if candidate seeks office in that election.
2. Candidate who accepts contributions for general election before primary is held and loses the primary, must return general election contributions within 60 days of the primary.
3. Similar application for convention, runoff, etc.

##### C. Accounting Method (*Guide*, p. 74)

1. Campaign must adopt an accounting system to distinguish between contributions made for the primary and those for the general election.
2. During the primary, the campaign's cash on hand must at least equal the amount of general election contributions received. 11 CFR 102.9(e)(2).



## Contributions – The Basics

### Debt Retirement Contributions:

- Debt is assigned to an election
- Fundraising to retire debt is allowed
  - Must be designated for that election
  - Cannot exceed limit for that election
  - Campaign must have net debts outstanding
- Net debts outstanding calculation:  
unpaid debts – cash on hand on election day

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#### D. Contributions to Retire Debts (*Guide*, pp. 27-28)

##### 1. Debt Retirement Contributions

a) If a committee has net debts outstanding after an election is over, it may accept contributions after the election to retire debts provided that the:

- (1) Contribution is **designated** for that election;
- (2) Contribution does **not exceed contributor's limit for the designated election**; and
- (3) Campaign has **net debts outstanding** on the day it receives the contribution.

b) For example, campaigns retiring debt for 2010 general can accept up to \$2,400 from an individual, not the current \$2,500 limit.

##### 2. Calculating net debts outstanding

a) A campaign's net debts outstanding consist of unpaid debts incurred with respect to a particular election, minus cash on hand.

b) First calculated as of the day of election.

c) Figure is continually recalculated as additional funds are received for, or spent on, the election for which debt remains.

## II. Methods for Curing Excessive Contributions (*Guide*, pp. 24-27)

### A. Refund



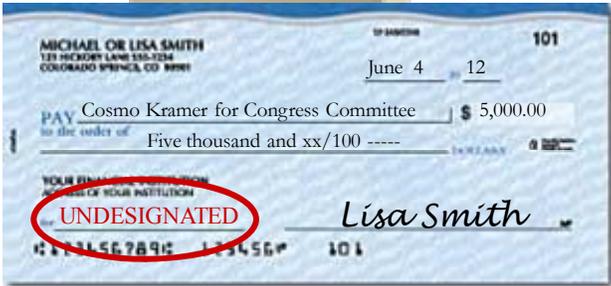
## Curing Excessives

- Refund excessive portion
- Redesignate for another election
- Reattribute to another donor

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## Practical Application



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## Presumptive Redesignation

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Generally, campaigns may presumptively redesignate undesigned contributions received from an individual or non-multicandidate committee to another election within the same election cycle.

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## Presumptive Redesignation

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- Procedure:
  1. Designate permissible amount to election;
  2. Redesignate excessive amount to another election within cycle;
  3. Notify donor—option of refund.
- Must not cause contributor to exceed limits
- Date undesigned contribution is made determines applicable election limit.  
Use postmark date for mailed contributions

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**B. Redesignate** (*Guide*, pp. 24-25) – **11 CFR 110.1(b)(5)(ii)(B)(1)-(4)**

**1. Presumptive Redesignation**

If individual or non-multicandidate committee makes an excessive primary contribution, campaign may presumptively redesignate excessive portion to general election if contribution:

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

**2. Backward-looking provision:** An undesignated contribution made after primary, but before general, may be applied to primary debt if campaign's net debts  $\geq$  amount redesignated.

**3. Notification Requirement**

Committee must notify contributor of redesignation by paper mail, e-mail, fax or other written method within 60 days of treasurer's receipt of contribution; must notify contributor of right to receive refund instead.

**4. Electronic Contributor Redesignations**

The Commission has recently acknowledged that, in certain circumstances, an online process can provide a sufficient level of assurance as to the contributor's identity and intent such that it satisfies the written signature requirements. See Interpretive Rule Regarding Electronic Contributor Redesignations, 76 FR 16233 (March 23, 2011). Available on FEC website at

[http://www.fec.gov/law/cfr/ej\\_compilation/2011/notice\\_2011-02.pdf](http://www.fec.gov/law/cfr/ej_compilation/2011/notice_2011-02.pdf)



- C. Reattribute** (*Guide*, p. 25) – **11 CFR 110.1(k)(3)(ii)(B)(1)**
1. Attribution of Contributions by Contributors
    - a) Individual contributions attributed to person(s) who sign check.
    - b) Joint account – both must sign check or accompanying statement.



## Presumptive Reattribution

- Procedure available for joint contributions:
  1. Attribute permissible amount to the signer;
  2. Reattribute excessive amount to the other account holder;
  3. Notify both donors—option of refund.
- Must not cause contributors to exceed limits

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### 2. **Presumptive Reattribution**

If individual contribution exceeds limit and is made on joint account, but has only one signature:

- a) Attribute permissible amount to the signer; and
  - b) Presumptively reattribute excessive amount to other account holder, without obtaining his/her signature.
3. Reattribution may not cause contributors to exceed any contribution limits.
  4. Committee must notify contributor of reattribution by paper mail, e-mail, fax or other written method within 60 days of treasurer's receipt of contribution; must notify contributor of right to receive refund instead.



## Avoid Excessive Contributions

- Designate all contributions made to candidates
- Obtain signatures for joint contributions received
- Designation Required:
  - If donor wants contribution to count toward a future election, beyond the upcoming election.
  - If donor wants contribution to retire candidate's debt from a past election.

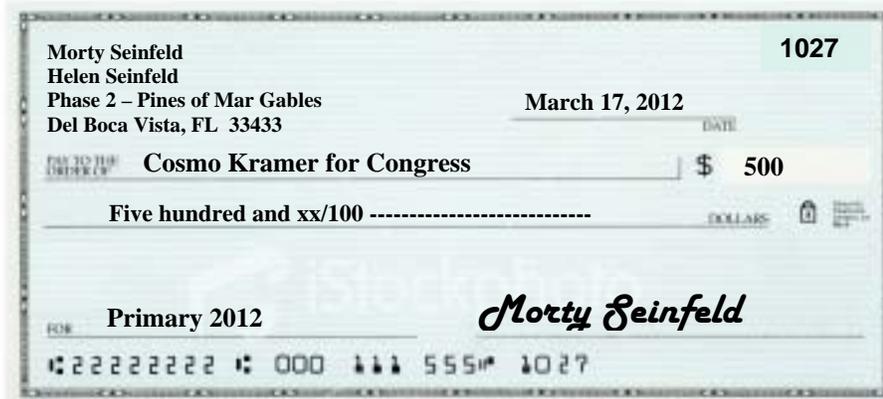
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### D. Avoiding Excessive Contributions

1. **Campaigns** – Ask contributors to designate contributions for a particular election.
2. **Designate** all contributions your committee makes to federal candidates.
3. **Ask joint contributors** to make sure both sign check or accompanying statement.
4. **Designation of Campaign Contributions by Contributor**
  - a) If contributor intends contribution to count toward a future election, beyond the upcoming election.
  - b) If contributor wants contribution to retire candidate's debt of a past election. Note: This is permissible only if:
    - (1) Candidate has net debt outstanding from that election; and
    - (2) Contribution, when aggregated with previous contributions to same candidate for same election, does not exceed applicable limit.

**SCENARIO #1:      *Redesignation/Reattribution of Excessive Contributions***  
**(Guide, pp. 92-94)**

*Congressman Cosmo Kramer is running for re-election in 2012. While visiting his son in New York City, Morty Seinfeld attended the Congressman's St. Patrick's Day fundraiser at Monk's Café. At the event, he made a \$500 contribution, designated for the September 2012 primary (see check below). When Morty returned home to Florida, he talked to his wife, Helen, about doing more to get their friend Kramer re-elected to Congress. In response, she mailed the campaign a check for \$5,000 (see check below), which the campaign received on April 3, 2012.*



1. How should the committee disclose the \$500 contribution from Morty Seinfeld?
2. Can we accept Helen's contribution check as written? If not, what must the campaign do to remedy the situation?
3. How should the committee disclose the transaction(s) that remedy the excessive contribution?
4. Key issues:



## Reporting Receipts

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### How to Itemize Receipts

Itemize regardless of amount:

- ✓ Contributions from party committees and organizations
- ✓ Contributions from other political committees
- ✓ Transfers
- ✓ Loans

All other receipts:

Itemize once they exceed \$200 when aggregated with other receipts from that same source during an election cycle

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Receipt transactions should include the following itemization information for contribution source:

- Name and mailing address;
- Occupation and employer (individuals only);
- FEC ID number (political committees only);
- Election to which contribution/loan was designated;
- Date of receipt;
- Amount of receipt; and
- Aggregate election-cycle-to-date total for all receipts from same source.

**SCENARIO #1 – ANSWERS:**

- 1. How should the committee disclose the \$500 contribution from Morty Seinfeld?**  
 Contributions from individuals are reported on Schedule A for Line 11(a)(i).



## Reattribution / Redesignation

Receipt – Schedule A, Line 11(a)

<b>SCHEDULE A (FEC Form 3)</b>	Use separate schedule(s) for each category of the Detailed Summary Page	LINE NUMBER: PAGE OF (check only one)
<b>ITEMIZED RECEIPTS</b>		<input checked="" type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 11d <input type="checkbox"/> 11e <input type="checkbox"/> 11f <input type="checkbox"/> 11g <input type="checkbox"/> 11h <input type="checkbox"/> 11i
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) <b>Cosmo Kramer for Congress Committee</b>		
Full Name (Last, First, Middle Initial) <b>A. Morty Seinfeld</b>		Date of Receipt MM / DD / YYYY <b>03 / 17 / 2012</b>
Mailing Address <b>Phase 2 – Pines of Mar Gables</b>		Amount of Each Receipt this Period <b>500.00</b>
City <b>Del Boca Vista</b>	State    Zip Code <b>FL    33433</b>	
FEC ID number of contributing federal political committee. <b>C</b>		
Name of Employer <b>Self</b>	Occupation <b>Retired</b>	
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Election Cycle-to-Date <b>500.00</b>

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- 2. Can we accept Helen’s contribution check as written? If not, what must the campaign do to remedy the situation?**

No. Potentially, these could be joint contributions. However, since only Helen signed the \$5,000 check, Helen has made an excessive contribution for the primary. To remedy this, the campaign can reattribute and/or redesignate the excessive portion of her contribution.

**3. How should the committee disclose the transaction(s) that remedy the excessive contribution?**

**Reattribution:**

Since Helen's contribution is drawn on a joint account, the campaign has the option of reattributing the excessive portion to the joint account holder, Morty Seinfeld. The campaign may presumptively reattribute the excessive portion (\$2,500) to Morty for the primary election as long as it would not cause him to exceed his limits.

**Report receipt:** show reporting on Schedule A for Line 11(a)(i). Two separate entries:

- a. Show check as written: \$5,000 contribution from Helen Seinfeld for primary; and
- b. Subtract excessive amount of contribution: -\$2,500 removed from Helen Seinfeld's primary contribution.

For both entries, include cross-reference notations: "reattribution and redesignation below."

In our scenario, Morty Seinfeld made a \$500 contribution before the above check was written, so that attributing the full \$2,500 to him for the primary would cause him to exceed his limit for that election by \$500. Therefore, only \$2,000 may be reattributed to Morty.

**Report reattribution:** show reporting on Schedule A for Line 11(a)(i). Show full \$5,000 as primary contribution from Helen Seinfeld. Change attribution of excessive portion to Morty Seinfeld as MEMO entry and include notation in Amount of Each Receipt this Period box indicating, "reattribution."

*See Reporting Example on Next Page*



# Reattribution

SCHEDULE A (FEC Form 3) 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"/> 11d	
NAME OF COMMITTEE (In Full) <b>Cosmo Kramer for Congress Committee</b>			<input type="checkbox"/> 12 <input type="checkbox"/> 13a <input type="checkbox"/> 13b <input type="checkbox"/> 14 <input type="checkbox"/> 15	
Full Name (Last, First, Middle Initial) <b>Helen Seinfeld</b>			Date of Receipt '04 / '03 / 2012	
Mailing Address <b>Phase 2 - Pines of Mar Gables</b>			Amount of Each Receipt this Period <b>5,000.00</b>	
City <b>Del Boca Vista</b> State <b>FL</b> Zip Code <b>33433</b>				
FEC ID number of contributing federal political committee. <b>C</b>				
Name of Employer <b>Self</b> Occupation <b>Homemaker</b>				
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Election Cycle-to-Date <b>5,000.00</b>		See reattribution and redesignation below
Full Name (Last, First, Middle Initial) <b>Helen Seinfeld</b>		Date of Receipt '04 / '03 / 2012		
Mailing Address <b>Phase 2 - Pines of Mar Gables</b>			Amount of Each Receipt this Period <b>-2,500.00</b>	
City <b>Del Boca Vista</b> State <b>FL</b> Zip Code <b>33433</b>				
FEC ID number of contributing federal political committee. <b>C</b>				
Name of Employer <b>Self</b> Occupation <b>Homemaker</b>				
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Election Cycle-to-Date <b>2,500.00</b>		MEMO Reattribution and Redesignation below
Full Name (Last, First, Middle Initial) <b>Morty Seinfeld</b>		Date of Receipt '04 / '03 / 2012		
Mailing Address <b>Phase 2 - Pines of Mar Gables</b>			Amount of Each Receipt this Period <b>2,000.00</b>	
City <b>Del Boca Vista</b> State <b>FL</b> Zip Code <b>33433</b>				
FEC ID number of contributing federal political committee. <b>C</b>				
Name of Employer <b>Self</b> Occupation <b>Retired</b>				
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Election Cycle-to-Date <b>2,500.00</b>		MEMO Reattribution

With the remaining \$500, the campaign can presumptively redesignate the excessive \$500 to the general election as a remedy.

**Redesignation:**

Campaign committees may also remedy an excessive contribution by applying the excessive portion to a future election. The campaign may presumptively redesignate the excessive portion to the general election as long as the contribution:

- Is made before the candidate's primary election;
- Is not designated;
- Would be excessive if treated as a primary election contribution; and
- As redesignated, does not cause the donor to exceed any other limits.

Helen Seinfeld has not yet made any general election contributions; therefore the campaign may presumptively redesignate either the full \$2,500 excessive portion of primary contribution to the general, or the \$500 that remains after the reattribution to Morty. To maximize the availability of funds for the primary, the campaign chooses the latter.

**Report redesignation:** show reporting on Schedule A for Line 11(a)(i) as a \$500 contribution from Helen Seinfeld. Change designation to general as a MEMO entry and include notation in Amount of Each Receipt this Period box indicating, "redesignation."

*See Reporting Example on Next Page*



# Redesignation

Full Name (Last, First, Middle Initial) <b>D. Helen Seinfeld</b>		Date of Receipt MM / DD / YYYY <b>04 / 03 / 2012</b>	
Mailing Address <b>Phase 2 – Pines of Mar Gables</b>		Amount of Each Receipt this Period <b>500.00</b>	
City <b>Del Boca Vista</b>	State <b>FL</b>	Zip Code <b>33433</b>	<b>MEMO Redesignation</b>
FEC ID number of contributing federal political committee. <b>C</b>	Name of Employer <b>Self</b>	Occupation <b>Homemaker</b>	
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		Election Cycle-to-Date <b>3,000.00</b>	

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#### 4. Key issues:

- A presumptive reattribution is allowed even if only one signature is on the check. Ensure that the reattribution won't cause donors to exceed any limits (i.e., per election limits, biennial limit).
- A presumptive redesignation for the primary to the general election is allowed if the contribution is not designated for a particular election. For example, if Helen had written "primary" on the memo line of her check, a presumptive redesignation would not be allowed. The redesignation would need to be done the "old" way – with written authorization from contributor within 60 days of receipt BEFORE the redesignation could occur.
- Remember written notification to contributor(s) must be done within 60 days of receipt for presumptive reattributions and redesignations. The notification must also offer the contributor the option to receive a refund instead.



## Limits to Candidates

For 2011-12 Elections	Candidate per election	National Party per year	State, District & Local Party per year	Any PAC per year	Special Limits
Individual	\$2,500	\$30,800	\$10,000 (combined)	\$5,000	\$117,000 biennial limit
National Party	\$5,000	No Limit	No Limit	\$5,000	\$43,100 per Senate campaign
State, District & Local Party	\$5,000 (combined)	No Limit	No Limit	\$5,000 (combined)	None
PAC: multicandidate	\$5,000	\$15,000	\$5,000 (combined)	\$5,000	None
PAC: not multicandidate	\$2,500	\$30,800	\$10,000 (combined)	\$5,000	None

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### III. Review of Permissible Sources of Contributions

#### A. Individuals/Persons (*Guide*, pp. 17; 28-29)

1. **Limit: \$2,500/election** (indexed for inflation).
2. **Persons**  
Includes groups not prohibited from making contributions (i.e., sole proprietorships, partnerships and certain LLCs and Indian Tribes).
3. **Minors**  
Individuals under 18 years old may make contributions if the minor:
  - a) Makes the decision to contribute knowingly and willingly;
  - b) Uses funds they own or control; and
  - c) Does not use funds given to them as a gift for the purpose of making a contribution. 11 CFR 110.19.
4. **Advances of Personal Funds** (*Guide*, pp. 15-16; 94-96)  
Use of personal funds by candidate, staff or volunteers is an in-kind contribution until reimbursed by committee.
  - a) **Exemption: \$1,000 Unreimbursed Transportation** (*Guide*, p. 41)  
Individuals (including the candidate, paid staff member or volunteer) may voluntarily spend up to \$1,000 for transportation expenses on behalf of campaign without making contribution.

**b) Application to Official Staff**

- (1) Prohibits member of a Representative's or Senator's official staff from making contributions to his employing Member. 18 U.S.C. §603 (criminal statute under jurisdiction of the Department of Justice)
- (2) Official staff should not advance personal funds for non-travel expenses even if intending to be reimbursed later. (Advances for travel expenses will be discussed in Campaign Operations, Part 3.)



## Partnerships/LLCs

- \$2,500/election limit on contributions from firm to candidates
- Counts as contribution from both the individual and partnership/LLC (attribution based on partner/member losses/profits)
- No corporate partners/members
- LLC treated as corporation - prohibited

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- B. Partnership and Limited Liability Company (LLC)** (*Guide*, Appendix B, pp. 127-128) – **11 CFR 110.1(e) and (g)**
- 1. Limit: \$2,500/election** (indexed for inflation).
  - 2. Dually Attributed**
    - a) Contributions are attributed both to the partnership (or LLC) and also to individual partners based on their share of the profits/losses.
    - b) Partnerships and LLCs must provide campaign with written statement indicating attribution to partners.
    - c) Cannot attribute to any corporate partners.
  - 3. Types of LLCs**
    - a) LLC Treated as Partnership  
If treated as partnership for tax purposes, partnership rules above apply.
    - b) LLC Treated as Corporation  
If treated as corporation for tax purposes, corporate prohibition on contributions applies.
  - 4. Reporting Tips** (*Guide*, pp. 128-129)
    - a) Partnership contributions are disclosed on Schedule A for Line 11(a)(i).
    - b) The campaign reports the contribution from entity (partnership/LLC) and includes notation in the Receipt this Period box indicating, “See attribution below.”
    - c) Use memo entries to indicate attribution to partners/members that aggregate over \$200 for the election cycle. Do NOT add them again to the totals.



## Limits to Candidates

For 2011-12 Elections	Candidate per election	National Party per year	State, District & Local Party per year	Any PAC per year	Special Limits
Individual	\$2,500	\$30,800	\$10,000 (combined)	\$5,000	\$117,000 biennial limit
National Party	\$5,000	No Limit	No Limit	\$5,000	\$43,100 per Senate campaign
State, District & Local Party	\$5,000 (combined)	No Limit	No Limit	\$5,000 (combined)	None
PAC: multicandidate	\$5,000	\$15,000	\$5,000 (combined)	\$5,000	None
PAC: not multicandidate	\$2,500	\$30,800	\$10,000 (combined)	\$5,000	None

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- C. From Other Federal Campaigns** (*Guide*, p. 18)
1. **Limit: Still \$2,000/election.** 11 CFR 102.12(c)(2).
  2. NOT subject to inflation indexing.
- D. Political Action Committees** (*Guide*, p. 17)
1. **If Qualified Multicandidate PAC:**
    - a) **Limit: \$5,000/election.**
    - b) PAC required to notify campaign of status.
    - c) Campaign may also verify PAC's status with FEC.
  2. **If Not Qualified as Multicandidate PAC:**
    - a) **Limit: \$2,500/election** (indexed for inflation)
  3. **Affiliated PACs** (*Guide*, p. 19)
    - a) Affiliated PACs share contribution limits.
    - b) Defined as commonly established, financed, maintained or controlled.
    - c) Example: PACs of national and local labor organizations or PACs of parent and subsidiary corporations.

- 4. From a Leadership PAC** (*Guide*, pp. 20; 168)
- a) **Definition of Leadership PAC**
    - (1) Political committee directly or indirectly established, financed, maintained or controlled by federal candidate/officeholder but is:
      - (i) Not an authorized committee;
      - (ii) Not affiliated with an authorized committee; and
      - (iii) Not a political party committee.
  - b) **Limit: \$5,000/election**, if multicandidate; **\$2,500/election**, if not (indexed for inflation).
  - c) Treated as nonconnected PAC.
  - d) Not deemed affiliated with member's authorized committee. 11 CFR 100.5(g)(5).

**E. Political Party Committee (Federal Account)** (*Guide*, pp. 19-20)

- 1. To Congressional Candidates**
  - a) **National Party Committees: Limit: \$5,000/election.**
  - b) **State Party Committees:**
    - (1) **Limit:**
      - (a) **\$5,000/election**, if multicandidate.
      - (b) **\$2,500/election**, if not (indexed for inflation).
    - (2) Limit shared with all federally registered local party committees within the state. (presumed affiliated)
  - c) **Unregistered Local Party Organizations**
    - (1) **Limit: \$2,500/election** (indexed for inflation).
    - (2) Limit not shared with state party committee. AO 1999-4.
    - (3) Must be permissible funds.
    - (4) Counts towards registration threshold.
- 2. To Senatorial Candidates**
  - a) **National Party Committees**
    - (1) **Limit: \$43,100/six-year election cycle** (indexed for inflation) shared by party's national committee and national senatorial committee.
    - (2) **Limit: \$5,000/election** for party's national congressional committee.
  - b) **State, District and Local Party Committees** – same as above.
- 3. Reporting Contribution from Other Political Committee** (*Guide*, p. 89)
  - a) Itemize on Schedule A for Line 11(c) "Other Political Committees (such as PACs)."
  - b) Include all itemization information as listed above – instead of occupation and employer, committee reports FEC ID number.



## Permissible Sources

### Unregistered Organizations

- Must use federally permissible funds
- Counts toward federal registrations threshold
  - If nonfederal PAC is sponsored by corp./union: registration with first dollar spend on federal elections or upon formation.
  - Other nonfederal committees: registration after raises or spends in excess of \$1,000 registration threshold.

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**F. Unregistered Organizations** (*Guide*, p. 64)

**Limit: \$2,500/election** limit (indexed for inflation). However, there are two facts they need to consider:

- 1. Must use federally permissible funds**
  - a) Organization can demonstrate through a reasonable accounting method that it has sufficient federally-permissible funds to cover the amount of the contribution at time it is made; or
  - b) Has established a separate account containing only funds permissible under the Act. 11 CFR 102.5(b).
- 2. Counts toward registration threshold**
  - a) Making contributions to federal candidates may trigger their own registration as a federal political committee.
  - b) State PACs sponsored by corporations or unions must register as federal SSFs within 10 days of the decision to make a contribution to a federal candidate.
  - c) Contributions from other unregistered organizations (i.e., local party organization, state campaign committee) count against a \$1,000 per year aggregate registration threshold.  
11 CFR 100.5(a) - (c).



## Permissible Sources

### Coordinated Spending

Coordination: made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, candidate's authorized committee, or a political party committee.

- Results in an in-kind contribution (or coordinated party expenditure).
- Specific rules apply to determine whether a communication is coordinated.

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**G. “Coordination”** (*Guide*, Appendix D, p. 139)

Coordination means made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party committee, or its agents. 11 CFR 109.20.

1. When a committee, group or individual makes an expenditure that is coordinated with a campaign or a candidate, it is either an in-kind contribution, or in some limited cases, a coordinated party expenditure by a party committee.
2. The regulations provide for a three-pronged test to determine whether a communication is coordinated.



## Permissible Sources

### Coordinated Communications

- If communication is coordinated, it is considered an in-kind, subject to limits.
- Coordination three-part test:
  - ✓ Source of payment;
  - ✓ “Content standard”  
re: timing and subject matter of communication; AND
  - ✓ “Conduct standard”  
re: interaction between campaign and payee.

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- G. “Coordinated Communications”** (*Guide*, Appendix D, pp. 139-143)
- 1. In-kind contribution**  
If communication is coordinated with campaign, it is considered an in-kind contribution, subject to limits.
  - 2. Three-part test for coordination**  
Communication must satisfy all three prongs of test to be considered coordinated. 11 CFR 109.21(a).
    - a) The source of payment**  
Must be paid for by someone other than candidate or authorized committee.
    - b) Content standard**  
Concerns the timing and whether the subject matter of the communication is reasonably related to federal elections. 11 CFR 109.21(c).
    - c) Conduct standard**  
Concerns the interactions between the person paying for the communication and the candidate or political party committee. 11 CFR 109.21(d). Two of the five conduct standards include:
      - (1) Employment of common vendor during previous 120-days.** 11 CFR 109.21(d)(4).
      - (2) Former employee/independent contractor during previous 120 days.** 11 CFR 109.21(d)(5).



## Permissible Sources

### Conduct Standard Safe Harbors

- Agreement or formal collaboration nor express advocacy necessary for a communication to be coordinated
- Safe Harbors include:
  - Inquiry re: policy or legislative issues
  - Endorsements and solicitations
  - 120-day temporal limit for common vendor/former employee conduct standards
  - Certain commercial transactions

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3. **Safe Harbor Provisions to Conduct Standard** (*Guide*, Appendix D, pp. 142-143)
  - a) **Agreement of Formal Collaboration**

Neither agreement nor formal collaboration is necessary for a communication to be a coordinated communication.  
11 CFR 109.21(e).
  - b) **Express Advocacy Not Necessary** for communication to be coordinated.
  - c) **Safe Harbor for Inquiries about Legislative or Policy Issues**

A candidate's response to an inquiry about their 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. 11 CFR 109.21(f).
  - d) **Safe Harbor for Endorsements and Solicitations**

A public communication in which a Federal candidate endorses another candidate for Federal or non-Federal office is not coordinated unless the public communication promotes, attacks, supports or opposes (PASOs) the endorsing candidate (or another candidate who seeks election to the same office).  
11 CFR 109.21(g).

e) **120-day Temporal Limit for Common Vendor and Former Employee Conduct Standards.**

f) **Safe Harbor for Commercial Transactions (NEW)**

Federal candidate may appear in public communications in his/her capacity as a business owner or operator that existed prior to the candidacy provided that:

- (1) The medium, timing, content and geographic distribution of the public communication(s) are consistent with public communications made prior to the candidacy; and
- (2) The public communication does not PASO that candidate or another candidate seeking the same office.  
11 CFR 109.21(i).



## Permissible Sources

### Independent Expenditure

- A communication
- Containing Express Advocacy
- That is not coordinated

**EXPRESS ADVOCACY**

**NO COORDINATION**

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#### H. **Independent Expenditures** (*Guide*, Appendix D, pp. 143-146)

##### 1. **Definition**

Expenditure for a communication expressly advocating the election or defeat of a clearly identified candidate, that is not made in cooperation, consultation, or concert with, or at the request or suggestion of a candidate, a candidate's political party, or his/her agents.  
11 CFR 100.16.

##### 2. **Not Contributions**

Because there is no coordination, independent expenditures do not count as contributions to (or received by) a candidate's committee.

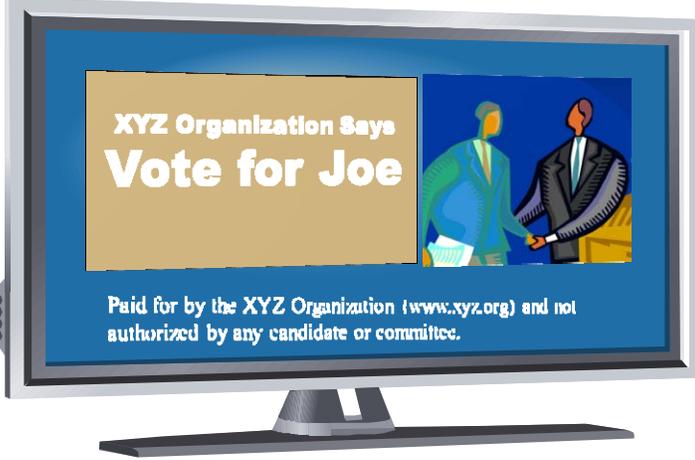
##### 3. **Disclosure**

- a) Report filed by person making the independent expenditure.
- b) Independent expenditures must include appropriate disclaimers.
- c) However, if the expenditure meets the test for "coordinated communication," campaign discloses as in-kind contribution.



# Independent Expenditures

*Example*



**XYZ Organization Says  
Vote for Joe**



Paid for by the XYZ Organization ([www.xyz.org](http://www.xyz.org)) and not authorized by any candidate or committee.

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## 48-Hour Notices

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- Contributions of \$1,000 or more received < 20 days up to 48-hours before an election
- FEC Form 6
- Applies to all types of contributions including:
  - Contributions from individuals, entities and committees;
  - Contributions from the candidate;
  - Loans from the candidate and other non-bank sources; and
  - Endorsements or guarantees of loans from banks.

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### IV. Contributions with Tricky Reporting

#### A. 48-Hour Notices

1. Required when any authorized committee receives any contributions of \$1,000 or more per source less than 20 days but more than 48 hours before 12:01am of the day of any election in which the candidate is running (whether or not the candidate has opposition in the election).
2. Filed by the Principal Campaign Committee.
3. 48-Hour notices apply to all types of contributions, including:
  - a) Contributions from individuals, entities and committees;
  - b) Contributions from the candidate;
  - c) Loans from the candidate and other non-bank sources; and
  - d) Endorsements or guarantees of loans from banks.



## Joint Fundraising

- Election-related fundraising held jointly by campaign + one or more other committees
- Joint Fundraising Representative (JFR)
  - Collects/deposits joint fundraising contributions
  - Pays expenses and transfers proceeds to participants
  - Participants amend Form 1 to designate JFR as an authorized committee
- Written Agreement
  - Outlines allocation formula for proceeds and expenses among all participants

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- B. Joint Fundraising** (*Guide*, Appendix C, pp. 131-138) – **11 CFR 102.17**  
Election-related fundraising conducted by a campaign committee and one or more other political committees or unregistered organizations.
- 1. Joint Fundraising Representative**
    - a) All participants must either create a new committee (recommended) or select one of the participating federal political committees to act as joint fundraising representative (JFR).
    - b) New committee established as JFR must register with the FEC and must include the name of each participating federal candidate in the new committee's name.
    - c) Participants amend FEC Form 1 accordingly to designate JFR as an authorized committee.
    - d) Responsible for collecting and depositing joint contributions, paying expenses and allocating net proceeds to all participants.
    - e) Must keep records and report overall joint fundraising activity.
  - 2. Screening Contributions**
    - a) JFR and participants must screen contributions to make sure they are neither prohibited nor in excess of contribution limits.
    - b) Maximum limit = total amount he/she may contribute to all participants, without exceeding any limits.

**3. Joint Fundraising Agreement**

Participants agree to formula to allocate proceeds and expenses and sign a written agreement.

**4. Reporting Tips for Campaign as Participant** (*Guide*, pp. 137-138)

- a) Upon receipt of net proceeds, campaign reports its share as a transfer-in on Form 3 for Line 12 (Transfers from Other Authorized Committee).
- b) In addition, campaign also must itemize contributions from the original donors making up its share of the gross receipts as MEMO entries on Schedule A (only contributions aggregating over \$200 for the election cycle for the contributor require itemization).

**SCENARIO #2: *Joint Fundraising Transfers (Guide, Appendix C, pp. 136-138)***  
***48-Hour Notices (Guide, pp. 81, 83)***

*As the New York Primary Day approaches (September 11, 2012), Representative Cosmo Kramer and Senator George Costanza decide to hold an event on September 1, 2012 in Candidate Kramer's district as a final push for their 2012 primary campaigns. They plan to divide the expenses and proceeds equally and have designated the "Kramer/Costanza Victory Fund" as their joint fundraising representative.*

*At the event, Kramer/Costanza Victory Fund collects a total of \$5,000. The only contributions came from two of Candidate Kramer's high school friends, Lloyd Braun and David Puddy. Each made a \$2,500 contribution at the event. Since the proceeds were split evenly (50%) between Representative Kramer and Senator Costanza, Mr. Braun and Mr. Puddy each made a \$1,250 contribution to Representative Kramer and a \$1,250 contribution to Senator Costanza.*

*Kramer/Costanza Victory Fund incurred \$1,000 in expenses to put on the September 1<sup>st</sup> event. As a result, the Kramer for Congress Committee received a check from the Kramer/Costanza Victory Fund on September 5, 2011, in the amount of \$2,000, comprising the committee's 50% allocation of net proceeds.*

- 1. How should the committee disclose the transfer in from Kramer/Costanza Victory Fund?**
  
  
  
  
  
  
  
  
  
  
- 2. Is any additional disclosure necessary?**
  
  
  
  
  
  
  
  
  
  
- 3. Do the contributions received at the joint fundraising event trigger a 48-hour notice?**
  
  
  
  
  
  
  
  
  
  
- 4. Key Issues:**

**SCENARIO #2 – ANSWERS:**

**1. How should the committee disclose the transfer in from Kramer/Costanza Victory Fund?**

The funds are coming from Kramer/Costanza Victory Fund, which has been authorized to raise money for the candidate. Therefore, the receipt is treated as a transfer of funds from an authorized committee – not as contributions from individuals. The campaign committee should itemize its net proceeds (the campaign’s share of the gross contributions, minus its share of expenses) as a receipt from Kramer/Costanza Victory Fund.

**Report receipt of transfer fro Joint Fundraising Representative (JFR):** show reporting on Schedule A for Line 12. The Date of Receipt is the date the campaign receives the net proceeds from the JFR.

**2. Is any additional disclosure necessary?**

Yes. The committee must list the individual contributions contained in the transfer-in from the JFR that meet the itemization threshold using MEMO entries on Schedule A. The MEMO entries should be linked to the transfer (for electronic filers) or appear directly underneath the main transfer entry. This will make it clear which individual contributions made up each transfer in cases where the committee reports multiple JFR transfers. (If unable to link or list individual contributions underneath the main transfer entry, specify the JFR transfer date next to each individual contribution as MEMO text).

**Report individual contributors:** show reporting on Schedule A for Line 12 using MEMO entries. The Date of Receipt is the date the JFR received the contribution from the individual; the Amount of Each Receipt this Period is the campaign’s full share of contribution (before expenses); also include the notation in the Receipt This Period box indicating, “Kramer/Costanza Victory Fund – Joint Fundraiser.”

*See Reporting Example on Next Page*



# Joint Fundraising: Transfer In

SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS		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"/> 1 <input type="checkbox"/> 1a <input type="checkbox"/> 1b <input type="checkbox"/> 1c <input type="checkbox"/> 1d <input type="checkbox"/> 1e	
NAME OF COMMITTEE (in Full) <b>Cosmo Kramer for Congress Committee</b>			
Full Name (Last, First, Middle Initial) <b>A. Kramer/Costanza Victory Fund</b> Mailing Address <b>48 West 77<sup>th</sup> Street</b> City State Zip Code <b>New York NY 10024</b> FEC ID number of contributing federal political committee. <b>C 00558741</b> Name of Employer Occupation Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) Election Cycle-to-Date <b>2,000.00</b>		Date of Receipt <b>09 05 2012</b> Amount of Each Receipt this Period <b>2,000.00</b> <b>Joint Fundraising Committee</b>	
Full Name (Last, First, Middle Initial) <b>B. Lloyd Braun</b> Mailing Address <b>340 Amsterdam Avenue</b> City State Zip Code <b>New York NY 10024</b> FEC ID number of contributing federal political committee. <b>C</b> Name of Employer Occupation <b>NYC Mayor's Office Chief of Staff</b> Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) Election Cycle-to-Date <b>1,250.00</b>		Date of Receipt <b>09 01 2012</b> Amount of Each Receipt this Period <b>1,250.00</b> <b>MEMO Kramer/Costanza Victory Fund - Joint Fundraiser</b>	
Full Name (Last, First, Middle Initial) <b>C. David Puddy</b> Mailing Address <b>375 West End Avenue</b> City State Zip Code <b>New York NY 10024</b> FEC ID number of contributing federal political committee. <b>C</b> Name of Employer Occupation <b>West End Auto Body Mechanic</b> Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) Election Cycle-to-Date <b>1,250.00</b>		Date of Receipt <b>09 01 2012</b> Amount of Each Receipt this Period <b>1,250.00</b> <b>MEMO Kramer/Costanza Victory Fund - Joint Fundraiser</b>	

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3. Do the contributions received at the joint fundraising event trigger a 48-hour notice? Yes. Principal campaign committees must file special notices regarding contributions of \$1,000 or more received less than 20 days but more than 48 hours before 12:01am of the day of any election in which the candidate is running. In our scenario, the 48-Hour Notice period runs from August 23<sup>rd</sup> through September 8<sup>th</sup> – therefore the September 1<sup>st</sup> receipts trigger the 48-Hour Notice requirements.

**Note for Joint Fundraising:** the date of receipt is the date the JFR receives the contribution. However, the principal campaign committee, not the JFR, is responsible for filing the 48-Hour notice.



## 48-Hour Notices

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- Contributions of \$1,000 or more received < 20 days up to 48-hours before an election
- FEC Form 6 (or similar memo)
- House
  - **E-File:** Must file electronically
  - **Paper Filer:** May file online via FEC webforms; or fax to (202) 219-0174
- Senate
  - Registered/Certified or Overnight Mail; or
  - Fax to (202) 224-1851

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Campaign committees may file their 48-Hour Notices using FEC Form 6. The notices must reach the FEC (House & President) or Secretary of the Senate (Senate) within 48-hours of the committee's receipt of the contribution(s). Committees filing electronically **must** file their 48-Hour Notices electronically. Committees filing paper forms may fax the notice to the appropriate office: House & President (202) 219-0174; Senate (202) 224-1851.

Alternatively, a paper-filing House or Presidential committee may file online using the FEC's website at <https://webforms.nictusa.com/form6>.

As a last-minute contribution must also be itemized on the Committee's next scheduled report.

**Report last minute receipts:** show reporting of 48-Hour Notice on Form 6.

*See Reporting Example on Next Page*



# 48-Hour Notices

## FEC Form 6

48 HOUR NOTICE OF CONTRIBUTIONS/LOANS RECEIVED			
<small>(See Reverse Side for Instructions)</small>			
<small>To be used to report all contributions (including loans) of \$1000 or more, received within 20 days of the election.</small>			
1. NAME OF COMMITTEE IN FULL <b>Cosmo Kramer for Congress Committee</b>			
ADDRESS (number and street) <b>129 West 81st Street Apt. 5B</b>			
CITY, STATE, AND ZIP CODE <b>New York, NY 10024</b>			
2. NAME OF CANDIDATE <b>Cosmo Kramer</b>	3. OFFICE (State and Exempt) <b>NY / 08</b>	4. FEC IDENTIFICATION NUMBER <b>C00320000</b>	
<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>			
<b>A. Full Name, Mailing Address and ZIP Code</b> <b>Lloyd Braun</b> <b>340 Amsterdam Avenue</b> <b>New York, NY 10024</b>	Name of Employer <b>NYC Mayor's Office</b> Occupation <b>Chief of Staff</b>	Date (month, day, year) <b>9/01/12</b>	Amount <b>\$1,250.00</b>
<b>B. Full Name, Mailing Address and ZIP Code</b> <b>David Puddy</b> <b>375 West End Avenue</b> <b>New York, NY 10024</b>	Name of Employer <b>West End Auto Body</b> Occupation <b>Mechanic</b>	Date (month, day, year) <b>9/01/12</b>	Amount <b>\$1,250.00</b>
SIGNATURE (optional) <i>Mr. Newman</i>		DATE <b>9/03/12</b>	For further information contact: Federal Election Commission 950 E Street, NW, Washington, DC 20463 Toll Free 800-424-9530, Local 202-694-1100
		<b>FEC FORM 6</b> (Revised 1/2001)	

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#### 4. Key issues:

##### Joint Fundraising

- The date of receipt may be different for the JFR and the contributors.
- Report the transaction using Line 12, not Line 11(a)(i).
- Use MEMO entries to break out contributor itemization.
  - Report gross amount of contribution(s) and include a notation referring back to JFR.
  - Please note that in most cases, the net amount of the transfer in to a participating campaign committee will be less than the sum of the MEMO entries supporting the transfer.
- The JFR pays expenses out of the total funds raised, and then gives participating committees their allocated share of the leftover money.
- Remember, when designating a separate JFR, participating campaign(s) must amend their FEC Forms 1 & 2 to add the JFR as an authorized committee.

### **48-Hour Notices**

- Used to disclose contributions of \$1,000 or more received less than 20 days but more than 48 hours before 12:01am of the day of any election in which the candidate is running. The requirement is triggered whether or not the candidate has opposition in the election.
- A state-by-state chart of 48-Hour Notice periods for 2012 primary elections can be found on the FEC website at [www.fec.gov/info/charts\\_primary\\_dates\\_2012.shtml](http://www.fec.gov/info/charts_primary_dates_2012.shtml).
- Must be filed within 48-hours of receipt.  
If joint fundraiser, date of receipt = date JFR receives the contribution.
- **Where and How to File:**
  - House Committees – file with the FEC**
    - Electronic filer: file electronically.
    - Paper filer: file via fax or online using the FEC website.
  - Senate Committees – file with the Secretary of the Senate**
    - File via mail or fax.



## Workshop Evaluation

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*Help Us Help You!*

Please complete an evaluation  
of this workshop.

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## Break For Lunch

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Next Workshop:  
Campaign Operations, Part 2

2:00 - 3:30 PM

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