

Corporate/Labor/Trade PAC Operations Part 2



February 22, 2012
2:00 – 3:30 p.m.
Tab 3 – SSF



Objectives – Parts 1 & 2

- Identify who may be solicited for contributions to the federal PAC.
- Specify guidelines for raising funds for the federal PAC.
- **Evaluate various fundraising techniques to determine their permissibility.**

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Solicitation Techniques

- Payroll Deduction
- ➔ Combined Dues/Solicitation Notices
- Conventions and Meetings
- Prizes and Entertainment
- Communications
- Matching Charitable Contributions

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Solicitation Statements

Basic Rules Apply:

1. Restricted Class Only
2. Solicitation Notices Always – Layout Important
3. Forward Contributions and Records On Time

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B. Combined Dues/Solicitation Statements (11 CFR 102.6(c)(2) and AOs)

A labor/membership organization or trade association may include a solicitation for its PAC with the bill for membership dues sent to noncorporate members.

1. Basic Solicitation Rules Apply

Combined statements are subject to all the rules that apply to other PAC solicitations.

a) Restricted Class Only (Non-corporate Members)

In AO 1999-40, the FEC stated that the PAC must inform the solicitees of the corporate prohibition and ask donors to include a statement that they are not incorporated.

b) Rules on Voluntary Contributions and Solicitation Notices

In AO 1987-06, the FEC found a proposed statement impermissible because it did not explain how to contribute an amount other than the suggested guideline.

2. Permissible Combined Statements

The layout of the combined statement must make a distinction between a suggested PAC contribution and the required dues payment.

Example: Using two lines on the statement.

Membership dues.....\$ _____
 Voluntary PAC contribution.....\$ _____



Solicitation Statements

WRONG

Statement					
Tropical Fruit Organization					
Billing Date	Status	Membership Dues	FCER	TFA Auxiliary	Total Due
1/10/12	General	\$500.00*	\$30.00	\$20.00	\$550.00

* Includes a \$100.00 voluntary contribution to the Tropical Fruit Organization PAC, unless otherwise requested.

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Solicitation Statements

RIGHT

Statement	
Tropical Fruit Organization	
Membership Dues	\$500.00
FCER	\$30.00
XYZ Auxiliary	\$20.00
Total Due	\$550.00
Voluntary PAC Contribution	\$100.00*
Total Amount Enclosed	\$ ____.

* This is merely a suggested voluntary contribution amount. You have the right to refuse to contribute. Members are free to contribute more, less or nothing at all without reprisal. Tropical Fruit Organization PAC uses member donations to help elect individuals to Congress who will support our organization's goals.

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3. **Collection Rules Apply**
Contributions must be separated from dues payments, collected and forwarded according to collecting agent rules.
4. **Electronic Deductions OK**
 - a) In AO 1997-09, Commission approved electronic deduction/transfer.
 - b) In AO 1999-03, Commission approved use of digital electronic signature.



Reporting Example

Itemizing Contributions via Dues Statements & Fundraising Events

- How must the committee disclose the transactions?
- What information from the scenario do we need to disclose this correctly?
- Tricky Issues?

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Reporting Example #2: Reporting Contributions Raised Through Combined Solicitations/Dues Statements and Fundraising Events

The Tropical Fruit Organization sent out its annual dues statement to its individual members to bill them for \$150 in annual dues, and suggested that those members also make an additional \$200 contribution to the organization's PAC (TFO PAC). In response, Amanda Pomegranate sent the organization a check for \$350, which the PAC received on May 24.

As a big supporter of the PAC, Amanda, in addition to her original contribution in response to the combined dues/solicitation statement as of May 24, also contributed \$150 by buying a silent auction prize at a PAC event on June 30.

Assume for this example that PAC files its FEC reports on a monthly schedule.

1. How must the committee disclose the transaction(s)?

2. What information from the scenario do we need to disclose this correctly?

Reporting Example #2 – Answers

1. How must the committee disclose the transaction(s)?

Answer: Itemize them on Schedule A for the appropriate Line (11(a)(i) for individuals) once the contributions from an individual aggregate more than \$200 (including contributions received through payroll deduction) for the calendar year.

Amanda's initial contribution in May does not require itemization as Amanda has not yet contributed **more than** \$200 for the calendar year. Further, the contributions with an aggregate calendar year to date amount of \$200 or less must be included on Line 11(a)(ii) (*Unitemized Contributions from Individuals*) of the appropriate reporting periods.

Since TFO PAC files monthly, the report covering June (due on July 20) would be the report on which they would need to begin itemizing Amanda's contributions on Schedule A for Line 11(a)(i), because the additional contribution of \$150 brought her over the \$200 aggregate year to date itemization threshold.

Thus, Amanda's silent auction contribution via purchase of a \$150 fundraising item must be itemized. (See the example below.) The aggregate year-to-date total for the June 30 contribution must include the contribution received previously on May 24. All of Amanda's subsequent contributions during that calendar year will also require itemization on Schedule A.



Itemizing Contributions

Schedule A, Line 11a

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	PAGE 1 OF 2
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) Tropical Fruit Organization PAC				
Full Name (Last, First, Middle Initial) A. Pomegranate, Amanda		Date of Receipt 06 / 30 / 2012		
Mailing Address 123 4th Street		Amount of Each Receipt this Period 150.00		
City City, ST 00000		FEC ID number of contributing federal political committee. C		
Name of Employer Tropical Fruit Organization		Occupation Vice-President		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Aggregate Year-to-Date 350.00		

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2. What information from the scenario do we need to disclose this correctly?

Answer:

- Aggregate \$200 and under, need the amount of the contribution and the date that it was received. (For recordkeeping, need the individual's name and address). See 11 CFR 104.8(b).
- Aggregate more than \$200, need identification of contributor.

3. Tricky Issues

Points to Remember

- Itemize contributions from an individual or other person/entity on Schedule A, Line 11(a)(i) once aggregate calendar year to date received exceeds \$200.
- **Required Information in Itemizing Receipts:**
 - Full name and address of contributor or source
 - Occupation/employer – if contributor is an individual
 - Date of receipt
 - Amount
 - Aggregate year-to-date total of all receipts from the same source.

- Optional, but encouraged: Committee ID# where applicable
- Itemization (including payroll deductions) required on Schedule A once an individual's aggregate year-to-date total exceeds \$200.
- Date reported is the date of receipt, not the date of deposit, or the date on the check.
- If collecting agent writes a check/transmits funds to PAC, do not report as transfer from collecting agent. Instead, report as contributions from original individual contributors.
- The collecting agent must forward money within collecting agent timeframes. The PAC treasurer would then have 10 days to deposit the contribution.



Solicitation Techniques

- Payroll Deduction
- Combined Dues/Solicitation Notices
- ➔ **Conventions and Meetings**
- Prizes and Entertainment
- Communications
- Matching Charitable Contributions

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Conventions/Meetings

1. Restricted class contributions ONLY
2. Applies to fundraising events, presentations and booths
3. Promotions not outside restricted class
4. Forward money and records on time
5. Additional rules for booth:
 - ▶ Signs on booth stating policy
 - ▶ Booth personnel must enforce
 - ▶ Keep records to ID restricted class
 - ▶ Use solicitation notices

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C. Conventions and Meetings (AOs 2003-05, 1995-14, 1981-41 and AOs cited within)

1. At Convention or Meeting, PAC may

- Make a presentation
- Operate fundraising booth
- or Conduct fundraising event

Provided that:

- **No Contributions From Outside Restricted Class Accepted.**
- **Basic Rules Apply:**

a) Promotions Not Targeted Outside Restricted Class

Pre-convention mailings and registration packets containing advertisements for booth or event are limited to restricted class.

b) Presentations

(1) Presentations to convention or meeting attendees may not include invitations to booth or fundraising event or solicitations if attendees include individuals not in restricted class.

(2) Exception: If audience includes *de minimus* individuals outside restricted class, presentation may include PAC solicitation; however, speaker must mention that the contributions are only sought from the members of the restricted class and any contribution from outside the restricted class will be returned. AO 2003-05.

- c) **Use Solicitation Notices**
 - d) **Forward Contributions on Time**
Use secure method.
2. **Additional Rules for Booth/Fundraising Event (AO 1995-14)**
- a) Signs are displayed clearly stating policy of rejecting contributions from those outside restricted class;
 - b) Above policy is enforced by those manning booth or event; and
 - c) Method of identifying solicitable (i.e. ,restricted class) attendees is maintained.
 - d) OK to ask representative of corporate member for prior approval, as long as that individual has the proper authority to grant the approval.



Solicitation Techniques

- Payroll Deduction
- Combined Dues/Solicitation Notices
- Conventions and Meetings
- ➔ **Prizes and Entertainment**
- Communications
- Matching Charitable Contributions

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Prizes/Entertainment

Connected organization may pay for prizes or entertainment to encourage PAC contribution BUT...

- Prizes/entertainment may not be too valuable in relation to funds raised
- To determine, apply one-third rule

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D. Prizes and/or Entertainment: The One-Third Rule (11 CFR 114.5(b)(2))

Connected organization and affiliates (and for trade associations only, members as well) may provide prizes and entertainment to encourage PAC contributions (e.g., raffles if permitted by state law, silent auction, golf tournament). The aggregate costs of prizes/entertainment may not be disproportionately valuable in comparison with contributions raised. Otherwise PAC must reimburse organization for a portion of the costs.

1. One-Third Rule

PAC reimburses organization for that portion of the costs of prizes or entertainment donated by the organization (including those donated by members/affiliates) that exceed one-third of the amount raised in contributions.

- a) Cost of prize to organization is what is used – See AOs 2003-33 and 1995-17.
- b) Food and drink expenses do not count. See AOs 1999-31, 1995-17 and 1980-50.



One-Third Rule



\$700



\$1200

Organization Cost:	\$ 700
– <u>1/3 Amount Raised:</u>	<u>\$ 400</u>
PAC Reimbursement:	\$ 300

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2. Example

The connected organization spends \$700 in treasury funds to purchase an iPad as a raffle prize. Sales of raffle tickets raise \$1200 in PAC contributions. Since one-third of the amount raised (\$400) is less than the cost of the prize (\$700), then the PAC must reimburse the organization for the \$300 difference.



One-Third Rule

Raise \geq 3x Cost of Prize



\$700



\$2100

Organization Cost: \$700
– 1/3 Amount Raised: \$700
PAC Reimbursement: \$ 0

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On the other hand, if the PAC raises \$2,100 in contributions, then one-third of that amount (\$700) is equal to what the organization spent on the prize, so no reimbursement is necessary.



Trade Associations Only: Member-Provided Assistance



- Member Donations of Prizes/Entertainment OK
 - Count as donations to association (instead of contributions to PAC)
- One-Third Rule Applies
 - Include prizes/entertainment donated by members in one-third rule calculation of association costs.

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3. **Member-Provided Assistance (for Trade Associations only)**
 - a) **Permissible (AOs 1995-17 and 1989-18)**
 - (1) Association may solicit and accept donations of money, goods or services from its members (both corporate and non-corporate) to defray administrative and fundraising expenses of PAC, including prizes.
 - (2) Donations are not contributions as long as donor qualifies as association member under FEC regulations.
 - b) **Application of One-Third Rule**
 - (1) Include prizes/entertainment donated by members in one-third rule calculation.
 - (2) Any required reimbursement goes to association (who may distribute it to member if it chooses).



Prizes/Entertainment

Basic Rules Apply

1. Offer to Restricted Class Only
2. Solicitation Notices Always
3. Forward Contributions and Records On Time

Note: For ongoing events, assign end date

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4. **Basic Rules Apply:**
 - a) Restricted class only may be invited to participate
 - b) Remember to use solicitation notices
 - c) Forward money on time
5. **Ongoing Events**

For events that are ongoing (e.g., a payroll deduction sign-up drive that lasts several months), the PAC must assign an ending date of event with which to determine the amount raised for purposes of the one-third rule. AO 1999-31.



Reporting Example

Itemizing Reimbursement to Connected Organization under 1/3 Rule

- How must the committee disclose the transaction?
- What information from the scenario do we need to disclose this correctly?
- Tricky Issues?

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Reporting Example #3: Reimbursements

In our first example, the connected organization spent \$700 on an iPad, but only raised \$1,200, so the organization's PAC had to reimburse the organization for the \$300 difference between 1/3 of the amount raised (\$400) and the cost of the prize (\$700).

How is this reimbursement reported?

Reporting Example #3 – Answer

How is this reimbursement reported?

Answer: The reimbursement must be reported on Line 21(b) as an “Other Federal Operating Expense” and itemized on Schedule B for that Line once the aggregate payments by the PAC to the organization exceed \$200 per calendar year.



Reporting Reimbursement

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 1 OF 1
			<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) Tropical Fruit Organization Political Action Committee									
Full Name (Last, First, Middle Initial) A. Tropical Fruit Organization						Date of Disbursement 10 / 20 / 2012			
Mailing Address 999 C Street									
City State Zip Code San Diego, CA 00000									
Purpose of Disbursement Reimb. for Raffle Prizes (1/3 Rule)						Amount of Each Disbursement this Period 300.00			
Candidate Name						Category/Type			
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:									

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Solicitation Techniques

- Payroll Deduction
- Combined Dues/Solicitation Notices
- Conventions and Meetings
- Prizes and Entertainment

Communications

- Matching Charitable Contributions

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D. **Communications (AOs Cited in Outline)**

If a communication is circulated beyond the restricted class, the organization may generally not include a solicitation. Thus, you must look at what your communication is going to say, and the audience it is going to.



What is a Solicitation?

Review

- Straightforward request for contributions
- Information on how to contribute
- Publicizing PAC's right to accept unsolicited contributions
- Statements encouraging support for PAC

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1. What Constitutes a Solicitation

- a) Straightforward request for contributions
- b) Information on how to make a contribution
- c) Publicizing PAC's right to accept unsolicited contributions
- d) Statements encouraging support for the PAC – Context is key.
- e) See MURs 6100R (2010) and 5681 (2007), AOs 1979-66 and 1979-13 for examples.

Example: Language from AO 1979-13:

"I was glad to see that Raymond has so many employees who realize that the welfare of us all is tied very closely to government policies and attitudes toward business. RAYPAC is one way we can make the voice of business people and our industry heard in this country. I hope we continued [sic] to have such an enthusiastic group."



What is NOT a Solicitation?

Communications that:

- Don't encourage support for PAC
- Don't explain how to make contributions
- Announce existence of PAC
- Explain laws applying to PAC
- Provide statistical info about PAC
- Simply list candidates supported w/o suggesting supporting PAC will help elect those candidates

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2. A Communication is Not a Solicitation if it:

- a) Does not encourage support for the PAC.
- b) Does not facilitate the making of contributions.
- c) Merely announces existence of PAC and explains legal requirements that apply to a PAC.
- d) Provides statistical information about the PAC's receipts and contributions.

- e) Identifies candidates supported by the PAC (but does not suggest that supporting the PAC will help elect those candidates).
- f) See AOs 1991-03, 1983-38 and 1982-65.

Example: Language from AO 1982-65:

"The Union Carbide Corporation supports the operation of the Union Carbide Corporation Political Action Committee as authorized by and in accordance with, federal law. Shareholders desiring additional information about the activities of the Committee may write to the Secretary, Union Carbide Corporation, Section D4, Old Ridgebury Road, Danbury, CT 06817."



Online Fundraising

Guidelines:

1. Restricted Class Only:
 - Use password protected page for all solicitations
 - Link page must include caveats
2. Ensure contributions are from permissible source
3. May accept contributions via credit card, electronic check or online banking service
4. PAC must follow basic rules

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3. **Internet and Email Solicitations (AOs 2006-03 and 2000-07)**
 - a) **Web Pages (AOs 2006-03 and 2000-07)**
 - (1) **Limit access to restricted class.**
Use password protection or otherwise only allow access to restricted class.
 - (2) Intranet page could link to separate, password-protected page accessible only by restricted class.

b) Caveats Required

The link page introducing PAC website must state that:

- (1) Federal law prohibits PAC from soliciting outside restricted class; and
- (2) Contributions received from outside restricted class will be returned to donors.

c) Contributor Screening and Vetting

PAC Treasurer is responsible for ensuring that online contributions come from permissible sources. See AO 2011-13 for suggested language to use as safeguard.

d) Collecting Online Contributions via Credit

Cards/Electronic Checks/Online Banking Services

- (1) Online contributions may be made via credit card or electronic checks, or electronic authorization of payroll deduction. AOs 1999-36, 1999-09 and 1999-03.
- (2) Date of contribution is date authorized by contributor. AO 1995-09. (Note: For credit card contributions, date of receipt for reporting is the date contributor authorized the charge. See AOs above.)
- (3) Check generated via online banking service acceptable with all required contributor information.
 - (a) If complete information not available, committee must contact contributor
 - (b) If drawn on joint account, must contact account holders using reattribution procedures to ascertain from whom contribution is intended. AO 2007-17.

e) Email Solicitations (AOs 2000-07 and 1995-33)

- (1) Organization could maintain email list serve (i.e., mailing list) to send PAC solicitations to restricted class. AO 2000-07.
- (2) Email could be sent through secretaries to member of restricted class, provided that a cover note or some other mechanism is used to ensure solicitation is directed exclusively to restricted class. AO 1995-33.



Internet, Intranet and Email

Basic Rules Apply:

1. Restricted Class Only
2. Solicitation Notices Always
3. Forward Money and Records
On Time

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4. **Basic Rules Apply**
 - a) Restricted class only (as set out above)
 - b) Voluntary contributions/solicitation notice requirements
 - c) Forward money on time



Solicitation Techniques

- Payroll Deduction
- Combined Dues/Solicitation Statements
- Conventions/Meetings
- Prizes and Entertainment
- Communications

 Matching Charitable Contributions

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Charitable Matching Plan

- OK to match a PAC contribution with an organization donation to a charity
- Neither contributor nor organization receives benefit (i.e., tax deduction)
- Token prize OK
- Collecting agent may pay costs of plan
- Can be used for twice-yearly

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F. Matching Charitable Contributions (AOs 2003-39, 2003-33, 2003-04, 1994-07, 1990-06, 1989-09, 1988-48 and 1986-44)

1. “PAC Match” Permissible

In several AOs, the Commission has permitted connected organizations to encourage contributions to the SSF by offering to match a contribution with an organization donation to a charity.

2. Frequently Asked Questions

a) Who Selects the Charity?

Charity can be selected by the contributor (AOs 2003-39, 2003-33, 2003-40, 1994-07, 1990-06, 1989-09, 1988-48 and 1986-44) or from a limited list provided by the organization (AOs 1989-07 and 1987-18).

b) Can the Contributor/Organization Take a Tax Deduction?

a) Neither organization nor contributor may receive tangible benefit, (i.e., no tax deduction).

b) Token prize OK (one-third rule applies).
AO 2003-33.

c) Can Our Local/State Affiliate Make the Matching Payment to a Charity?

Yes. The Commission has ruled that the costs in conducting a charitable matching plan are solicitation costs that may be legitimately paid for by an entity that qualifies as a collecting agent of the organization. AO 2003-39.

d) Alternative Uses for “PAC Match” Type Plans:

a) Twice-yearly: AOs 1989-09 and 1989-07.

b) Matching donations to United Way. AO 2003-33.



Instructions for Activity

- ✓ Read through the scenario.
- ✓ Work with your neighbors.
- ✓ Jot down notes about legal ramifications of activity in scenarios.
- ✓ You have 5-10 minutes for this activity.

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Scenario #3:

FUNDRAISING BY A COLLECTING AGENT

As chairman of your organization's PAC, you are conducting your committee's annual fundraising planning meeting. Your goal, this year, is to raise \$200,000 for THE-PAC. On the agenda are proposals submitted by members of your committee for fundraising activities during the year. Your committee must decide whether to adopt any of the following proposals.

Proposal 1:

Ask local chapters to raise funds for THE-PAC by holding mimosa brunches for the restricted class of their corporate members. As an incentive to participate, local chapters would be allowed to retain 10% of the funds raised for THE-PAC to cover their administrative costs.

Contributions that are raised from the fundraising events would be deposited directly into the local chapters' accounts or into the locals' State PACs. Each local chapter would transfer THE-PAC contributions (minus 10%) to the federal PAC within 30 days of receipt. This plan would be feasible because there would be no undue administrative burden on the local chapters, and there would not be any recordkeeping or reporting responsibilities for them.

Proposal 1 Answers:

1. How did you feel about the plan to have local chapters transmit the proceeds of the fundraising brunches?

Answer: Basically, it's OK for the local chapters to transmit the proceeds, because the local chapters may act as collecting agents. They must follow the rules at 102.6 (as discussed on the outline). The full amount of each contribution, however, must be transferred, and cannot be retained by the local chapter. This is because all contributions collected by a collecting agent on behalf of the federal PAC must be transferred to the federal PAC. See 11 CFR 102.6(c) (4).

Note that if the federal PAC or its connected organization wants to bear the costs for the solicitation, it may write a check to the local chapter. Note that it is permissible for state/local affiliates to use general treasury monies to defray the administrative/solicitation costs for the federal PAC. See AO 1983-46.

2. Where may the funds collected by each local chapter be deposited?

Answer: Contributions may be deposited into the local chapter's account or into their State PAC account. Separate records must be kept.

3. What do you think about the proposed time frame for transferring the collected contributions to the SSF?

Answer: It is OK for small contributions (\$50 or less). Collecting agents have to transfer a contribution within 10 or 30 days depending on the size of the contribution. 11 CFR 102.8(b)(1) and (2). Contributions in excess of \$50 must be forwarded within 10 days of receipt, while smaller contributions must be forwarded within 30 days.

4. What registration or reporting responsibilities apply to the local chapter in its role as a collecting agent? To the federal PAC?

Answer: Collecting agents do not have to register as political committees. However, when they transfer funds collected for the PAC, they must also provide the PAC with records on contributor information. These records enable the PAC to file reports on contributions. Collecting agents must also retain all records of contribution deposits and transmittals for three years.

The PAC will report the receipt of funds from collecting agent as contributions from the original contributors. Date of receipt is reported as the date the collecting agent received the contributions.



Activity – Key Points

Local units may act as collecting agent

- Timely transfer of all funds AND records
- Full amount of contribution must be transferred and counts towards contributor's limit to PAC
- SSF ultimately responsible for compliance and proper disclosure!

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KEY POINTS – Proposal 1

- Local units may act as collecting agent
 - Timely transfer of all funds AND records
 - Full amount of contribution must be transferred and counts towards contributor's limit to PAC (even if PAC reimburses collecting agent)
- SSF ultimately responsible for compliance and proper disclosure!

Proposal 2 Answers:

Allow members the opportunity to have \$1 of their dues automatically transferred to the PAC as a voluntary opt-out contribution. Under this proposal, dues payments would be collected by the locals and deposited into their treasury accounts. The portion designated for the PAC would be separated and transferred by the locals to the PAC.

1. Why is it problematic to transfer \$1 of dues paid as a contribution to the PAC?

Answer: Under the law, PAC contributions cannot be derived from dues payments. 11 CFR 114.5(a). Such a transaction would actually result in a transfer of general treasury funds to the federal PAC, which is illegal. See also AO 1980-133. Moreover, contributions have to be voluntary; it is illegal to automatically deduct a contribution without prior written authorization.

2. **Assuming the PAC revises the plan to solicit contributions over and above the amount of dues and with express written authorization of the contributor, what are the concerns about the deposit of the contributions in the account of the local?**

Answer: Local chapters must follow collecting agent rules for the timely recordkeeping and transmittal of the funds.



Activity – Key Points

Combined Dues/Solicitation Statements

- NO membership dues may be used as contributions to SSF.
- Any contributions deducted must be on a voluntary basis, and over and above the amount of dues charged.

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KEY POINTS – Proposal 2

- NO membership dues may be used as contributions to SSF.
- Any contributions deducted must be on a voluntary basis, and over and above the amount of dues charged.

Scenario #4 Answers:

1. Are there any restrictions on the pre-convention mailing to members regarding the booth?

Answer: Yes. A pre-convention mailing that notifies members of a booth where they may make contributions is a solicitation. Thus, it may only be mailed to people in the restricted class and must include the required solicitation notices.

2. Are the PAC's plans for soliciting contributions at the booth permissible?

Answer: Yes, as long as the organization and PAC take measures to ensure that they only solicit individuals within the restricted class. AOs 1995-14, 1981-41, 1978-83 and 1978-17 all required staff at the booth to refer to a list of members within the restricted class. AO 1995-14 also noted that the booth must post signs clearly stating the PAC's policy to refuse contributions from outside the restricted class.

Also, solicitations conducted at a booth would have to comply with the "voluntary contribution" provisions of 11 CFR 114.5(a) (including all requisite notices), and those collecting the contributions would have to comply with all applicable recordkeeping requirements and forward the contributions to the SSF treasurer in a timely manner.

3. What are the ground rules for the PAC presentation at the meeting?

Answer: In AOs 1976-96 and 1976-27 (and reiterated in AO 1995-14), the Commission ruled that a presentation on how to make a PAC contribution is a solicitation. Thus, you can only admit individuals to this session if they are in your restricted class and the speaker must include the requisite solicitation notices. In AO 2003-05, however, the Commission did permit presentations before a *de minimus* number of individuals outside the restricted class, provided that the speaker states that the solicitation is only directed to the restricted class and the PAC returns any contribution received from outside the restricted class.



Activity – Key Points

Solicitations at Trade Shows

- Pre-convention promo only to restricted class
- Booth permissible but no contributions from outside restricted class
- Presentation ok so long as *de minimus* spectators outside restricted class and no contributions from outside restricted class
- Notices with all solicitations

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KEY POINTS

- Publicizing PAC presentations or booth before a convention, trade show or meeting is a solicitation and such publicity may only go to the restricted class.
- At the convention/trade show/meeting, PAC may operate booth.
 - Follow guidelines in AO 1995-14.
 - PAC must monitor contributions and reject any from outside restricted class.
- Presentation at convention regarding PAC is solicitation. Only restricted class should be present.
 - *De minimus* non-restricted class allowed; however, PAC must not accept contributions from them.
 - If non-restricted class is more than *de minimus*, no PAC presentation.
- All of the above must include requisite solicitation notices.

Scenario #5:

SSF FUNDRAISING RAFFLE

You are the director of the Tropical Fruit Pickers Organization PAC and are planning a raffle to raise funds for the PAC. You plan to offer two (2) raffle tickets to each member of your solicitable class who contributes at least \$100. You would offer the following items as raffle prizes:

- a) Free stays at vacation homes (provided by your organization)
- b) Assorted gift certificates (purchased by the PAC)

Questions:

- 1. In looking at the prizes to be offered, what restrictions would apply to:**
 - **Vacation homes provided by the organization?**
 - **Gift certificates purchased by the PAC?**

- 2. What should you keep in mind as you publicize the raffle?**

- 3. What if someone outside the restricted class wanted to participate in the raffle?**

- 4. What if someone would like to contribute, but doesn't want to give \$100 (ticket price) or more?**

- 5. What if you want to pay for a room in which to hold the raffle, or catering for the raffle?**

Scenario #5 Answers:

1. In looking at the prizes to be offered, what restrictions would apply to:

Answer:

Vacation homes provided by the organization?

Answer: The organization may provide prizes/entertainment (in this case a vacation home) if the prizes are not disproportionately valuable in relation to the amount of money raised—applying the 1/3 rule. 11 CFR 114.5(b)(2). Note that, in AO 1989-18, the Commission clarified how the 1/3 rule should be applied: any reimbursement to the connected organization should be based upon the total value of all prizes donated by the connected organization, and not upon any one prize or group of prizes. To calculate the one-third rule in this scenario, the organization would have to calculate the value of the stays at vacation homes, and then raise 3 times the cost to avoid reimbursement by the PAC. (**Note for Trade Associations ONLY:** These guidelines would also apply to any prizes donated by members of the association.)

Gift certificates purchased by the PAC?

Answer: The PAC may purchase prizes for the raffle; the disbursements would be operating expenditures. Because the prizes would be purchased by the PAC and not provided by the connected organization or its members, the "one-third rule" would not apply.

2. What should you keep in mind as you publicize the raffle?

Answer: Communications publicizing the raffle would constitute solicitations under the Act and the Commission's regulations. The provisions of 11 CFR 114.5 would apply. The PAC must include the requisite solicitation notices (i.e., the political purposes of the PAC, the right to refuse to contribute, and that no benefit or repercussion will occur because of the amount an individual gives). The solicitations (i.e., the notice of the raffle) may only be directed only to the PAC's restricted class.

3. What if someone outside the restricted class wanted to participate in the raffle?

Answer: Since selling the raffle tickets constitutes a solicitation for the PAC, individuals outside the restricted class could not participate and should not be offered the opportunity.

4. What if someone would like to contribute, but doesn't want to give \$100 (ticket price) or more?

Answer: Although contributors must be able to contribute less than the suggested amount without reprisal, the PAC may establish a minimum donation for prize eligibility. AO 1989-18.

5. What if you want to pay for a room in which to hold the raffle, or catering for the raffle?

Answer: The one-third rule does not apply to the solicitation costs or meal/beverage expenses. See AO 1979-72 and 1980-50. These costs may be paid as exempt solicitation expenses by the organization, without reporting.



Activity – Key Points

SSF Raffles

- One-third rule applies to prizes purchased by organization
- Invitation to buy ticket = solicitation
 - Include all solicitation notices
 - Only direct to restricted class

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KEY POINTS

- SSF purchases the prizes for an event the “one-third rule” would not apply.
- Connected organization provides prizes/entertainment to the SSF the “one-third rule” would apply.
- Communications publicizing your SSF’s raffles/entertainment events would constitute solicitations, therefore, make sure to apply the provisions at 11 CFR 114.5:
 - All contributions are voluntary;
 - Political purpose of PAC;
 - Solicitee’s right to refuse without reprisal; and
 - Guideline on amount is merely suggestion; no minimum may be specified.
- Raffles/entertainment events for your SSF apply only to your restricted class.

Looking at all of the fundraising techniques we've talked about today, they had certain rules in common:

Basic Rules Apply

- Don't go outside restricted class
- Always use voluntary notices
- Follow rules for collection and transmittal of funds



Basic Rules Apply

1. Restricted Class Only
2. Solicitation Notices Always
3. Forward Contributions and Records On Time

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Workshop Evaluation

Help Us Help You!

Please complete an evaluation
of this workshop.

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Tomorrow Morning

“Breakfast with the IRS”
and
“PAC Operations Part 3”

8:00 AM

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