CORPORATE PAC OPERATIONS PART 1

April 24, 2013
11:15 a.m.
Tab 3

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Objectives – Part 1

- Identify who may be solicited
- Specify fundraising guidelines for federal PAC
- Evaluate fundraising techniques

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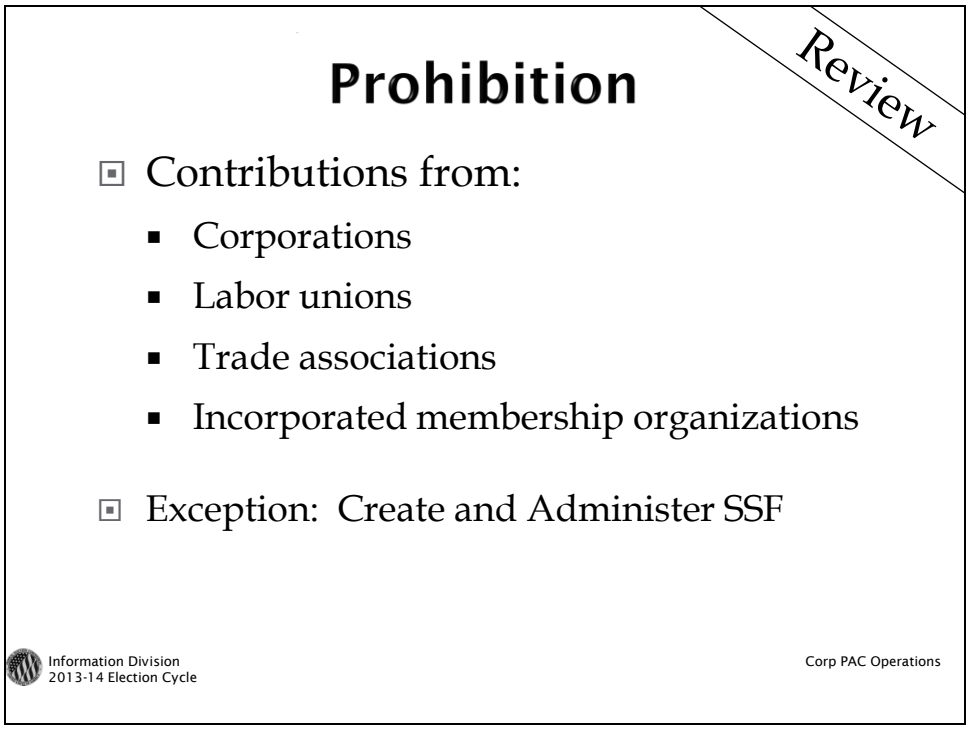

I. Introduction

A. Prohibition on Corporate/Labor Contributions (11 CFR 114.2)

Federal law bans contributions by corporations and labor organizations to influence federal elections. That ban covers incorporated trade associations and other membership organizations.

B. Exception: Separate Segregated Fund (SSF) (11 CFR 114.5)

Corporations (including trade associations and membership organizations) and labor organizations may use treasury funds to create and run a separate segregated fund (sometimes called an SSF or PAC) to support federal candidates.

Prohibition

Review

Key Point:

Most permissible corporate/labor activity at the federal level is a result of exceptions to the ban on corporate contributions.

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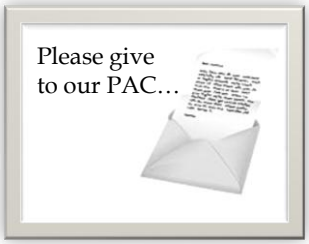
PAC Solicitations

What is a solicitation?



Why does it matter?

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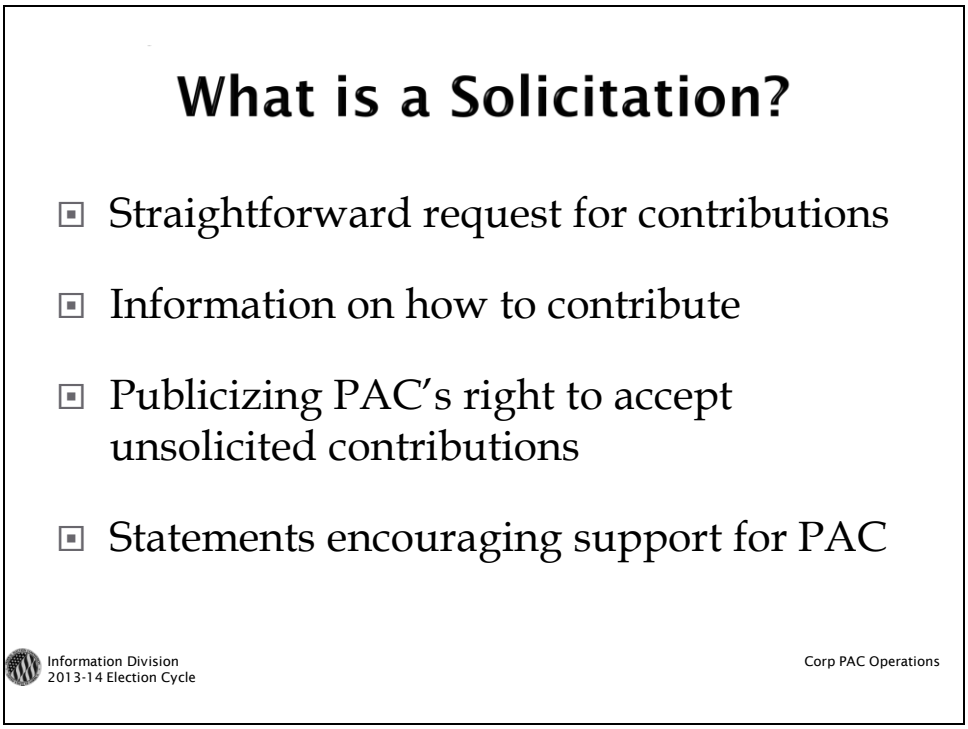

II. What is a Solicitation?

A. Solicitation = Communication that Contains:

1. Straightforward request for contributions;
2. Information on how to make a contribution;
3 Publicizing PAC's right to accept unsolicited contributions; or
4. Statements encouraging support for the PAC. (For example, see AO 1979-13.)

Why does it matter?

- SSFs may only solicit contributions from a restricted class of individuals
- Solicitations must include certain notices
- Resulting contributions must be forwarded in a timely manner

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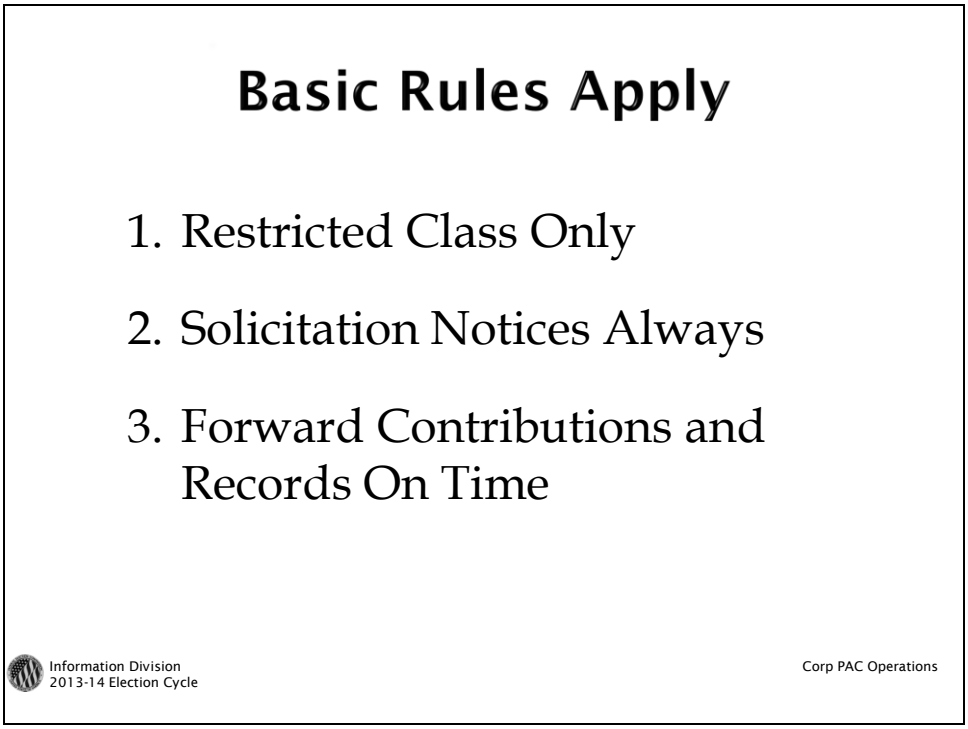
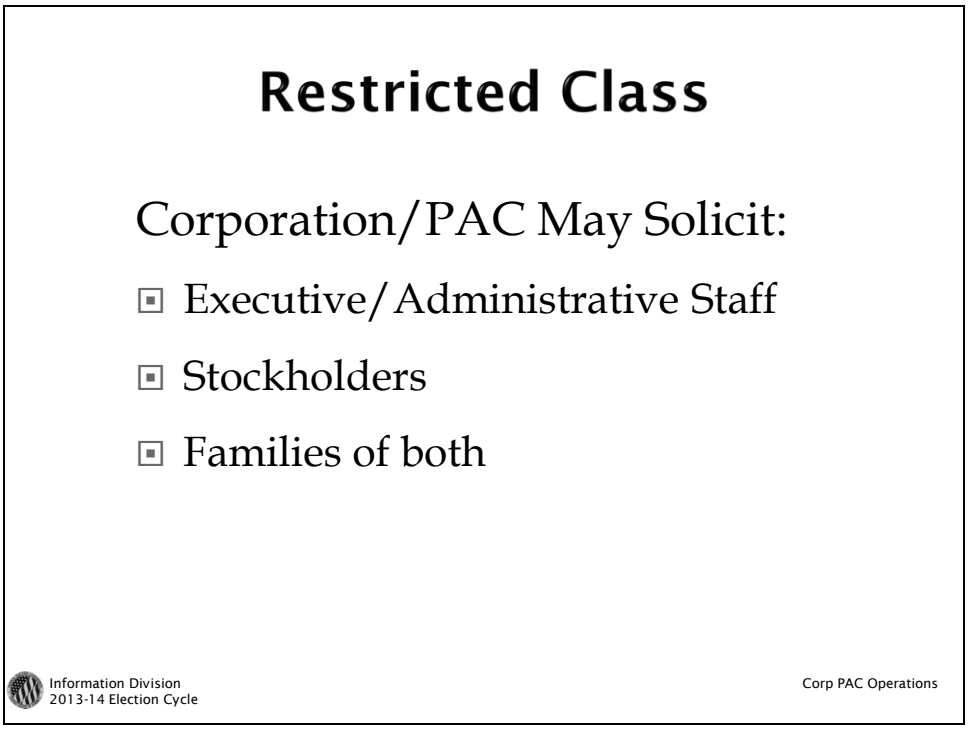
B. Importance of Knowing When Communication = PAC Solicitation
Must be able to recognize solicitation in order to avoid it reaching individuals outside restricted class for solicitation purposes.

III. Basic Solicitation Rules





A. At Any Time: Restricted Class Only

1. Who is in Restricted Class of a Corporation's PAC? (11 CFR 114.1(c), (h) and (j); 114.5(g))

a) Executive and administrative personnel

(1) Employees paid on salary (but **not** hourly) basis who have managerial, professional, policy-making or supervisory responsibilities.

- Professionals e.g. - includes Lawyers, Engineers, Doctors, Pilots and Nurses but no one represented by union
- Insurance agents – NO unless they have supervisory or managerial responsibilities
- **See AOs 2012-02, 2011-25, 2010-04, 2004-32, 1999-20 and 1993-16**
- **See Tab 2/Recent Developments**

(2) Members of the board of directors, if they are compensated via salary or stipend. AOs 2010-12, 2000-10 and 1985-35 (compare with AO 1977-18).

b) Stockholders (including ESOP): Individuals with:

(1) Vested interest in stock;

(2) Power to vote stock;

(3) Right to withdraw stock **without incurring suspension period**; and

(4) Right to receive dividends.

See AO 1998-12 and AOs cited within.

c) Families of both

Beyond Restricted Class

- Corporation/PAC may NOT solicit:
  - General Public
  - Clients, Vendors, etc.
  - Other PACs
  - Employees who are not executives or stockholders

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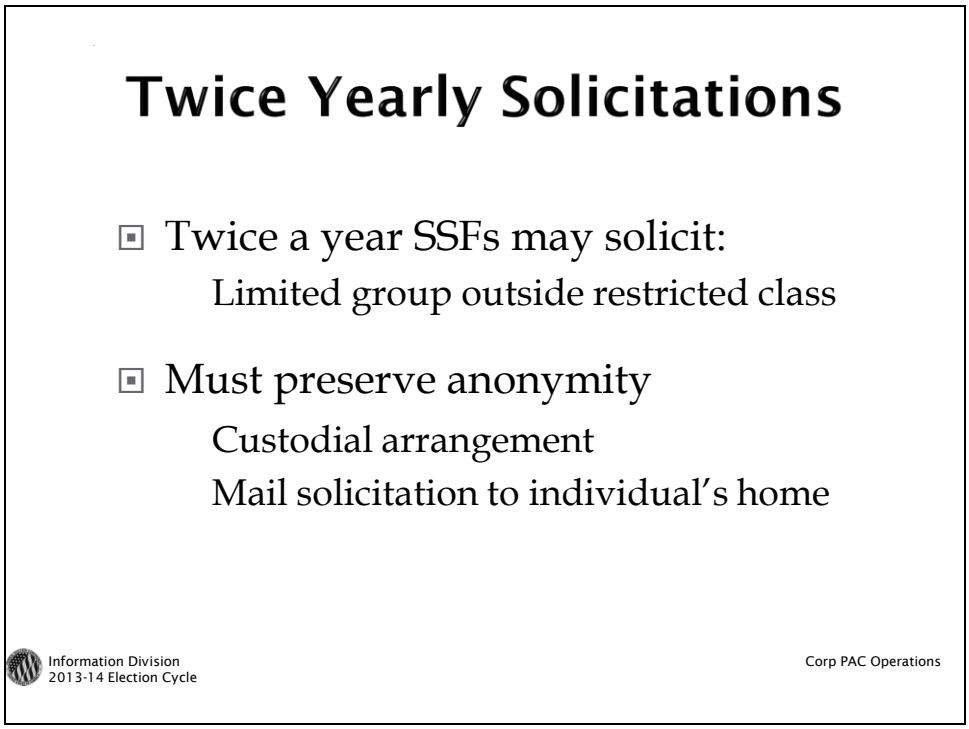
2. Who is Not Solicitable?

a) General public;
b) Clients, vendors, etc. and their PACs;
c) Employees who are neither executives nor stockholders; or
d) Former employees (unless they are stockholders).



B. Twice Yearly Solicitations (11 CFR 114.6)

1. Twice a year, a PAC may solicit:

a) **Corporation:** Rank and file employees

b) **Labor Organization:** All non-union employees of corporations that employ union's members.

c) Must use custodial arrangement to preserve anonymity.

d) Must mail solicitation to employee's home.

2. Application to Labor Organizations:

a) If corporation wants to conduct a twice-yearly solicitation for its PAC, it must notify the union of its intention and provide similar opportunity.

b) If other unions represent employees at that corporation, they share a limit of two solicitations of non-members per year.

Campaign Guide Chart

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 Stockholders and Families	Executive and Administrative Personnel and Families Members and Families	Executive and Administrative Personnel and Families Noncorporate Members and Families	Executive and Administrative Personnel and Families Noncorporate Members and Families 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 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

Solicitation Notices

Contributions must be voluntary:

- No Threats
- No Dues or Fees

Must provide notice every time:

- Political Purpose of SSF
- Right to Refuse to Contribute
- Guideline = Suggestion

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C. Voluntary Contributions and Solicitation Notices (11 CFR 114.5(a))

1. Contributions Must Be Voluntary

a) No threat of physical force, job discrimination or financial reprisal.

b) No dues or fees.

2. Required Notices

Every solicitation must state:

a) Political purpose of PAC

b) Solicitee's right to refuse without reprisal

c) Guideline on amount is merely suggestion; no minimum may be specified.

3. Examples:

See AOs 2006-17, 2003-06 and 1997-25, See also Matters Under Review (MURs) 5681 and 5337.

Example
AO 2006-17

BERKELEY ELECTRIC COOPERATIVE, INC.
VOLUNTARY EMPLOYEE DONATION FORM

Option 1 _____

I, the undersigned, do hereby certify my desire to voluntarily donate to the organizations listed below. **The purpose of these organizations is for the benefit of political candidates and activities on a state and national level that support rural electric cooperatives.** I authorize Berkeley Electric Cooperative, Inc. to deduct the following designated amounts per pay period from my paycheck. I understand that this authorization will remain in effect perpetually, unless and until rescinded by me **in** writing. **I** am also fully aware that should I elect not **to** participate I may do **so** without any concern of retaliation.

RECOMMENDED AMOUNTS PER PAY PERIOD

	Authorized Amount	HOURLY NON-SUPERVISOR	HOURLY SUPERVISOR	SALARIED NON-SUPERVISOR	SALARIED SUPERVISOR	SALARIED STAFF
AMOUNT PPD		$3.00	$5.00	$7.00	$7.00	$9.00
ACRE (Action Committee for Rural Electrification)	_____	0.96	0.96	0.96	0.96	3.85
ECHO (Electric Cooperatives Help Organization)	_____	0.42	0.42	0.42	0.42	0.42
EMPL FUND (State Candidate Support)	_____	0.66	1.47	2.23	2.23	1.88
BEC PAC (Federal Candidate Support)	_____	0.96	2.15	3.39	3.39	2.85

*The recommended contribution amounts listed above are merely suggestions. Employees may choose to give more or less than those stated. BEC will not favor **nor** disfavor employees according **to** pledged donations.*

*Option 2*_____

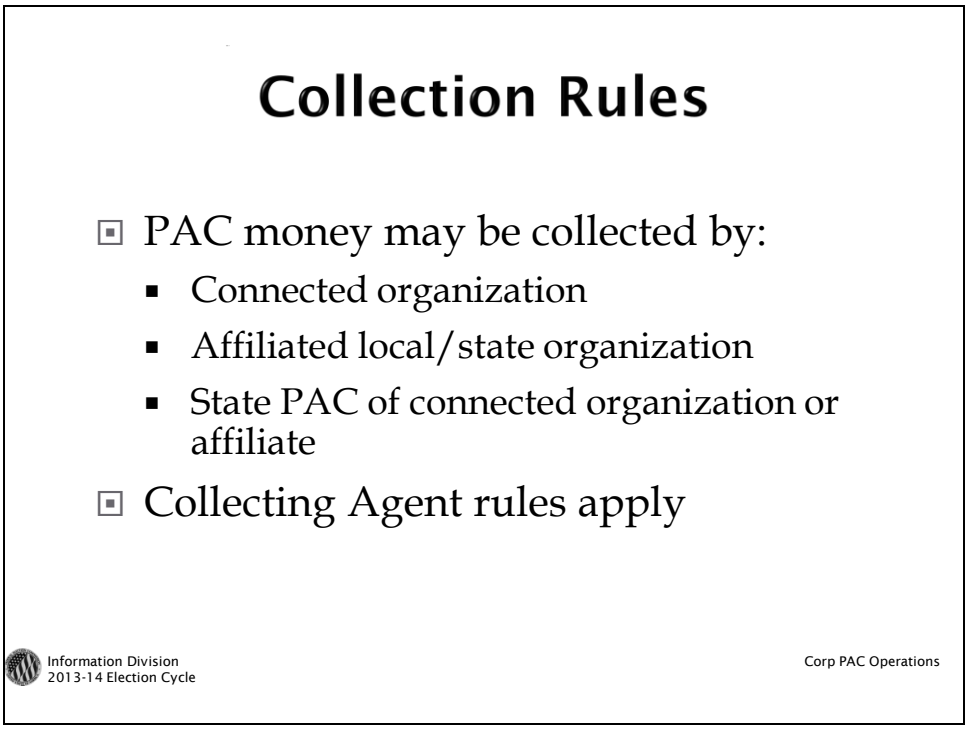
I am providing a one time contribution **in** the amount of $_____ **to** be distributed as designated above.

*Option 3*_____

I elect not to participate at this time.

4. Examples from AO 2006-17:

- **Statement of Political Purpose:**
  "…for the benefit of political candidates and activities on a state and national level that support rural electric cooperatives."
- **Statement of Voluntary Nature and Suggested Guideline:**
  See BEC proposed solicitation form (Exhibit 1). The form offers three options for contributing. It notes that the first option contains ***"merely suggestions,"*** and that employees may choose to give ***"more or less than those stated."*** The form further states, ***"BEC will not favor nor disfavor employees according to pledged donations."*** An additional statement reads, ***"I am also fully aware that should I elect not to participate I may do so without any concern of retaliation."*** Taken together, these statements comply with 11 CFR 114.5(a)(2) and (a)(4).



D. Collecting and Forwarding Contributions to PAC (11 CFR 102.6(b))

Connected organization, affiliated organizations or state or local PAC of organization may act as "collecting agent" by collecting and forwarding PAC contributions under guidelines below:

1. Checks Payable to PAC

Connected organization must forward checks payable to PAC directly to PAC.

Collection Rules

- Collecting Agents:
  - Temporarily deposit funds
  - Forward funds in timely manner
    - ≤$50 within 30 days
    - >$50 within 10 days
  - Retain records of SSF $
- PAC ultimately responsible

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2. Checks Payable to Collecting Agent

a) May be Temporarily Deposited in:

(1) Separate transmittal account
(2) Collecting agent's account
(3) Nonfederal account (e.g. state PAC)

b) How to Transmit Funds

Collecting agent may write one check to PAC representing all individual contributions collected within specific time period.

3. Time Frames for Forwarding Contributions and Records (11 CFR 102.8(b))

a) Contributions of $50 or less: within 30 days

b) Contributions over $50: within 10 days

c) Recordkeeping

Collecting agent retains records 3 years.

4. PAC Remains Responsible:

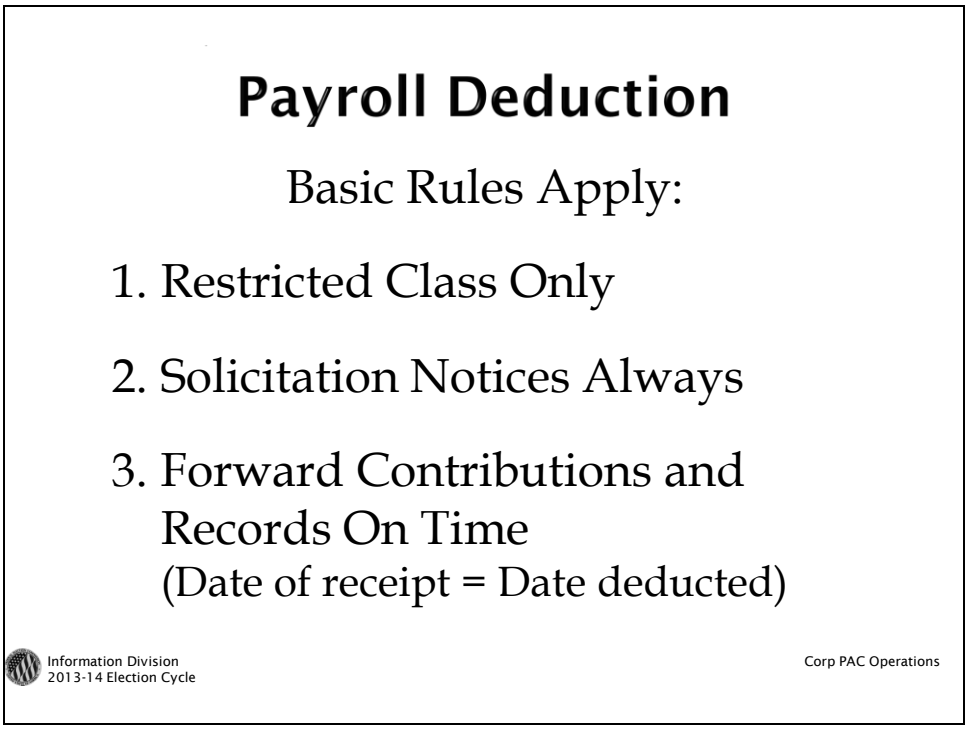
a) Reports original sources; date of receipt = date collecting agent receives check. (See 11 CFR 102.8(b)(2).)

b) Ensures that collecting agent follows rules.

5. Corporations Acting as Members of Trade Associations

Corporate members may collect and forward contributions for trade association PAC. See AO 2003-22.

IV. Solicitation Techniques



A. Payroll Deduction (11 CFR 102.6(b) and (c), 102.8(b) and 114.5(a))

1. Basic Rules Apply:

a) Restricted class only

b) Use solicitation notices

c) Forward contributions and records – connected organization is acting as the collecting agent here.

d) Date of receipt for reporting purposes = date deducted from paycheck. AOs 2000-11 and 1999-33.

2. No Reverse Checkoff

Illegal to automatically deduct PAC contributions from paycheck, even if individual is allowed to request refund. 11 CFR 114.5(a); See AO 2001-04 (fn. 4).

3. Electronic Deductions OK

In various opinions, the Commission has approved:

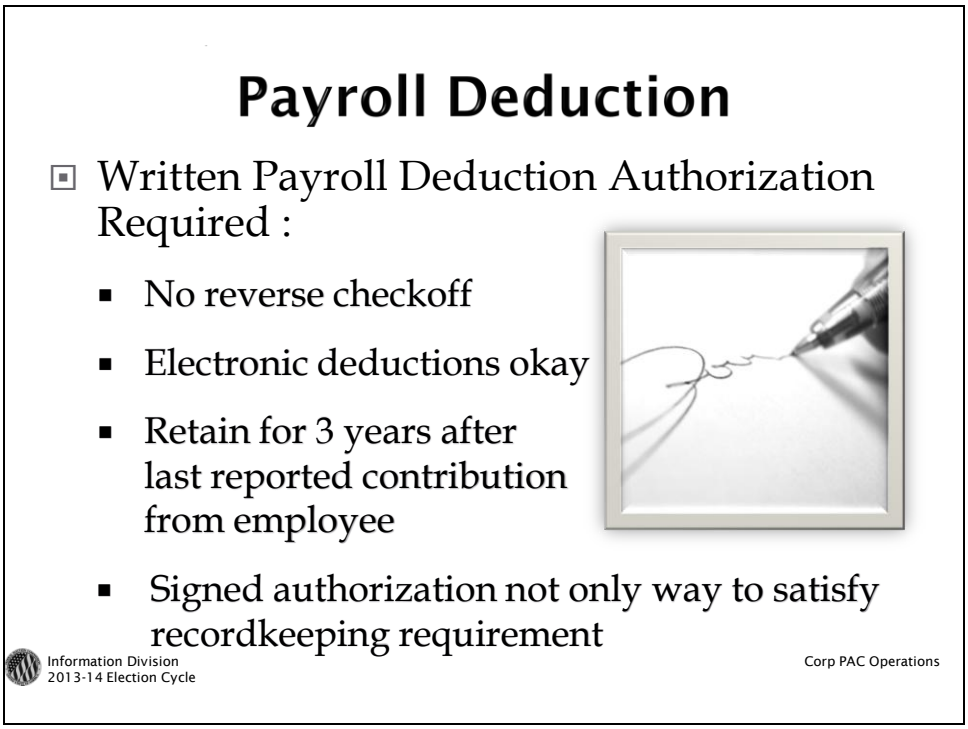
a) Electronic deduction/transfer of PAC contributions to membership organization PAC. AO 1997-09.

b) The use of a digital electronic signature to authorize payroll deductions for a corporate PAC. AO 1999-03.

c) The use of a standard "click through" process, in which the contributor enters an ID number that is checked against a database, to authorize deductions for a corporate PAC. AO 2001-04.

d) Key in these AOs:

- **Passwords**
- **Email confirmations**
- **Ability to modify/revoke authorization**
- **Retention of authorization**
- **Notices worked into presentation**



4. Written Authorization Required

a) Employee gives written payroll deduction authorization (PDA) for periodic deduction of PAC contributions from paycheck; may revoke any time.

b) Retain PDA for three years from the date the committee last reports receiving a contribution from that employee (rather than three years from the date the employee signed the authorization). 11 CFR 104.14(b).

c) **Note:** signed PDA is not the only way to satisfy recordkeeping requirement. For suggested methods for how to keep PDA records, see Commission Policy Statement online at http://www.fec.gov/law/policy/notice_2006-11.pdf

Payroll Deduction

If corporate SSF uses . . .

- Must allow union to use payroll deduction for its PAC, upon request
  - Union must reimburse costs
- May use payroll deduction for trade association PAC
  - Member must first grant prior approval

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5. Labor Organization Use of Corporation's Payroll System (11 CFR 114.5(k))

a) Corporation or affiliate that uses payroll system to collect PAC contributions must make system available upon request to labor organization with members employed by corporation (for union to collect PAC contributions from those employees).

b) Labor organization must reimburse corporation for costs.

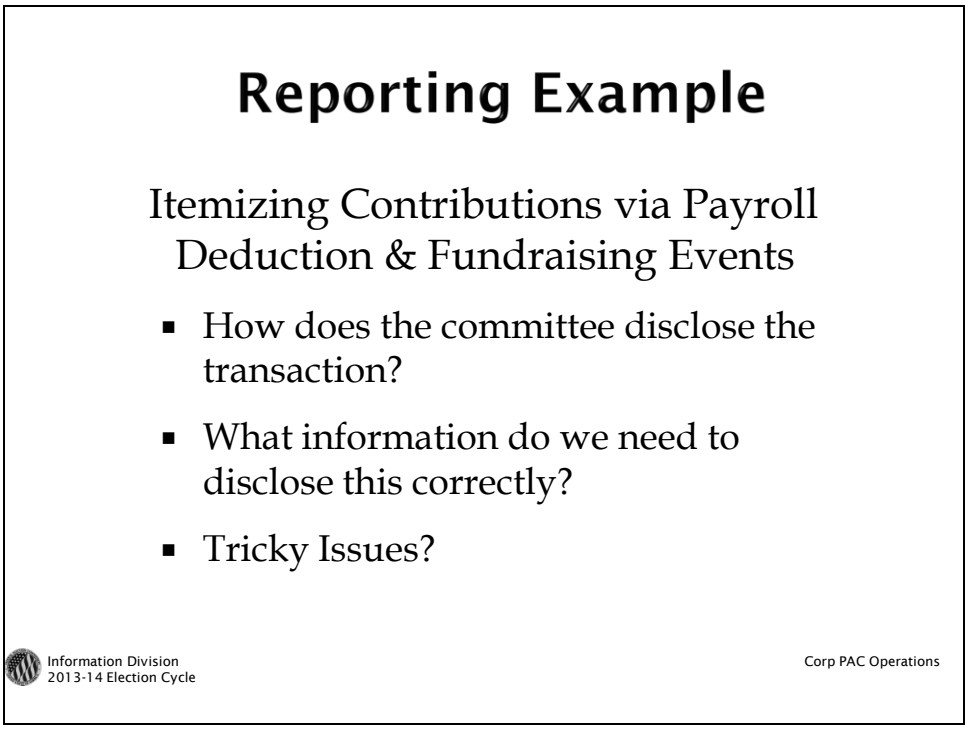
6. Corporate Members of Trade Association (11 CFR 114.8(e)(4) and (5))

a) FEC rules permit payroll deduction by corporate members for contributions to trade association PAC.

b) If corporation allows trade association PAC to use its payroll deduction system, corporation shall permit use of payroll deduction by union representing its employees, upon request.

c) Application to Membership Organization

AO 2012-15: Corporations owned by members of a membership organization (that also qualifies as a trade association) may provide payroll deduction to enable member-employees to contribute to the membership organization's SSF. The membership organization must pay the corporations in advance for their services.



Reporting Example #1:
Reporting Contributions Raised Through Fundraising Events and Payroll Deduction

The Shotz Brewery Inc. PAC has received authorization from Shirley Feeney, a company Vice-President, to deduct $20 from her biweekly paycheck as a contribution to the PAC. The first deduction was taken out of Shirley's paycheck on January 20, 2013. The payroll department forwarded the money on February 4 to the PAC's treasurer, who had arranged for an electronic transfer into the PAC's account on the same day.

Planning ahead, on May 25, Shirley will reach an aggregate total of $200 exactly. On June 8, she will reach $220. By June 22, she will have an aggregate year-to-date total of $240.

As a big supporter of the PAC, Shirley, in addition to her payroll deductions totaling $240 as of June 22, also contributed $150 by buying a silent auction prize at a PAC event on June 30.

Shotz Brewery Inc. 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?**

3. **Tricky Issues?**

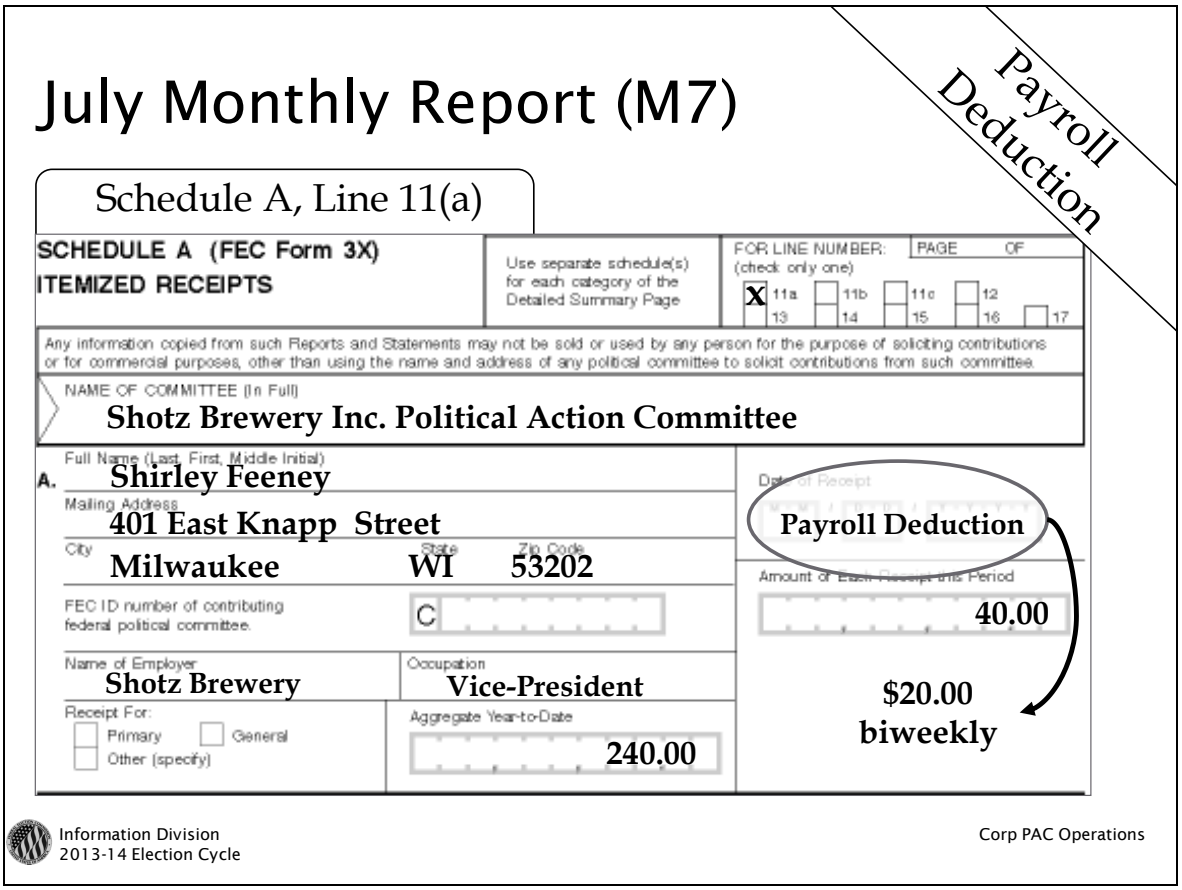
Reporting Example #1 – Answers

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.

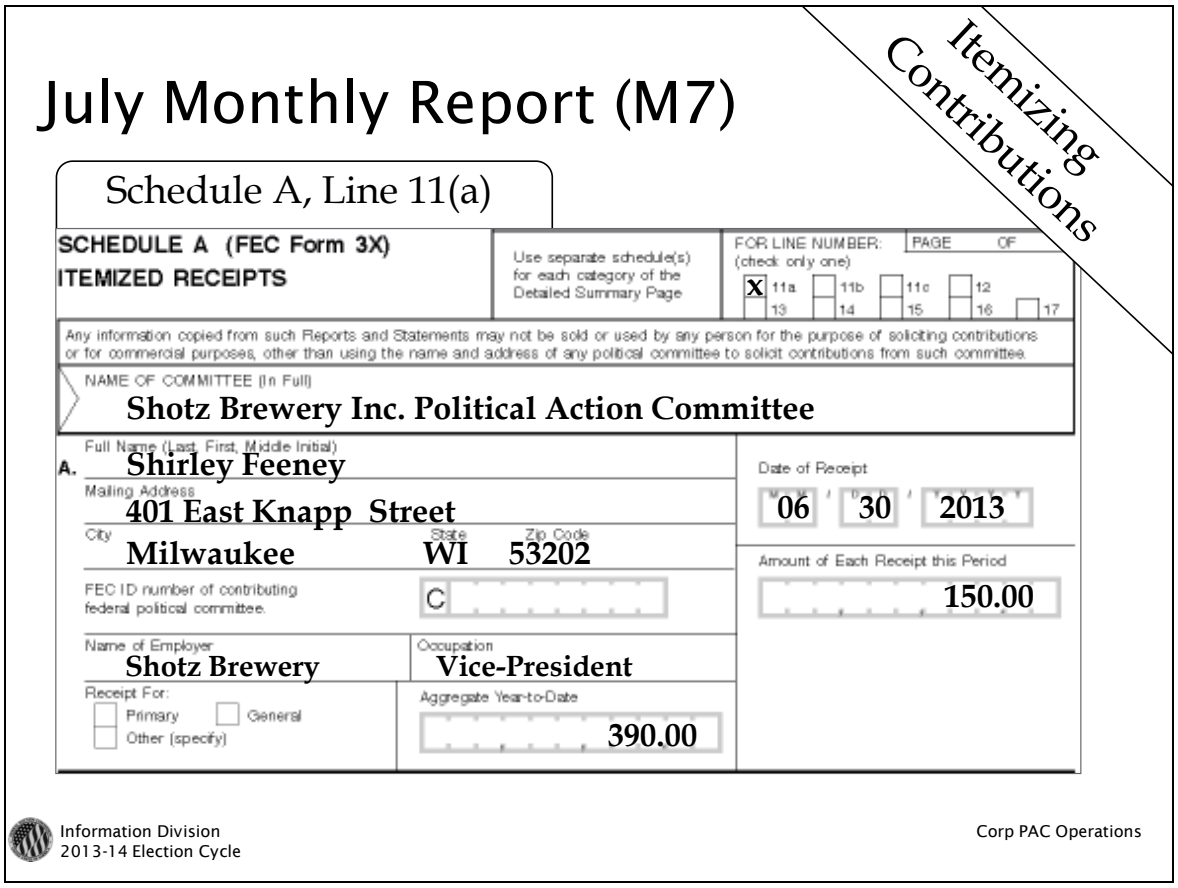
   Shirley's initial contribution in January does not require itemization as Shirley has not yet contributed over $200 for the calendar year. Further, the contributions with an aggregate calendar year to date amount ≤ $200 must be included on Line 11(a)(ii) *(unitemized contributions from individuals)* of the appropriate reporting periods. However, on June 8, she will reach $220 in contributions for the calendar year. Since the PAC files monthly, the report covering June (due on July 20) would be the report on which they would need to begin itemizing Shirley's contributions on Schedule A for Line 11(a)(i).

   Here is an example of the payroll deduction itemization:



All of Shirley's subsequent contributions during that calendar year will also require itemization on Schedule A. Thus, Shirley's silent auction contribution via purchase of a $150 fundraising item must also be itemized. Since she was already over the $200 itemization threshold for the calendar year, itemize the silent auction contribution on Schedule A for Line 11(a)(i) but separately from her payroll deductions. The aggregate year-to-date total for the June 22 contribution must include the payroll deduction contributions received previously in the calendar year.

Here is an example of the contribution made in the form of a silent auction purchase:



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

Answer:

- **Contributions that aggregate $200 and under** – need the amount of the contribution and the date that it was deducted from the individual's paycheck. (For recordkeeping, need the individual's name, address and payroll deduction authorization). See 11 CFR 104.8(b) and AOs 2000-11 and 1999-33.

- **Contributions that aggregate more than $200** – need name, address, occupation and employer information of contributor, total amount deducted during reporting period, frequency of deduction and amount per deduction.

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.
- Date reported for payroll deduction contribution is the date that the contribution was deducted from the contributor's paycheck. See 11 CFR 104.8(b) and AOs 2000-11 and 1999-33. The "date of receipt" under FEC rules at 102.8 is the date that the collecting agent obtains possession of the funds (in other words, deducts the contribution).
- Separately itemize payroll deduction contributions from those raised using other methods.
- 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.
- Payroll department, as the collecting agent, must forward money **within collecting agent timeframes**. The PAC treasurer would then have 10 days to deposit the contribution. The PAC treasurer will need to work closely with the payroll department in order to make these timeframes work for FEC reporting, given that date of deduction is the date used for reporting.
- Itemize payroll deductions once they have aggregated more than $200 for the calendar year from a contributor.
- For paper filers, instead of stating each date of receipt, type "payroll deduction."
- FECFile users will need to itemize a date (recommended to use last day of reporting period) and enter "payroll deduction" in description field.
- Report the total amount deducted from paycheck during reporting period (regardless of when PAC receives funds) and indicate the amount that was deducted each pay period and the frequency of the deduction.

Scenario #1:

INCENTIVES AND PAYROLL DEDUCTION

You are the General Counsel for your corporation. The VP for government affairs calls you into his office to discuss political activities. He explains that he wants the organization's PAC to make larger contributions to candidates in the next election cycle. "To do so," he says, "we must raise more PAC money now."

"I understand from our PAC Treasurer," the VP continues, "that our average PAC member contributes only $2 a year. Can't we get them to increase that amount?" he asks. "What about giving away pens, mugs or gift cards to those members who sign up for payroll deduction totaling $25, $50 or $100 per year?"

The VP also suggested that, to make it easier, each pay period, a dollar automatically be deducted from each employee's wages. At the same time that the employer took out other deductions, the employer could deduct an additional dollar for the company PAC. The executives could stop the deduction by providing written notice to the PAC treasurer.

Finally he suggests that the firm hold regular meetings to ask new employees to enroll in the company's payroll deduction program. These meetings will make the case of why PAC contributions are important.

The VP asks you to find a way to legally put his suggestions into action.

QUESTIONS:

1. **How do you feel about the idea to give small gifts in exchange for PAC contributions?**

2. **What is the proper way to implement a payroll deduction plan for PAC contributions?**

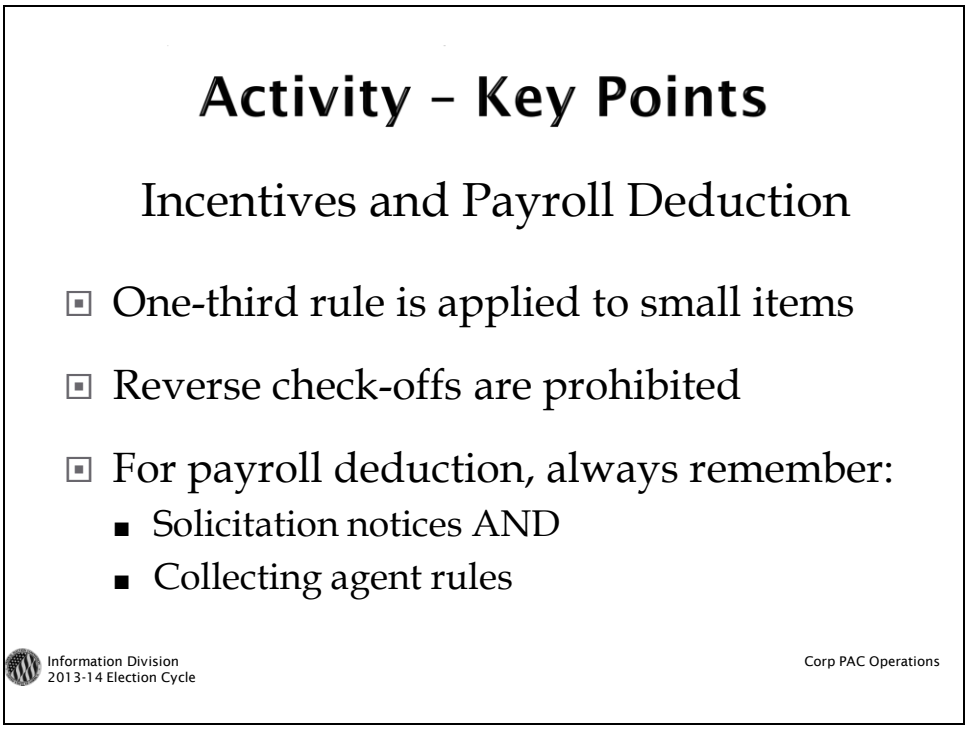
3. **How should the firm structure the regular meetings regarding the company's payroll deduction program?**

Scenario #1 Answers:

1. **How do you feel about the idea to give small gifts in exchange for PAC contributions?**
   Answer: This is permissible under 11 CFR 114.5(b)(2) as long as the items are not disproportionately valuable. See also AOs 1981-40 and 1981-33, which apply the one-third rule to small items. We'll talk more about the one-third rule in the next part of this workshop.

2. **What is the proper way to implement a payroll deduction plan for PAC contributions?**
   Answer: Reverse check-offs are prohibited. Instead, the contributions must be voluntary; the employee's written authorization must first be requested and received; and the solicitation must inform the employee of the political purpose of the PAC and of his right to refuse to contribute without reprisal. 11 CFR 114.5(a)(1), (3) and (4). If a guideline is suggested (as the $25, $50 or $100 guidelines in the scenario), the solicitation must inform the member that the guideline is merely a suggestion; that the individual is free to contribute more or less than the suggested amount; and that the amount of the contribution, or the refusal to contribute, will not benefit or disadvantage the solicitee. 11 CFR 114.5(a)(2). Money collected through payroll deduction must be forwarded according to the collecting agent rules, and the record of the authorization must be kept from 3 years from the date of the last report of an employee's deduction. 11 CFR 102.6(c)(4) and (6).

3. **How should the firm structure the regular meetings regarding the company's payroll deduction program?**
   Answer: The meetings would be considered a solicitation. AO 1980-50. Thus, only those employees who qualify as members of the restricted class (i.e., executive/administrative personnel and stockholders) may be invited. 114.1(j) and 114.5(g)(1). The speaker and the invitation both must include the requisite solicitation notices that inform the employee of the political purpose of the PAC and of his right to refuse to contribute without reprisal. 11 CFR 114.5(a)(3) and (4). The payroll deduction form and collection must follow the guidelines noted above in the answer for #2.



KEY POINTS:

- If offering small items premiums as incentives, remember the one-third rule.
- Reverse check-offs are prohibited.
- Always use notices in all of your written and oral solicitations.

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

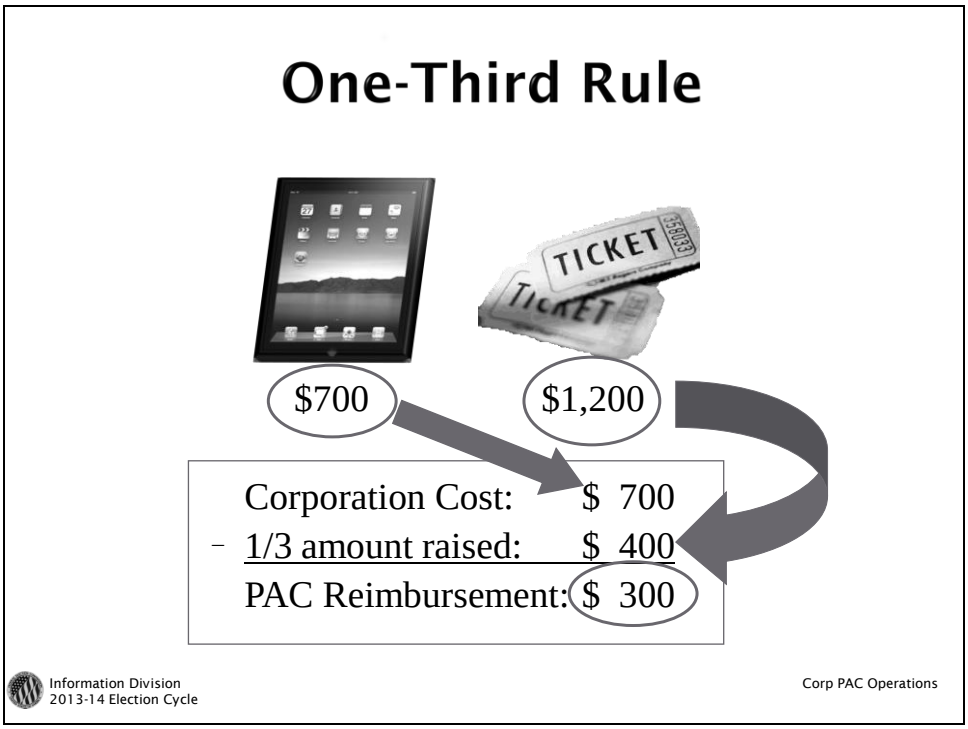
Corporation and its affiliates may provide prizes and entertainment to encourage PAC contributions (e.g., raffles if permitted by state law, silent auction, golf tournament). The aggregate costs of prizes/entertainment may not be disproportionately valuable in comparison with contributions raised. Otherwise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

1. One-Third Rule

PAC reimburses corporation for that portion of the costs of prizes or entertainment donated by the corporation and its affiliates that exceed one-third of the amount raised in contributions.

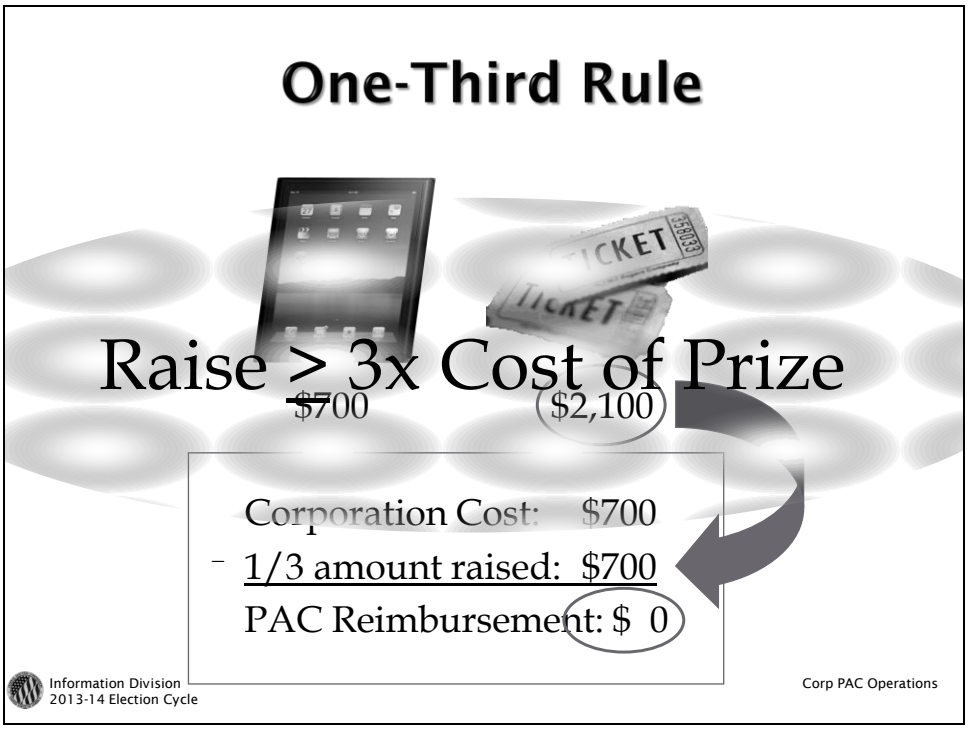
a) Cost of prize to organization is what is used – See AOs 2003-33 and 1995-17.

b) Food and drink expenses do not count. See AOs 1999-31, 1995-17 and 1980-50.



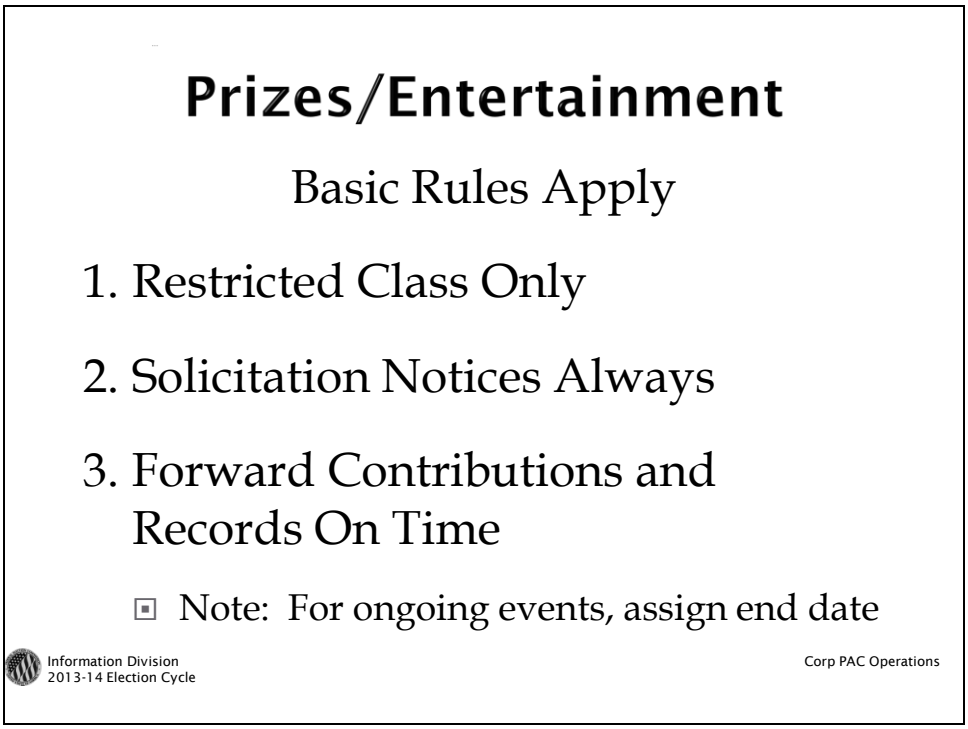
2. Example – Reimbursement Required

Corporation 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 corporation for the $300 difference.



3. Example – No Reimbursement Required

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

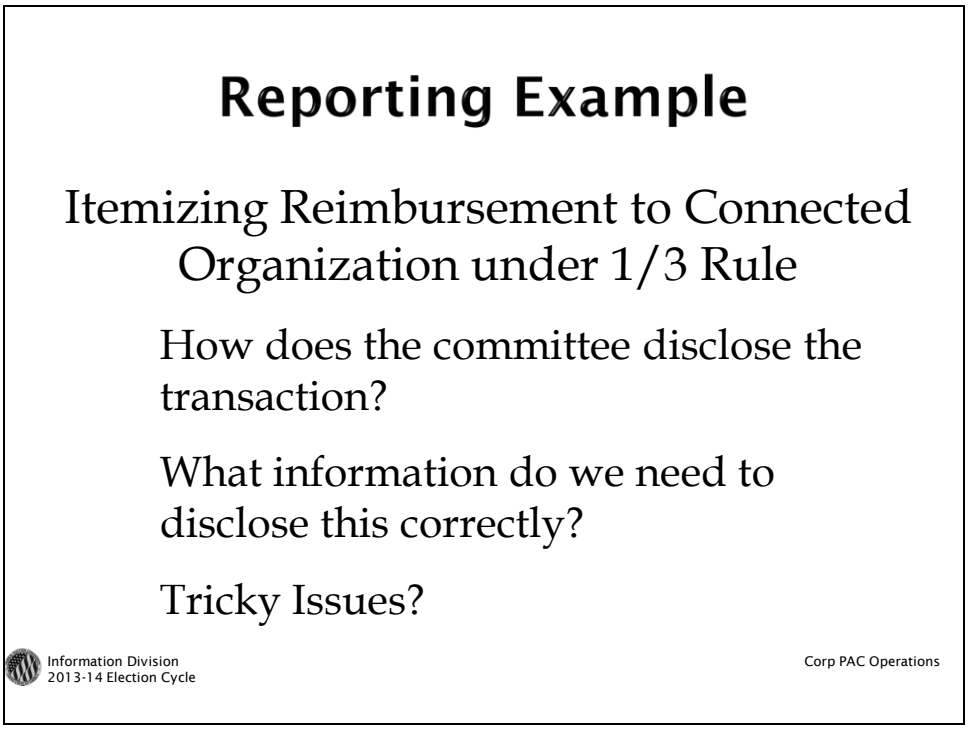


4. Basic Rules Apply:

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 #2: Reimbursements

In our first One-Third Rule example, the Shotz Brewery spent $700 of its treasury funds on an iPad, but only raised $1,200 in contributions for its PAC. So, the 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 #2 – 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, Line 21(b)

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
[X] 21b [ ] 22 [ ] 23 [ ] 24 [ ] 25 [ ] 26
[ ] 27 [ ] 28a [ ] 28b [ ] 28c [ ] 29 [ ] 30b

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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)
Shotz Brewery Inc. Political Action Committee

A. Full Name (Last, First, Middle Initial)
Shotz Brewery Inc.

Mailing Address
901 West Juneau Avenue

City **Milwaukee** State **WI** Zip Code **53233**

Purpose of Disbursement
Reimb. for Raffle Prizes (1/3 Rule)

Candidate Name

Category/Type

Office Sought: [ ] House [ ] Senate [ ] President
State: District:

Disbursement For: [ ] Primary [ ] General [ ] Other (specify)

Date of Disbursement
10 / 20 / 2013

Amount of Each Disbursement this Period
300.00

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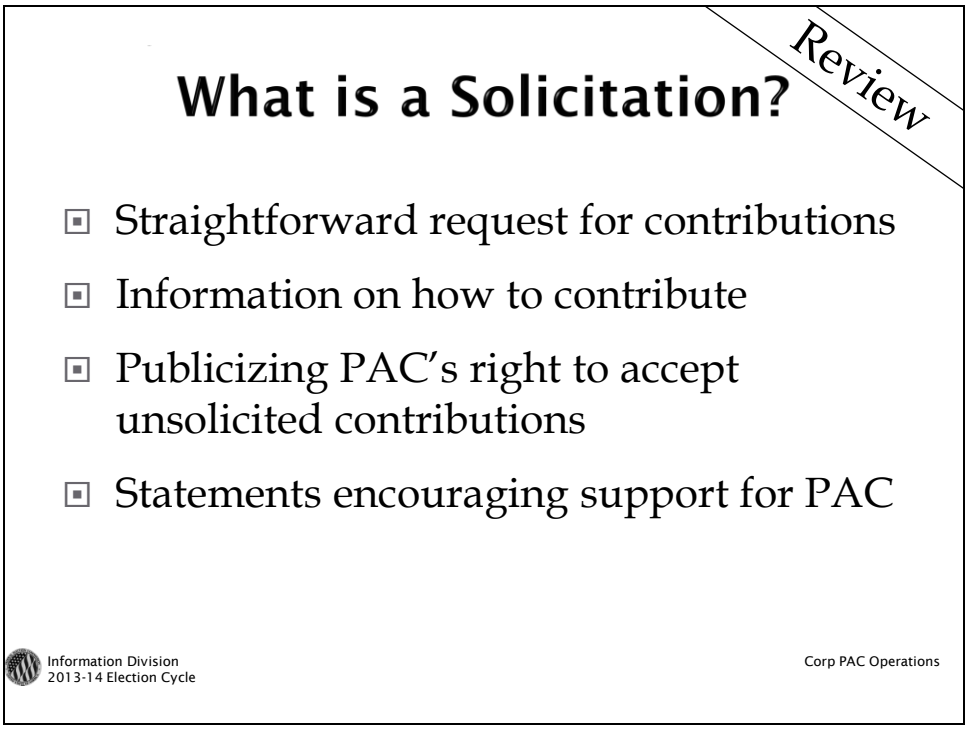

C. Communications (AOs Cited in Outline)

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 to which audience it is going.

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) and 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
  - List candidates supported w/o suggesting PAC contributions help elect those candidates

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2. 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.

Online Fundraising

Guidelines:

1. Restricted Class Only:
   - Use password protected page for all solicitations
   - Link page includes caveats

2. Ensure contributions from permissible sources
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 E-mail 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 Web site 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.
- If complete information not available, committee must contact contributor
- 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 Contributions 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.

Scenario #2:

Email Newsletter Articles

As part of its government affairs/PAC operations, the corporation sends out an email newsletter (edited by you) to its restricted class to update them on issues important to the organization. Since you can not solicit individuals beyond your restricted class, the email is sent only to the restricted class. For the next issue, the PAC director has ideas for two articles:

Article 1:

First, the director wants to include a list of the name of each member of the restricted class who has not yet contributed. To make it eye-catching, the PAC logo and the heading "Have you made your contribution?" would be added.

Article 2:

Second, the PAC director wants to include an article summarizing Congressional legislation on XYZ's main issue and thanking the PAC's biggest donor. The end of the article as submitted reads:
"This bill is representative of your PAC dollars at work to improve our industry's working environment and to protect our customers and clients. Have you given XYZ PAC your fair share? Stephanie Puckerman did and the PAC thanks her for her support."

As the newsletter editor, you must review each article submitted for compliance with the federal election law among other things.

1. **What is the main problem with Article #1?**

2. **What is the main problem with Article #2?**

3. **How could you, as editor, edit both articles to make them effective, yet legal, solicitations?**

Scenario #2 Answers:

Both articles are solicitations that are directed only to the restricted class, but have other problems. Let's analyze further:

1. **What is the main problem with Article #1?**

   Answer: The article is a solicitation, and thus must include a notice informing the solicitees that they have a right to refuse to make the contribution. 11 CFR 114.5(a)(4). Also, it must include notice of the political purpose of the PAC. 11 CFR 114.5(a)(3). Both notices are required on every solicitation by the Act and regulations. The article, as drafted, is missing both notices.

2. **What is the main problem with Article #2?**

   Answer: This article follows a similar article used by a PAC in MUR 5681. Again, while a solicitation article may appear in a newsletter directed only to the restricted class, the requisite notices must appear in the article. This article as drafted, could be construed as having a statement of a political purpose: "This bill is representative of your PAC dollars at work to improve our industry's working environment and protect our customers and clients." In MUR 5681, however, the Commission footnoted that this language was not an explicit political purpose statement, and that even if construed as one, the language was still in violation of the Act because it lacked the explicit statement that one could refuse to make a contribution.

3. **How could you, as editor, edit both articles to make them effective, yet legal, solicitations?**

   Answer: You could (and must) add a paragraph to each article explaining explicitly the political purpose of the PAC and the right to refuse to contribute. For example, a sentence reading "The purpose of (the soliciting PAC) is for the benefit of political candidates and activities on a state and national level that support (connected organization)" was approved in AO 2006-17 as explicitly stating the political purpose of the PAC.

   In AOs regarding the right to refuse to contribute, the FEC has recommended tracking the language of the regulation at 114.5(a)(4); see AOs 2003-06 and 1997-25. Thus, you would just state, "You have the right to refuse to contribute to XYZ Corporation PAC without fear of reprisal."

Activity – Key Points

Newsletter/Email Solicitation

- Always state right to refuse to contribute
  "You have the right to refuse to contribute to (name of PAC) without fear of reprisal."
- Always identify political purpose:
  "The purpose of (name of PAC) is for the benefit of political candidates and activities on a state and national level that support (connected organization)"

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KEY POINTS:

- All solicitations must include statement of the "right to refuse to contribute" and a clear statement of the political purpose of the PAC.

Basic Rules Apply

Review

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.

http://www.surveymonkey.com/

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Corporate PAC Operations Part 2

1:45 p.m. – 3:15 p.m.

9th Floor Hearing Room
http://fec.adobeconnect.com/connect9

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