

# MEMBERSHIP/LABOR PAC OPERATIONS PART 1



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11:15 a.m.

Tab 3

 Information Division  
2013-14 Election Cycle

Member/Labor PAC Operations

## Objectives – Part 1

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

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## Prohibition

Review

- ▣ Contributions from:
  - Corporations
  - Labor unions
  - Trade associations
  - Incorporated membership organizations
  
- ▣ Exception: Create and Administer SSF

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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.

# PAC Solicitations

What is a solicitation?

Please give  
to our PAC...



Why does it matter?

## What is a Solicitation?

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

## 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

- 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

## Basic Rules Apply

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

## Definition of Member

- ☐ Satisfies requirements for membership  
AND
- ☐ Affirmatively accepts invitation to join  
AND
  - Has significant financial attachment OR
  - Pays annual dues OR
  - Has significant organizational attachment

### A. At Any Time: Restricted Class Only

#### 1. Definition of Member (11 CFR 114.1(e)(2))

Person (i.e., individual or company) who satisfies requirements for membership in the organization, affirmatively accepts organization's invitation to become member and:

- a) **Has significant financial attachment to organization;**  
Example: Owner of seat on commodities exchange  
(AO 2008-21)
- b) **Pays annual dues set by organization; or**
- c) **Has significant organizational attachment to organization** that includes:
  - (1) Affirmation of membership on annual basis (e.g., meeting or responding to survey); and
  - (2) Direct participatory rights in governance of organization (e.g., right to vote directly or indirectly for at least one individual on highest governing board; right to vote on policy questions; or right to approve organization's annual budget).
  - (3) In AO 2003-13, members "in training" who had none of the above situations, but who were subject to professional sanctions and were likely to become dues paying members in the future, were considered to have a significant organizational attachment.

## Restricted Class

### Membership/Labor Organization PAC May Solicit:

- ▣ Executive/Administrative Staff
- ▣ Noncorporate Members
- ▣ Families of both

2. **Restricted Class of a Membership/Labor Organization PAC (11 CFR 114.5(g)(2) and 114.7(a))**
  - a) Executive and administrative personnel of the organization and their families.
  - b) Noncorporate members and their families.
  - c) Students, Lifetime Members and Retirees.
    - (1) Case-by-case determination by the Commission.
    - (2) Individuals who do not meet the above requirements but have a relatively enduring and independently significant financial or organizational attachment to the membership organization may be solicitable. 11 CFR 114.1(e)(3).
    - (3) See AOs 2011-08, 2007-19, 2003-13 and 1999-06.

## Beyond Restricted Class

- ▣ Organization/PAC may NOT solicit:
  - General Public
  - Clients, Vendors, etc.
  - Other PACs
  - Organization employees who are not executives or members

- d) Not Solicitable:**
  - (1) Other PACs/SSFs.
  - (2) Employees of membership organization who are not executives, nor organization members.
  - (3) Employees or stockholders of incorporated members. See AOs 2011-22 and 2005-17.

## Twice Yearly Solicitations

- ▣ Twice a year SSFs may solicit:
  - Limited group outside restricted class
- ▣ Must preserve anonymity
  - Custodial arrangement
  - Mail solicitation to individual's home

3. **Twice Yearly Solicitations (11 CFR 114.6)**
  - a) Twice a year, a membership organization or labor organization (or their PACs) may solicit:
    - (1) **Membership Organization:** Rank and file organization employees.
    - (2) **Labor Organization:** All non-union employees of corporations that employ union's members.
  - b) Must use custodial arrangement to preserve anonymity.
  - c) Solicitations must be in writing and mailed to employee's home.
  - d) No payroll deduction.
  - e) If more than one labor organization represents employees at a corporation, they share a limit of two solicitations of non-members per year. 11 CFR 114.6(e)(5).

## Restricted Class Chart

Who May Be Solicited				
Who May Be Solicited <sup>a</sup>	By Corporation	By Labor Organization	By Incorporated Membership Organization <sup>c</sup>	By Incorporated Trade Association
<b>At Any Time<sup>b</sup></b>	Executive and Administrative Personnel and Families	Executive and Administrative Personnel and Families	Executive and Administrative Personnel and Families	Executive and Administrative Personnel and Families
	Stockholders and Families	Members and Families	Noncorporate Members and Families	Noncorporate Members and Families With Prior Approval, Corporate Members' Executive and Administrative Personnel, Stockholders and Families of Both
<b>Twice Yearly<sup>d</sup></b>	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

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## 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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- B. 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. See AOs 2006-17, 2003-06 and 1997-25, and MURs 5681 and 5337.**

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		SALARIED		
		NON-SUPERVISOR	SUPERVISOR	NON-SUPERVISOR	SUPERVISOR	STAFF
AMOUNT PPD		\$3.00	\$5.00	\$7.00	\$7.00	\$9.00
<i>ACRE</i> (Action Committee for Rural Electrification)		0.96	0.96	0.96	0.96	3.85
<i>ECHO</i> (Electric Cooperatives Help Organization)		0.42	0.42	0.42	0.42	0.42
<i>EMPL FUND</i> (State Candidate Support)		0.66	1.47	2.23	2.23	1.88
<i>BEC PAC</i> (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.

**Example**  
AO 2006-17

**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."* *Id.* 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."* *Id.* Taken together, these statements comply with 11 CFR 114.5(a)(2) and (a)(4).

## Collection Rules

- ▣ PAC money may be collected by:
  - Connected organization
  - Affiliated local/state organization
  - State PAC of connected organization or affiliate
- ▣ Collecting Agent rules apply

- C. 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

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 for 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.

#### IV. Solicitation Techniques

## Solicitation Techniques

- ▣ Payroll Deduction
- ▣ Combined Dues and PAC  
Solicitation Notice
- ▣ Prizes and Entertainment
- ▣ Communications

## Payroll Deduction

Basic Rules Apply:

1. Restricted Class Only
2. Solicitation Notices Always
3. Forward Contributions and Records On Time  
(Date of receipt = Date deducted)



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**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 acts as the collecting agent.
- d) Date of receipt for reporting purposes = Date deducted from paycheck. AOs 2000-11 and 1999-33.

## Payroll Deduction

### □ Written Payroll Deduction Authorization Required :

- No reverse checkoff
- Electronic deductions okay
- Retain for 3 years after last reported contribution from employee
- Signed authorization not only way to satisfy recordkeeping requirement



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### 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 these records, see Commission Policy Statement online at [http://www.fec.gov/law/policy/notice\\_2006-11.pdf](http://www.fec.gov/law/policy/notice_2006-11.pdf).

## Payroll Deduction

- ▣ If corporate SSF uses for its own PAC:
  - Must allow union to use payroll deduction for its PAC, upon request
  - Union must reimburse costs
  - Vacation / annuity fund deductions OK

**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. Membership Organizations Use of Corporation's Payroll System (AO 2012-15)**

Corporations owned by individual 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

### Itemizing Contributions via Payroll Deduction & Fundraising Events

- How does the committee disclose the transaction(s)?
- What information do we need to disclose this correctly?
- Tricky Issues?



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

The Tropical Fruit Pickers Union PAC (TFPU-PAC) has received authorization from Amanda Pomegranate, an organization Vice-President, to deduct \$20 from her bi-weekly paycheck as a contribution to the PAC. The first deduction was taken out of Amanda'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, Amanda 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, Amanda, 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.

TFPU-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.

Amanda’s initial contribution in January does not require itemization as Amanda 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 Amanda’s contributions on Schedule A for Line 11(a)(i).

**Example of the payroll deduction itemization:**

## July Monthly Report (M7)

Payroll Deduction

Schedule A, Line 11(a)

<b>SCHEDULE A (FEC Form 3X)</b>	Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)								
<b>ITEMIZED RECEIPTS</b>		<table style="font-size: 0.7em;"> <tr> <td><input checked="" type="checkbox"/> 11a</td> <td><input type="checkbox"/> 11b</td> <td><input type="checkbox"/> 11c</td> <td><input type="checkbox"/> 12</td> </tr> <tr> <td><input type="checkbox"/> 13</td> <td><input type="checkbox"/> 14</td> <td><input type="checkbox"/> 15</td> <td><input type="checkbox"/> 16</td> </tr> </table>	<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 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							

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 Pickers Union PAC**

<b>A. Full Name (Last, First, Middle Initial)</b> <b>Amanda Pomegranate</b>	Date
<b>Mailing Address</b> <b>401 Manatee Avenue</b>	<div style="border: 1px solid black; border-radius: 50%; padding: 5px; display: inline-block;">Payroll Deduction</div>  Amount of Each Receipt this Period <div style="border: 1px solid black; padding: 2px; display: inline-block; text-align: right;">40.00</div>  <b>\$20.00</b> <b>bi-weekly</b>

| **City** **Bradenton**      **State** **FL**      **Zip Code** **34205** |
| **FEC ID number of contributing federal political committee.**      **C** |
| **Name of Employer**  **Tropical Fruit Pickers Union** | **Occupation**  **Vice-President** |
| **Receipt For:**   Primary     General   Other (specify) | **Aggregate Year-to-Date**  240.00 |

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All of Amanda’s subsequent contributions during that calendar year will also require itemization on Schedule A. Thus, Amanda’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.

**Example of the contribution made in the form of a silent auction purchase:**

## July Monthly Report (M7)

Itemizing Contributions

Schedule A, Line 11(a)

<b>SCHEDULE A (FEC Form 3X)</b>	Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (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

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 Pickers Union PAC**

<b>A. Full Name (Last, First, Middle Initial)</b> <b>Amanda Pomegranate</b>	Date of Receipt 06 / 30 / 2013
Mailing Address <b>401 Manatee Avenue</b>	Amount of Each Receipt this Period <b>150.00</b>
City <b>Bradenton</b> State <b>FL</b> Zip Code <b>34205</b>	
FEC ID number of contributing federal political committee. <b>C</b>	Aggregate Year-to-Date <b>390.00</b>
Name of Employer <b>Tropical Fruit Pickers Union</b>	
Occupation <b>Vice-President</b>	
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	

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**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.

## Solicitation Techniques

- ▣ Payroll Deduction
- ▣ Combined Dues and PAC Solicitation Notice
- ▣ Prizes and Entertainment
- ▣ Communications



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

An organization 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 Pickers Union PAC**

10/1/13	General	Membership Dues	FCER	XYZ Auxiliary	Total Due
		\$500.00*	\$30.00	\$20.00	\$550.00

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

# Solicitation Statements

*Right*

**Statement**  
**Tropical Fruit Pickers Union PAC**

➔	Membership Dues	\$400.00
	FCER	\$30.00
	XYZ Auxiliary	\$20.00
	<b>Total Due</b>	<b>\$450.00</b>
➔	Voluntary PAC Contribution	\$100.00*
	<b>Total Amount Enclosed</b>	<b>\$ ____.</b>

\* 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 Pickers Union PAC uses member donations to help elect individuals to Congress who will support our organization's goals.

**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.

**Scenario #1:**

**FUNDRAISING BY A COLLECTING AGENT**

As chair of the Tropical Fruit Pickers Union PAC, you are conducting your committee's annual fundraising planning meeting. Your goal, this year, is to raise \$200,000 for TFPU-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 TFPU-PAC by holding mimosa brunches for their members. As an incentive to participate, locals would be allowed to retain 10% of the funds raised for TFPU-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 PAC. Each local would transfer the TFPU-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 2:**

Allow individual members the opportunity to have \$1 of their dues automatically transferred to the PAC as an opt-out voluntary contribution. Under this proposal, union 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 local units to the PAC.

**Proposal 1 Questions:**

- 1. How did you feel about the plan to have local chapters transmit the proceeds of their fundraising events?**
- 2. Where may the funds collected by each local chapter be deposited?**
- 3. How do you feel about allowing the local chapters to retain a portion of the funds collected for its own use?**
- 4. What do you think about the proposed time frame for transferring the collected contributions to the SSF?**
- 5. What registration or reporting responsibilities apply to the local chapter in its role as a collecting agent? To the federal PAC?**

**Proposal 2 Questions:**

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

**Proposal 1 Answers:**

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

**Answer:** It's OK, because the local chapters may act as collecting agents. They must follow the rules at 11 CFR 102.6 (as discussed on the outline).

**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. How do you feel about allowing the local chapters to retain a portion of the funds collected for its own use?**

**Answer:** The full amount of each contribution 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). 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 money to defray the administrative/solicitation costs for the federal PAC. See AO 1983-46.

**4. 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. Contributions in excess of \$50 must be forwarded within 10 days of receipt, while smaller contributions must be forwarded within 30 days. 11 CFR 102.8(b)(1) and (2).

**5. 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.

The only exception to this rule is the receipt of contributions of \$50 or less, e.g., mass collections. In this instance, a record should nevertheless be kept of the date, the total amount collected and the name of the function at which the collection was made. Collecting agents must also retain all records of contribution deposits and transmittals for 3 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

### Collecting Agent Fundraising – 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
- ▣ SSF ultimately responsible for compliance and proper disclosure

#### **KEY POINTS– Proposal 1**

- Local units may act as collecting agent.
  - Timely transfer of all funds AND records.
  - Entire contribution must be transferred and counts toward the 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 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

### Collecting Agent Fundraising - 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

#### **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.

## Prizes/Entertainment

- ▣ Connected organization may pay for prizes and entertainment to encourage PAC contributions BUT...
  - Prizes/entertainment may not be too valuable relative to funds raised



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

A connected organization and its affiliates may provide prizes and entertainment, such as raffles (if permitted by state law), silent auctions, and golf tournaments to encourage PAC contributions. The aggregate costs of prizes/entertainment may not be disproportionately valuable compared to the amount of contributions raised. Otherwise PAC must reimburse the connected organization for a portion of the costs.

#### 1. One-Third Rule

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

- a) Cost of prize to the connected 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

Organization Cost:	\$ 700
- <u>1/3 amount raised:</u>	<u>\$ 400</u>
PAC Reimbursement:	\$ 300

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- 2. Example**  
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 connected organization for the \$300 difference.

## One-Third Rule



Raise  $\geq 3x$  Cost of Prize

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 connected organization spent on the prize, so no reimbursement is necessary.

## Prizes/Entertainment

### Basic Rules Apply

1. 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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**3. Basic Rules Apply:**

- a) Restricted class only may be invited to participate
- b) Remember to use solicitation notices
- c) Forward money on time

**4. Ongoing Events**

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

## Reporting Example

### Itemizing Reimbursement to Connected Organization under One-Third Rule

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

### Reporting Example #2: Reimbursements

In our first One-Third Rule example, the connected organization (the Tropical Fruit Pickers Union) 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)

<b>SCHEDULE B (FEC Form 3X)</b>	<b>ITEMIZED DISBURSEMENTS</b>	FOR LINE NUMBER: (check only one) <input checked="" type="checkbox"/> 21b <input type="checkbox"/> 22 <input type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 26 <input type="checkbox"/> 27 <input type="checkbox"/> 28a <input type="checkbox"/> 28b <input type="checkbox"/> 28c <input type="checkbox"/> 29 <input type="checkbox"/> 30b	PAGE 1 of 1
Use separate schedule(s) for each category of the Detailed Summary Page			
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>Tropical Fruit Pickers Union PAC</b>			
Full Name (Last, First, Middle Initial)		Date of Disbursement	
A. <b>Tropical Fruit Pickers Union</b>		10 / 20 / 2013	
Mailing Address: <b>1100 9th Street West</b>			
City: <b>Bradenton</b>	State: <b>FL</b>	Zip Code: <b>34205</b>	
Purpose of Disbursement: <b>Reimb. for Raffle Prizes (1/3 Rule)</b>		Amount of Each Disbursement this Period	
Candidate Name:		300.00	
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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Review

## What is a Solicitation?

- ▣ 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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**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 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

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.

**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 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



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.
    - 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

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 Tropical Fruit Pickers Union (“TFPU”) 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 TFPU’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 Tropical Fruit Pickers Union 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 Tropical Fruit Pickers Union 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



Member/Labor PAC Operations

## Workshop Evaluation

*Help Us Help You!*

Please complete an evaluation  
of this workshop.

<http://www.surveymonkey.com/>



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## Member/Labor PAC Operations Part 2

1:45 p.m. - 3:15 p.m.

5<sup>th</sup> Floor Conference Room  
<http://fec.adobeconnect.com/connect2>



Member/Labor PAC Operations

**AO Quick Reference Guide  
For  
Membership and Labor PACs**

*(All AO's can be located on the FEC's web site at <http://saos.nictusa.com/saos/searchao>)*

**Elements of a Solicitation**

AO 1979-13 [Raymond International Inc. Employees' PAC](#)

**Definition of Member (for Labor/Trade/Membership PACs)**

AO 2008-21 [CME Group, Inc.](#)  
AO 2003-13 [OPHTHPAC](#)

**Who is in the Restricted Class of a Membership/Labor Organization PAC**

AO 2011-08 [American Society of Anesthesiologists](#)  
AO 2007-19 [Renaissance](#)  
AO 2003-13 [OPHTHPAC](#)  
AO 1999-06 [Rural Letter Carriers](#)

**Who is Beyond the Restricted Class of Member/Labor PAC – Not Solicitable**

AO 2011-22 [Virginia Poultry Growers Cooperative, Inc.](#)  
AO 2005-17 [American Crystal Sugar](#)

**Voluntary Contributions and Solicitation Notices**

AO 2006-17 [Berkeley](#)  
AO 2003-06 [PSE](#)  
AO 1997-25 [Hughes Electronic](#)

**Payroll Deduction**

AO 2000-11 [Georgia Pacific](#)  
AO 1999-33 [MediaOne PAC](#)

**No Reverse Checkoff**

AO 2001-04 [MSDW PAC](#)

### **Electronic Deductions**

AO 1997-09 Chicago Board of Trade  
AO 1999-03 Microsoft PAC  
AO 2001-04 MSDW PAC

### **Labor Organization PAC: Vacation Funds**

AO 1980-74 Operating Engineers Local 37  
AO 1980-69 Hoisting & Portable Engineers Local Union 101  
AO 1979-60 Hoisting & Portable Engineers Local Union 101

### **Deductions from Annuity Payments**

AO 1999-06 Rural Letter Carriers

### **Member Organization Use of Corporate Payroll System**

AO 2012-15 American Physical Therapy Association

### **Combined Dues/Solicitation Notices**

AO 1999-40 NRECA  
AO 1987-06 American Chiropractic Association

### **Scenario #1: Fundraising by a Collecting Agent**

AO 1983-46 American Association of Nurse Anesthetists  
AO 1980-133 International Union of Allied, Novelty and Production Workers

### **Promotional Items and One-Third Rule**

AO 2003-33 Anheuser-Busch  
AO 1999-31 Oshkosh  
AO 1995-17 National Association of Realtors PAC  
AO 1980-50 United Merchants and Manufacturers, Inc. Manufacturing Division  
Committee for Responsible Government

### **Ongoing Events**

AO 1999-31 OTCEPAC

### **What Constitutes a Solicitation**

AO 1979-66 Associated General Contractors  
AO 1979-13 RAYPAC

### **When a Communication is Not a Solicitation**

AO 1991-03 TEX/CON PAC  
AO 1983-38 DuPont Good Government Fund  
AO 1982-65 UCCPAC

### **Web Pages**

AO 2011-13 DSCC  
AO 2006-03 WCPAC  
AO 2000-07 Alcatel USA, Inc.

### **Collecting Online Contributions via Credit Cards/Electronic Checks/Online Banking Services**

AO 2007-17 DSCC  
AO 1999-36 Campaign Advantage  
AO 1999-09 Bill Bradley for President, Inc.  
AO 1999-03 Microsoft PAC  
AO 1995-33 Coastal Employee Action Fund  
AO 1995-09 NewtWatch PAC

### **Email Solicitations**

AO 2000-07 Alcatel USA, Inc.  
AO 1995-33 Coastal Employee Action Fund

### **Scenario #2: Email Newsletter Articles**

AO 2006-17 Berkeley  
AO 2003-06 PSE  
AO 1997-25 Hughes Electronics

**PART TWO:**

**Earmarked Contributions**

AO 1995-15 Allison Engine PAC

**In-Kind Contributions: Candidate or Party Event Paid by PAC**

AO 1984-37 AMA

AO 1984-24 Sierra Club

**Content Standard for Coordination Test**

AO 2011-14 Utah Bankers Association