



# Party Operations Part 1: Fundraising and Party Support

August 25, 2015  
1:30 p.m. – 3:00 p.m.



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Party Operations Part 1

## Objectives

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- ▣ Review types of political party accounts, contribution limits, prohibitions and exemptions
- ▣ Discuss disclosure rules for contributions bundled by lobbyists
- ▣ Discuss party use of corporate/labor resources and facilities
- ▣ Review restrictions on nonfederal fundraising by candidates and officeholders



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## Bank Account Basics

Review

- ▣ Political committees must have  $\geq$  one checking account at a federally insured institution
- ▣ Committees may invest funds, but all receipts and disbursements go through checking account



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### I. Organize Accounts

- A. **Establishing a Federal Account (11 CFR 103.2 and 103.3)** (*Guide*, pp. 4-5)
  - 1. Party committee must establish one or more federal accounts and designate a campaign depository at a federally insured institution.
  - 2. Committee may invest the funds, but all federal receipts and disbursements must be made through the checking account.

## National Party Accounts

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National parties cannot raise or spend nonfederal funds—federal accounts only



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**B. National Party Committees (11 CFR 300.10)**

National party committees, their agents, or any entity established, financed, maintained or controlled by a national party committee are prohibited from raising, spending, soliciting, receiving or directing funds that are not subject to the limitations, prohibitions and reporting requirements of the Federal Election Campaign Act (i.e., “soft money”).

## National Party Accounts

NEW

National party committees may establish separate accounts for:

1. Presidential nominating conventions
2. National Party headquarters construction, purchase, operation and renovation
3. Election recounts and contests and other legal proceedings



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- C. **New Accounts for National Party Committees** – *Consolidated and Further Continuing Appropriations Act, 2015* (Pub. L. 113-235), codified at 52 U.S.C. §30116(a)(9). (See page 13 for new party account contribution limits.)
1. **Convention Account**
    - a) Separate, segregated account used to defray expenses with respect to a presidential nominating convention.
    - b) Not available to the national party’s Senatorial or Congressional campaign committees.
  2. **Headquarters Account**
    - a) Separate, segregated account used to defray expenses with respect to the “construction, purchase, renovation, operation and furnishing of one or more headquarters buildings of the party.”
    - b) Available to all national party committees.
  3. **Recount Account**
    - a) Separate, segregated account used to defray expenses with respect to the “preparation for and the conduct of election recounts and contests and other legal proceedings.”
    - b) Available to all national party committees.

## New Accounts: Reporting

NEW

- ▣ Report contributions as “Other Federal Receipts” on Line 17 with account (e.g., “Convention Account”)
- ▣ For disbursements, note account and purpose of disbursement (e.g., “Headquarters Account--Carpeting”)
- ▣ Commission will undertake rulemaking to clarify new party accounts



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#### 4. **Interim Reporting Guidance for New National Party Accounts**

Commission issued Press Release on 2/13/15 which provides interim reporting guidance until regulations are issued:

- a) National party committees should report contributions to the three new accounts as “Other Federal Receipts” supporting Line 17 and noting the account the contributions are deposited in the description field on Schedule A (for contributions that must be itemized).
- b) Disbursements from the Convention and Headquarters accounts should be reported on Line 21(b) (“Other Federal Operating Expenditures”) with an appropriate purpose of disbursements which notes the account from which the disbursements are made when itemized (i.e., “Headquarters Account-Carpeting”).
- c) Disbursements from the “Recount/Other Legal Expenses” account should be reported on Line 29 (“Other Disbursements”) with appropriate purpose of disbursement and account on Schedule B when itemized.
- d) Commission will adopt regulations to clarify these new accounts at a later date.

## State/Local Party Accounts

State and local parties may have three different types of bank accounts:

**1. Federal**

**2. Nonfederal**

**3. Levin**



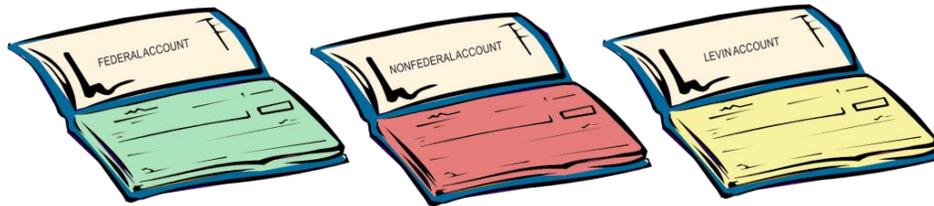
- B. Three Types of Accounts for State/Local Party Committees –**  
(11 CFR 102.5(a) and 300.30); (*Guide*, pp. 4-5)

## State/Local Party Accounts

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### Federal Account

- ▣ Funds subject to:
  - Limits, prohibitions and reporting requirements of Federal Election Campaign Act



### 1. **Federal Account – Required for Federal Activity (11 CFR 102.5(a)(1))**

Federal funds comply with the limitations, prohibitions and reporting requirements of the Federal Election Campaign Act (the Act).

## State/Local Party Accounts

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### Nonfederal Account

- ▣ Funds governed by applicable state law



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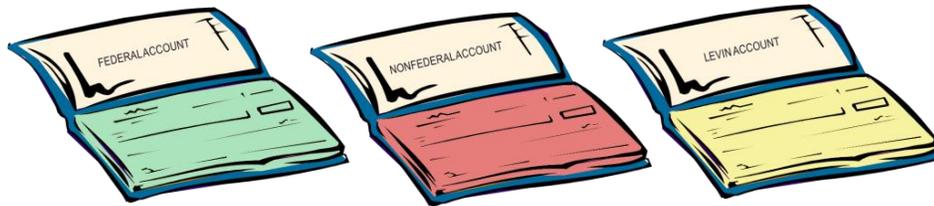
### 2. **Nonfederal Account – Optional Under Federal Law** **(11 CFR 102.5(a)(1))**

Nonfederal funds are governed by state law. Not reportable to the FEC.

## State/Local Party Accounts

### Levin Account (optional)

- ▣ Funds comply with State law and with certain limits and prohibitions of the Act

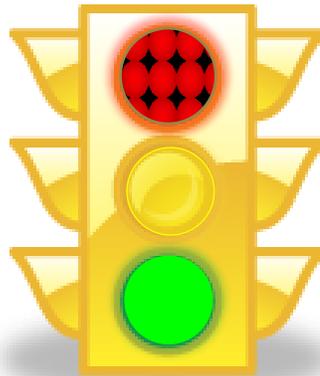


3. **Levin Account – Optional Under Federal Law or Deposit in Nonfederal Account (11 CFR 102.5(a)(3))**
  - a) Levin funds comply with some of the limits and prohibitions of the Act and are also governed by state law.
  - b) Used to pay a portion of certain FEA, which are specific activities defined by the Act. Discussed in detail in Part 3.

## Three Types of Funds

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With respect to federal elections . . .



Nonfederal Funds

Levin Funds

**Federal Funds**

## Federal Account Deposits

### Must meet one of these conditions:

1. Designated or solicited for federal account
2. Contributors informed that contribution is subject to federal limits/prohibitions



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## II. Deposits into the Federal Account – (11 CFR 102.5(a) and 300.30(b)(3)); (*Guide*, p. 5)

### A. Solicitation Notice

All funds deposited into the party's federal account must meet one of the following conditions:

#### 1. Designated or Solicited for the Federal Account

Funds must be designated by the contributor or expressly solicited for use in connection with federal elections; or

#### 2. Contributors Informed

Contributors must be informed that contribution is subject to federal limits and prohibitions, e.g., in the initial solicitation.

## Best Efforts

Review

- ▶ Solicitations must include request for information

“Federal Law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar year.”

- ▶ Follow-up request w/in 30 days of receipt if info not received



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**B. Best Efforts (11 CFR 102.9(d) and 104.7) (Guide, p. 21)**

1. When making solicitations, committees and their treasurers must make “best efforts” to obtain, maintain and report the name, address, occupation and employer for each contributor who gives more than \$200 per calendar year.
2. Initial solicitation must specifically request that information and inform contributors that the party committee is required by law to use its best efforts to collect and report it.
3. If contributor does not provide sufficient reporting information, committee must make one follow up request within 30 days of receipt.
4. Contributor information that is received after the contribution has been disclosed on the committee’s report may either be disclosed as memo entries on Schedule A on the next regularly-scheduled report OR the information may be reported by filing an amendment to the previous report that originally disclosed the contribution.
5. Amendments must be filed for all reports that cover the two-year election cycle in which the contribution was received and that disclose itemizable contributions from the same contributor. Committees are not required to file amendments to reports covering previous election cycles.

# Contribution Amount Limits

For 2015-16 Elections	Candidate Committee per election	PAC (SSF and Nonconnected) per year	State, District & Local Party Committee per year	National Party Committee per year	Additional National Party Committee Accounts per year
Individual	\$2,700	\$5,000	\$10,000 (combined)	\$33,400 x 3 = \$100,200	
Candidate Committee	\$2,000	\$5,000	Unlimited Transfers	Unlimited Transfers	<b>NEW</b>
PAC: multicandidate	\$5,000	\$5,000	\$5,000 (combined)	\$15,000 x 3 = \$45,000	
PAC: Nonmulticandidate	\$2,700	\$5,000	\$10,000 (combined)	\$33,400 x 3 = \$100,200	
National Party Committee	\$5,000	\$5,000	Unlimited Transfers	Unlimited Transfers	
State, District & Local Party Committee	\$5,000 (combined)	\$5,000 (combined)	Unlimited Transfers	Unlimited Transfers	

## III. Fundraising for the Federal Account

### A. Contribution Limitations for 2015-2016 (11 CFR 110.1 and 110.2)

(Guide, pp. 14-16)

#### 1. To Each National Party Committee

- a) \$33,400/year from individuals and non-multicandidate PACs.  
(Note: Indexed for inflation in odd-numbered years)
- b) \$15,000/year from multicandidate PACs.
- c) **NEW: National Party Committee Separate Accounts – (52 U.S.C. §30116(a)(1)(B) and (a)(2)(B))**
  - 1) Convention, Headquarters and Recount/Legal Expenses contribution limits are 3 times the contribution limit for the national party committee's general account:
    - (a) Individuals/Non-multicandidate PACs: \$33,400 x 3 = **\$100,200** per calendar year, per account
    - (b) Multicandidate PACs: \$15,000 x 3 = **\$45,000** per calendar year, per account
  - 2) Limits above apply separately to each account

#### 2. To All State and Local Party Committees Within a State

- a) \$10,000/year combined limit from individuals and non-multicandidate PACs.
- b) \$5,000/year combined limit from multicandidate PACs.
- c) State and (registered) local party committees are normally presumed to be affiliated. 11 CFR 110.3(b)(3). AOs 2005-02 and 1999-04. See AO 1978-09 for an example of committees that are not considered to be affiliated.

## Prohibited Contributions

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Review

- ▣ Corporations
- ▣ Labor Organizations
- ▣ Federal Government Contractors
- ▣ Cash over \$100
- ▣ Anonymous over \$50
- ▣ Contributions in the Name of Another

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**B. Prohibited Sources of Contributions (Federal Account) (11 CFR 110.4, 114.2(b) and 115.2) (*Guide*, pp. 12-14)**

1. **Contributions prohibited to federal account from:**
  - Corporations and labor organizations
  - Federal government contractors
  - Cash over \$100
  - Anonymous over \$50
  - Contributions in name of another
2. See Advisory Opinion 2011-13 (DSCC) for guidance on avoiding prohibited sources while online fundraising.

## Prohibited for All Elections

Review

- ▣ Foreign Nationals
- ▣ Federally Chartered Corporations
- ▣ National Banks



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- C. **Prohibited Sources of Contributions for All Elections (Federal, State and Local) (11 CFR 110.20 and 114.2(a))**
1. Foreign nationals
  2. Federally chartered corporations
  3. National banks

# Scenario #1

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## Reporting Contributions to the Federal Account

### **Reporting Scenario #1**

On September 1, 2015, the Illinois Freedom Party sends out a solicitation for contributions. The solicitation states that the funds received will be used in connection with both nonfederal and federal elections. The committee receives a check from Dan Thompson in the amount of \$500 on September 15, 2015.

- 1. May the committee deposit the check in the federal account?**
- 2. How should the committee report the receipt of the check?**
- 3. When examining the check from Mr. Thompson, what “red flags” should the committee consider when deciding if the check is permissible?**



## Exemption: Volunteer Activities

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- » Volunteer Services
- » Personal Property
- » Home Event – \$2,000/year
- » Unreimbursed Travel – \$2,000/year



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### IV. Contribution Exemption: Volunteer Services (*Guide*, pp. 27-28)

#### A. Services of Individual Volunteer

No limit on services provided without compensation by any individual.  
11 CFR 100.74.

#### B. Use of Real or Personal Property (e.g., home or personal computer)

##### 1. Unlimited when Used for Volunteer Services (11 CFR 100.75)

##### 2. Use of Home or Community Room for Event

- a) Individual may spend up to \$2,000/year for food, beverage and invitations in connection with event held at above locations.  
11 CFR 100.77.
- b) Community room must be used on a regular basis by community for non-commercial purposes and must be available regardless of political affiliation.
- c) Nominal fee paid for use is not a contribution.

#### C. Unreimbursed Travel

Individual may spend up to \$2,000/year for his/her own unreimbursed travel on behalf of the party. 11 CFR 100.79.

## Exemption: Internet Activities

- ▣ Sending or Forwarding Emails
- ▣ Creating, Maintaining or Hosting Website
- ▣ Providing a Hyperlink to a Website
- ▣ Posting Comments to a Blog
- ▣ Using Work Computer for Online Political Activity



### V. Contribution Exemption: Internet Activities (11 CFR 100.94 & 100.155) (*Guide*, p. 28)

#### A. Permissible Uses

Individuals may use a computer for a wide variety of activities in connection with federal elections, including:

1. Sending or forwarding unlimited e-mails on any political topic. Additionally, individuals do not have to identify themselves or state whether the messages have been authorized by any party or campaign committee.
2. Creating, maintaining or hosting a web site.
3. Providing a hyperlink to a web site.
4. Posting comments to a blog, so long as they receive no compensation or, at most, a nominal fee. (Blogging also falls within certain exemptions for media activity.)
5. Using a work computer for online political activity. This, however, is subject to an employer's rules for the personal use of computers and Internet access, and the employee must not be compensated for the activity. 11 CFR 100.94(b), 100.155(b) and 114.9(a) and (b).

#### B. Not Exhaustive

The list of permissible activities is not exhaustive; additional activities may be possible.

#### C. Interaction with the Party

The contribution and expenditure exemptions apply regardless of whether individuals act with the knowledge or consent of a political party committee.

## Exemption: Food/Beverage Discount

- ▣ Charge must  $\geq$  actual cost to vendor
- ▣ Discount limited to \$2,000/year
- ▣ Vendor may be incorporated



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### VI. Contribution Exemption: Food/Beverage Vendor Discounts (*Guide*, p. 28)

#### A. How Exemption Works

Food and beverage vendors may sell food or beverages at a discount, provided that:

1. Charge must at least equal actual cost to vendor.
2. Discount may not exceed \$2,000/year. 11 CFR 100.78 and 114.1(a)(2)(v).

#### B. Vendor May be Incorporated

## Exemption: Legal & Accounting Services

- ▣ Services cannot directly further election of candidate
- ▣ Person paying for the services is the employer
- ▣ Employer does not hire a replacement
- ▣ Party must report name of provider, date of service and value



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### VII. Contribution Exemption: Free Legal and Accounting Services (*Guide*, p. 27)

#### A. Provided by Employers

An employer (e.g., law or accounting firm) may provide unlimited legal and accounting services as long as certain conditions are met.

#### B. Conditions for Exemption

1. Services may not directly further election of specific federal candidate.
2. Entity paying for services must be regular employer of individual performing the service.
3. Employer may not hire additional employees to free regular employees to perform the service.

#### C. Reporting

Party must report name of provider, date of service and value. Report the value of services received by using a memo entry on Schedule A of Form 3X. 11 CFR 100.85, 104.3(h) and 114.1(a)(2)(vi).

## Lobbyist Bundling

### Disclosure Rule:

If a lobbyist/registrant or lobbyist/registrant PAC forwards or is credited with raising two or more bundled contributions that total more than **\$17,600** during a covered period, the recipient committee must report that on FEC Form 3L.



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### VIII. Disclosure of Contributions Bundled by Lobbyists/Registrants and Lobbyist/Registrant PACs (11 CFR 104.22) (*Guide*, pp. 149-155)

#### A. Summary of Lobbyist Bundling Disclosure Rule

Reporting committees that receive two or more bundled contributions from a Lobbyist/Registrant or Lobbyist/Registrant PAC **aggregating in excess of \$17,600** (amount is indexed for inflation annually) during a specific “covered period” are required to disclose activity on FEC Form 3L, “Report of Contributions Bundled by Lobbyists/Registrants and Lobbyist/Registrant PACs.”

#### B. Terms Defined

##### 1. Which are “Reporting Committees” – 11 CFR 104.22(a)(1)

Political party committees, authorized committees of Federal candidates and leadership PACs

##### 2. Determining Whether a Person is Known to be a Lobbyist/Registrant or Lobbyist/Registrant PAC – 11 CFR 104.22(b)(2)

###### a) Lobbyist/Registrant – 11 CFR 104.22(a)(2)

At the time the contribution is forwarded or received determine if the person is:

- (1) Listed as current registrant under section 4(a) of the Lobbying Disclosure Act of 1995 (the LDA); or
- (2) An individual listed on a current registration filed under Section 4(b)(6) or current report filed under Section 5(b)(2)(C) of the LDA.

**b) Lobbyist/Registrant PAC (11 CFR 104.22(a)(3))**

At the time the contribution is forwarded or received determine if the committee is:

- (1) Identified as a lobbyist/registrant PAC on its FEC Form 1 (Statement of Organization); or
- (2) Listed as a political committee established or controlled by a lobbyist or registrant on a report filed under Sec. 203(a) of HLOGA, amending the LDA. See also 11 CFR 104.22(a)(4).

**c) Consult the websites maintained by:**

- (1) **Clerk of the House:** <http://clerk.house.gov>
- (2) **Secretary of the Senate:**  
[http://www.senate.gov/pagelayout/legislative/g\\_three\\_sections\\_with\\_teasers/lobbyingdisc.htm](http://www.senate.gov/pagelayout/legislative/g_three_sections_with_teasers/lobbyingdisc.htm)
- (3) **FEC:** <http://www.fec.gov>

**d) Proof of Calculated Search**

Computer printout or screen capture showing absence of person's name on the Senate, House or FEC websites may be used to demonstrate reporting committee's efforts to determine if person in question is a lobbyist/registrant or lobbyist/registrant PAC. 11 CFR 104.22(b)(2)(ii).

## Lobbyist Bundling

- ☐ Bundled Contributions
  - Forwarded Contributions
  - Received AND Credited Contributions
  - Exception for Lobbyist/ Registrant/ PAC's own contributions
  
- ☐ Tracking and Crediting
  - Records
  - Designations or Other Means of Recognizing (including Titles, Tracking Identifiers, Access or Mementos)



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3. **What is a “Bundled” Contribution? (11 CFR 104.22(a)(6))**
- a) **Forwarded Contribution:** A contribution (monetary or in-kind) delivered or transmitted by physical or electronic means to a party committee by a lobbyist/registrant or a lobbyist/registrant PAC or person acting on their behalf; or
  - b) **Received and Credited Contribution:** A contribution (monetary or in-kind) received by a party committee from a contributor and credited by a party committee to a lobbyist/registrant or lobbyist/registrant PAC through records, designations, or other means of recognizing that money has been raised by the lobbyist/registrant or lobbyist/registrant PAC.
  - c) **What is NOT a “Bundled” Contribution:**
    - (1) Personal contributions made by individual lobbyist/registrants, or personal contributions made by the spouse of individual lobbyist/registrants; and
    - (2) Contributions made by a lobbyist/registrant PAC from PAC funds.

4. **What does it mean to “Track” or “Give Credit” for Contributions to Committee? (11 CFR 104.22(a)(6)(ii)(A))**
  - a) **Records**

Written evidence that the party committee attributes to a lobbyist/registrant or lobbyist/registrant PAC contributions raised by a lobbyist/registrant or lobbyist/registrant PAC and received by the campaign. Written evidence includes writings, charts, computer files, databases or other data compilations stored in any medium from which information can be obtained.
  - b) **Designations or Other Means of Recognizing**

Benefits given by the committee to persons for raising a certain amount of contributions including, but not limited to:

    - (1) **Titles** assigned by the committee (e.g., “Gold Star Club”);
    - (2) **Tracking identifiers** assigned by the committee that are included on contributions or contribution-related materials for the purpose of maintaining information about the amounts of contributions the person raises (e.g., response cards, cover letters, website solicitation pages);
    - (3) **Access to Events** (includes offers or attendance) to committee events or activities; and
    - (4) **Mementos** given by the committee (e.g., photograph with the party chair; book autographed by a candidate).
5. **What is the Disclosure Threshold? (11 CFR 104.22(b)(1))**
  - a) Campaign committee must disclose information about each Lobbyist/Registrant or Lobbyist/Registrant PAC that forwards, or is credited with raising, two or more bundled contributions **aggregating in excess of \$17,600** during a specific covered period.
  - b) Threshold indexed each year and calculated amount is rounded to the nearest \$100. 11 CFR 104.22(g).

**C. Filing FEC Form 3L**

**1. Filing Schedule**

- a) Party committees file are required to file their FEC 3L on the same filing schedule as the committee currently files its FEC Form 3X, (i.e., Quarterly filers are required to file Form 3L with each Quarterly report, if the 3L is triggered during the covered period; Monthly filers are required to file Form 3L with each Monthly report, if the 3L is triggered during that period).
- b) Committees that file FEC Form 3X on a monthly schedule may elect to file their FEC Form 3L on a quarterly basis. Committees must make this request in writing.

## Lobbyist Bundling: Reporting

### “Covered Period” for Monthly Filers:

- ▣ Semi-annual Periods:  
Jan 1 – June 30; July 1 – Dec. 31 **AND**
- ▣ Monthly Reporting Periods:
  - Non-Election Year (2015): reports filed 20th of each month, except January 31 year-end report.
  - Election Year (2016): reports filed 20th of each month, except pre- and post-general election reports and January 31 year-end report.



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## 2. Covered Periods (11 CFR 104.22(a)(5))

### a) For Monthly Filers:

- (1) Semi-annual Periods (Jan. 1 – June 30; July 1 – Dec. 31);  
and
- (2) Monthly Reporting Periods (reports filed 20<sup>th</sup> of each month, except January 31 year-end report).
- (3) Reporting committees that file FEC 3X reports on a monthly basis may elect to file the 3L reports on a quarterly rather than monthly basis. A reporting committee that wishes to change its schedule must notify the Commission in writing. 11 CFR 104.22(a)(5)(iv). See AO 2009-22.

## Lobbyist Bundling: Reporting

### “Covered Period” for Quarterly Filers:

- ▣ Semi-annual Periods:  
Jan 1 – June 30; July 1 – Dec. 31 **AND**
- ▣ Quarterly Reporting Periods:
  - Non-Election Year (2015): semiannual + any applicable special election reporting periods
  - Election Year (2016): calendar quarters ending 3/31, 6/30, 9/30 and 12/31 + applicable pre- and post-election reporting periods



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### b) Quarterly Filers

#### **In a Non-Election Year (e.g., 2015), the covered periods are:**

- (1) Semi-annual Periods (Jan. 1– June 30; July 1 – Dec. 31);  
and
- (2) Any applicable special election reporting periods

#### **In an Election Year (e.g., 2016), the covered periods are:**

- (1) Semi-annual Periods (Jan. 1– June 30; July 1 – Dec. 31);
- (2) Calendar quarters ending 3/31, 6/30, 9/30 and 12/31; and
- (3) Applicable pre- and post-election election reporting periods

### 3. What Information Is Disclosed on Form 3L?

#### a) Itemization Requirements for Form 3L, Schedule A

- (1) Name of each Lobbyist/Registrant or Lobbyist/Registrant PAC;
- (2) Address of each Lobbyist/Registrant or Lobbyist/Registrant PAC.
- (3) Employer of each Lobbyist/Registrant; and
- (4) Aggregate amount of bundled contributions forwarded by, or received and credited to, each Lobbyist/Registrant or Lobbyist/Registrant PAC during the covered period.

**4. Reporting “Earmarked” Contributions**

**a) “Earmarked” Contribution (11 CFR 110.6)**

- (1) Contribution to a candidate committee which a contributor directs, either orally or in writing through an intermediary/conduit (individual, partnership, party, PAC, etc., that is NOT registered lobbyist).
- (2) If party is intermediary/conduit, party must provide transmittal report to recipient candidate committee AND include information on contribution on its next regularly scheduled FEC Form 3X. 110.6(c).
- (3) Regulations regarding earmarked contributions remain in effect.

**D. Does Your Committee Trigger Disclosure Under These Rules?**

To determine whether the party triggers disclosure, ask the following three questions:

1. Does the party receive forwarded contributions or credit fundraisers for contributions they raise?
2. Does the party committee receive contributions forwarded by or give credit to persons and entities that qualify as Lobbyist/Registrants or Lobbyist/Registrant PACs?
3. Does the amount forwarded by or credited to a Lobbyist/Registrant or Lobbyist/Registrant PAC exceed \$17,600 during the covered period?

**If the answer to all three questions is “yes,” the committee must file FEC Form 3L.**

**E. Key Issues:**

• **Determine whether the committee received bundled contributions.**

- Does the party receive forwarded contributions or credit fundraisers for contributions they raise?
- Does the party committee receive contributions forwarded by or give credit to persons and entities that qualify as Lobbyist/Registrants or Lobbyist/Registrant PACs?
- Does the amount forwarded by or credited to a Lobbyist/Registrant or Lobbyist/Registrant PAC exceed \$17,600 during the covered period?

• **2016 Reporting for Form 3L**

Parties may be required to disclose bundled contributions if two or more contributions forwarded from Lobbyist or Lobbyist PAC aggregate in excess of the \$17,600 threshold during the “covered period.”

○ **Quarterly Filers**

- April Quarterly (January 1- March 31)
- July Quarterly (April 1 – June 30)
- October Quarterly (July 1 – September 30)
- Pre-General (October 1 – 19)

- Post-General (October 20 – November 28)
  - Year-End (November 29 – Dec. 31);
  - Semi-annual period January 1– June 30 (July Quarterly report)
  - Semi-annual period July 1 – Dec. 31 (January 31 Year-End report);  
and
  - Any applicable special election reporting periods.
- **Monthly Filers**  
Monthly Reporting Periods (reports filed 20<sup>th</sup> of each month) **OR**  
**Monthly Filers may opt to file Form 3L on a Quarterly basis**  
**(See Quarterly schedule above);**
- Pre-General (October 1 – 19)
  - Post-General (October 20 – November 28)
  - Year-End (November 29 – Dec. 31);
  - Semi-annual period January 1– June 30 (July Monthly report)
  - Semi-annual period July 1 – Dec. 31 (January 31 Year-End report)

## IX. Use of Corporate/Labor Resources and Facilities for Political Party Activities

### Use of Corporate/Labor Resources

Generally, party committees may make use of the resources/facilities of corporations and unions provided that they pay **fair market value** for the goods or services. Payment at less than fair market value may result in a prohibited in-kind contribution.

- A. **Prohibition on Corporate/Labor Facilitation of Contributions to a Political Party Committee (11 CFR 114.2(f) and 114.9)**
1. The Act and Commission regulations prohibit corporations and labor organizations from contributing directly to the federal account of political party committees (which includes in-kind contributions). Similarly, corporations and labor organizations are **prohibited from facilitating the making of contributions** to a political party committee's federal account, which means using corporate or labor organization resources or facilities to engage in fundraising activities in connection with any federal election.
  2. However, a political party committee may make use of the facilities and resources of a corporation or labor organization for federal election-related activities **provided that the party committee pays fair market value** for the cost of the facilities or resources within a commercially reasonable time period. (**Important:** The use of some resources requires the party committee to pay in advance. See Sections B.4 and B.5 below.)

## Use of Corporate/Labor Resources

- ▣ General Rule:  
Reimburse at fair market value within commercially reasonable time
- ▣ **Advance payment required for:**
  - Staff (including benefits and overhead)
  - Mailing list
  - Food service

### B. General Rule on Use of Corporate/Labor Resources and Facilities

(*Guide*, pp. 31-32)

#### 1. Use and Payment

A political party may make use corporate/labor organization resources of facilities and resources to engage in federal election-related activities (such as hosting a party fundraiser in a corporate or labor union office, for example) provided that a permissible source (such as an individual, campaign, party committee or the corporation/labor union PAC) pays for the event, as follows:

- a) **Reimbursement** (payment after the fact) for the use of the corporate or union facilities (i.e., individual, party or campaign pays for meeting rooms, phones, invitations, etc.) within a commercially reasonable time; and
- b) The organization must receive **advance** payment for the use of its staff, customer/client mailing list(s) and/or food services.

## Examples of Resources

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- ▣ **Reproducing materials:**  
Use current market rate for comparable materials
- ▣ **Office Space/Equipment:**  
Use current market rental fees
- ▣ **Phone Banks:**  
Use current market rate for phone bank set up



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2. **Examples of Corporate/Labor Resources (11 CFR 114.9(c) and (d))**
  - a) **Reproducing Materials**  
Use current market rate for reproducing comparable materials.
  - b) **Office Space and Other Equipment**  
Use current market rental fees
  - c) **Phone Banks**  
Use current market rate when using phone bank set-up of organization.

## Payment Issues: Resources/Facilities

- ▣ Payment by party itself is reported as an operating expenditure
- ▣ If paid by another source, must be permissible (i.e., corporation can't pay)
- ▣ Payment by the organization's PAC or by an individual is reported as an in-kind contribution to the party



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### 3. Payment Issues

#### a) Result of Payment

- (1) Payment by the political party is reported as an operating expenditure.
- (2) Payment by others is an in-kind contribution to the party.

#### b) Source of Payment

Payment must be made by one of following sources: candidate, organization's SSF, party, individual or some other permissible source.

#### c) If PAC Pays

If organization's SSF is paying as in-kind contribution, **must pay in advance**. See AOs 1984-37 and 1984-24.

## Use of Directed Staff

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- ▣ Party must make **advance payment** for value of services, including salary, benefits and overhead
- ▣ No coercion
- ▣ No collecting or forwarding of contributions by staff



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#### 4. Use of Directed Staff

Organization officials or employees may direct subordinate staff to work on fundraising for candidate or party, using organization's resources, provided that the following rules are observed:

**a) Advance Payment**

Organization must receive advance payment for value of staff services, including benefits and overhead.

**b) No Coercion**

No threats of force, detrimental job actions or financial reprisal if employee refuses to engage in fundraising.

**c) Collection and Forwarding Prohibited**

Employees may not collect or forward contributions to candidate or party.

## Use of Lists and Food Services

Party must make **advance payment** at fair market value for:

- ☐ Use of customer/client lists
- ☐ Use of food services or catering arrangements



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### 5. Use of Customer/Client Lists and Catering/Food Services

#### a) **Organization May Permit Use with Advance Payment**

Organization may allow use of the organization's lists (including email lists) of members, employees, vendors or others to send invitations or solicit the contributions, provided that the organization receives **advance payment** for fair market value of any lists used.

#### b) **Use of Catering or Food Services**

In connection with fundraising for candidate or party's federal account, the organization may operate or arrange for catering or other food services, provided that the organization receives advance payment for fair market value of services.

## Use of Meeting Rooms

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- ▣ **General Rule:**  
Reimburse at fair market value within commercially reasonable time
- ▣ **Exception:**  
Free/discounted rate permissible if normally offered to groups under same conditions and if available to any other political committee upon request



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### 6. Use of Meeting Rooms (11 CFR 114.9 and 114.13)

#### a) **General Rule**

Campaigns and political parties may rent meeting rooms of an organization if they reimburse the organization at the normal rental charge, within a commercially reasonable time.

#### b) **Exception**

An organization may offer meeting room to candidate or party at discount or for free if organization customarily makes meeting room available to civic, community or other groups under the same conditions and if it makes it available to any other candidate or committee on the same terms, upon request.

#### c) **PAC Paying for Room**

If a PAC pays for its connected organization's meeting room for an event as an in-kind contribution, the payment must be made in advance. See AOs 1984-37 and 1984-24.

## Employee Volunteer Activity

- ▣ Incidental Use
  - Work that doesn't prevent normal work
  - Safe Harbor: One hour/week or four hours/month
- ▣ Reimbursement
  - For increased overhead; or
  - If more than incidental use, reimburse entire cost of using facilities
- ▣ Employee "Asked" to Volunteer – Incidental Use Exceptions do NOT apply!



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### 7. **Employee/Member Use of Facilities for Volunteer Activity: Incidental Use (11 CFR 114.9(a))** (*Guide*, p. 27)

It is permissible for employees of a corporation/labor organization (and members and officials of the organization) to make "incidental use" of facilities for their own individual volunteer activity in connection with federal election, subject to the rules and practices of the corporation/labor organization.

#### a) **What is "Incidental Use?"**

- (1) "Incidental use" means use that does not prevent employee or organization from completing normal work that would be completed during that period.
- (2) Safe Harbor: 1 hour per week or 4 hours per month.

#### b) **Reimbursement**

- (1) Individual must reimburse organization for any increased overhead (e.g., no need to pay for regular local phone bill, but would have to pay for long distance calls).
- (2) If more than incidental use, individual must reimburse organization the entire cost of using the facilities within commercially reasonable time.

#### c) **Employee "Asked" to "Volunteer"**

The "incidental use" allowance does not apply if the employee is asked by a superior to do the work as part of his/her regular duties.

**X. Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events (11 CFR 300.60 – 300.65)**

## Three Types of Funds

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With respect to federal elections . . .



**Nonfederal Funds**

Levin Funds

Federal Funds

## State/Local Party Accounts

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Nonfederal Account

- ▣ Funds governed by applicable state law
- ▣ Used to support candidates for state and local office



## Candidate/Officeholder Fundraising

### Prohibited Activity

Generally, federal candidates and officeholders cannot solicit, receive, direct, transfer, spend or disburse funds outside of federal limits or from prohibited sources in connection with elections.



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#### A. Fundraising Restrictions (*Guide*, pp. 22-23)

##### 1. In Connection with Federal Elections

The persons described below may not solicit, receive, direct, transfer, spend or disburse funds in connection with Federal elections unless the amounts consist of Federal funds that are subject to the limitations, prohibitions, and reporting requirements of the Act. 11 CFR 300.61.

##### 2. In Connection with Nonfederal Elections

In addition, the persons described below may solicit, receive, direct, transfer spend or disburse funds in connection with any nonfederal election, only in amounts and from sources that are consistent with State law, and that do not exceed the Act's contribution limits or come from prohibited sources under the Act. 11 CFR 300.62.

#### B. Application

The fundraising restrictions apply to the following:

1. **Federal candidates;**
2. **Individuals holding federal office;**
3. **Agents acting on behalf of federal candidate or individual holding federal office.** (See AO 2003-10); and
4. **Entities directly or indirectly established, financed, maintained or controlled by, or acting on behalf of, one or more federal candidates or individuals holding federal office** (e.g., a Leadership PAC). See AO 2003-12 and 11 CFR 300.60.

## Party Nonfederal Fundraisers

### Candidate/Officeholder may:

- ☐ Attend, speak or be a featured guest at event where nonfederal or Levin funds are raised
- ☐ Solicit funds at event only if solicitation limited to federal funds
  - **Written notice limiting solicitation to federal funds OR**
  - **Oral statement limiting solicitation to federal funds**
  - **Must be clear and conspicuous; Not clear and conspicuous if difficult to read or hear or if placement is easily overlooked**



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### C. **Attendance at Non-Federal Fundraising Event (11 CFR 300.64(b))**

A Federal candidate or officeholder may:

1. Attend, speak at, or be a featured guest at a non-Federal fundraising event.
2. Solicit funds at a non-Federal fundraising event, provided that the solicitation is limited to funds that comply with the amount limitations and source prohibitions of the Act and that are consistent with State law.
  - a) A Federal candidate or officeholder may limit such a solicitation by displaying at the fundraising event a clear and conspicuous written notice, or making a clear and conspicuous oral statement, that the solicitation is not for Levin funds (when applicable), does not seek funds in excess of \$[Federally permissible amount], and does not seek funds from corporations, labor organizations, national banks, federal government contractors, or foreign nationals.
  - b) A written notice or oral statement is not clear and conspicuous if it is difficult to read or hear or if its placement is easily overlooked.

## Publicity for Nonfederal Fundraisers

Party committee may use candidate/officeholder name/likeness in publicity that:

- ▣ Does not contain a solicitation
- ▣ Solicits only federal funds
- ▣ Solicits nonfederal or Levin funds, IF . . .
  - The candidate/officeholder is identified in manner not specifically related to fundraising (featured guest, honored guest, special guest, featured speaker, or honored speaker) AND
  - The publicity includes disclaimer that solicitation is not being made by the candidate/officeholder



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### D. **Publicity for Nonfederal Fundraising Events (11 CFR 300.64(c))**

(Publicity for a nonfederal fundraising event includes, but is not limited to, advertisements, announcements, or pre-event invitation materials, regardless of format or medium of communication.)

#### 1. **Publicity That Does Not Contain a Solicitation**

A federal candidate or officeholder or an agent of either may approve, authorize, agree to, or consent to the use of his or her name or likeness in publicity for a non-Federal fundraising event that does not contain a solicitation

#### 2. **Publicity Containing Solicitation Limited to Federal Funds**

A federal candidate or officeholder or an agent of either may approve, authorize, agree to, or consent to the use of his or her name or likeness in publicity for a non-Federal fundraising event that solicits only funds that comply with the amount limitations and source prohibitions of the Act.

## Publicity for Nonfederal Fundraisers

Even if the communication includes a disclaimer . . .

☐ MAY NOT use candidate/officeholder name or likeness in publicity that solicits nonfederal funds if he/she:

- Serves in a position specifically related to fundraising;
- Is extending an invitation to the event; OR
- Signs the communication



Candidate/officeholder may not disseminate publicity for nonfederal fundraiser that includes a solicitation of nonfederal/Levin funds by someone other than the candidate/officeholder.



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### 3. Publicity Containing Solicitation of Nonfederal Funds

A federal candidate or officeholder or an agent of either may approve, authorize, agree to, or consent to the use of his or her name or likeness in publicity for a nonfederal fundraising event that contains a solicitation of funds outside the amount limitations and source prohibitions of the Act or Levin funds **ONLY** if:

- a) The federal candidate or officeholder is identified as a featured guest, honored guest, special guest, featured speaker, or honored speaker, or in any other manner not specifically related to fundraising; **AND**
- b) The publicity includes a clear and conspicuous disclaimer that the solicitation is not being made by the Federal candidate or officeholder. 11 CFR 300.64(c)(3)(i)(B).

### E. Disclaimers on Publicity

#### 1. Clear and Conspicuous

##### a) On Written Publicity

The clear and conspicuous disclaimer required by 11 CFR 300.64(c)(3)(i)(B) must meet the existing requirements in 11 CFR 110.11(c)(2) (i.e., contained in a box set apart from the rest of the communication) if the publicity is written. **Disclaimer requirements were discussed in the Basics and Best Practices workshop.**

**b) On Non-written Publicity**

Where publicity is disseminated by non-written means, the clear and conspicuous disclaimer is required only if the publicity is recorded or follows any form of written script.

**c) Examples**

Examples of clear and conspicuous disclaimers include, but are not limited to:

- “[Name of Federal candidate/officeholder] is appearing at this event only as a featured speaker. [Federal candidate/officeholder] is not asking for funds or donations;”  
or
- “All funds solicited in connection with this event are by [name of non-Federal candidate or entity], and not by [Federal candidate/officeholder].”

**d) Use of Fundraising Titles/Candidate Signature**

A Federal candidate or officeholder or an agent of either may not approve, authorize, agree to, or consent to the use of his or her name or likeness in publicity for a non-Federal fundraising event that contains a solicitation of funds outside the amount limitations and source prohibitions of the Act or Levin funds if:

- (1) The Federal candidate or officeholder is identified as serving in a position specifically related to fundraising, such as honorary chairperson or member of a host committee, or is identified in the publicity as extending an invitation to the event, even if the communication contains a written disclaimer as described in paragraph (c)(3)(i)(B) of this section; OR
- (2) The Federal candidate or officeholder signs the communication, even if the communication contains written disclaimer as described in paragraph (c)(3)(i)(B) of this section.

**e) Dissemination By Federal Candidate or Agents**

A Federal candidate, officeholder, or an agent of either, may not disseminate publicity for a non-Federal fundraising event that contains a solicitation of funds outside the amount limitations and source prohibitions of the Act or Levin funds by someone other than the Federal candidate or officeholder.

## Scenario #2

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# Publicity for Nonfederal Fundraising Events



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### **Scenario #2: Publicity for Nonfederal Fundraising Events**

**Background:** The Freedom Party is planning a fundraising event for its nonfederal account on September 18 to be co-chaired by U.S. Representative Jane Doe and U.S. Senator John Smith.

- 1. How should the publicity materials for this fundraising event be worded?**
- 2. Would the wording change if the federal officeholders were featured guests or speakers at a nonfederal fundraiser, and if yes, how?**
- 3. What are some examples of incorrect wording?**

## Scenario #2 Answers:

### 1. How should the publicity materials for this fundraising event be worded?

**Answer:** Specific wording depends on whether the materials contain a solicitation for the nonfederal account or not.

**If the publicity does not contain a solicitation,** federal candidates may be identified in any role or manner and no additional disclaimer is required other than any existing applicable federal or state disclaimer. Here is an example:

## Example: Permissible

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Note: Federal candidates & officeholders may be identified in any role or manner on publicity that does not contain a solicitation

**The Freedom Party (nonfederal account)  
cordially invites you  
to a fundraising event with**

HONORARY CHAIR  
U.S. REPRESENTATIVE JANE DOE

Friday, September 18, 7 P.M.  
Windy City Hotel  
1234 Michigan Avenue

**Paid for by the Freedom Party and not authorized  
by any candidate or candidate's committee.  
www.freedomparty.com**

Because this example does not contain a solicitation, no additional disclaimer is required other than any existing applicable federal disclaimer.

(This example does not address any other applicable requirement under State law.)

No  
solicitation

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On the other hand, **if the publicity contains a solicitation**, federal candidates and officeholders may be identified in any role or manner as long as the publicity contains a solicitation of funds within the federal amount limitations and source prohibitions. No additional disclaimer is required other than any existing applicable federal or state disclaimer. Here is an example:

## Example: Permissible

Contains a solicitation within the federal amount limits and source prohibitions

The Freedom Party (nonfederal account) cordially invites you to a fundraising event with

**EVENT CHAIRMAN**  
**U.S. SENATOR JOHN SMITH**

*Friday, September 18th, 7 P.M.*  
*Windy City Hotel*  
*1234 Michigan Avenue*

*Please RSVP with your \$500 contribution (no corporations, labor organizations, national banks, federal contractors or foreign nationals, please) to (123) 456-7890.*  
*Make checks payable to the Freedom Party (nonfederal account) and mail to: 222 Central Avenue, Union, ST 12346*

**Paid for by the Freedom Party and not authorized by any candidate or candidate's committee. [www.freedomparty.com](http://www.freedomparty.com)**

Note: Federal candidates and officeholders may be identified in any role or manner on publicity that contains solicitation of funds within the federal amount limitations and prohibitions.

Because this example contains solicitation that complies with the federal limits and prohibitions, no additional disclaimer is required other than any existing applicable federal disclaimer.

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2. **Would the answer change if the federal officeholders were featured guests or speakers at a nonfederal fundraiser, and if yes, how?**

**2. Would the answer change if the federal officeholders were featured guests or speakers at a nonfederal fundraiser, and if yes, how?**

**Answer:** The answer depends on if there is a solicitation outside the federal limits and prohibitions. If only funds within the federal limits were solicited, then no. However, if the funds solicited were outside the federal limits and/or source prohibitions, then the wording would vary. Specifically, a clear and conspicuous disclaimer must be placed on solicitations, stating that the solicitation is not being made by the federal officeholder. Here is an example:

## Example: Permissible

Federal officeholder must be identified in a non-fundraising role because this contains a solicitation outside the federal amount limitations

**The Freedom Party (nonfederal account) cordially invites you to a fundraiser with:**

**HONORED SPEAKER**  
**U.S. SENATOR JOHN SMITH**

*Friday, September 18th, 7 P.M.*  
*Windy City Hotel*  
*1234 Michigan Avenue*

*Please RSVP with your \$25,000 donation to (123) 456-7890.*  
*Make checks payable to the Freedom Party and mail to: 222 Central Avenue, Union, ST 12346*

**All solicitations of funds in connection with this event are by the Freedom Party and not by Senator Smith. Paid for by the Freedom Party and not authorized by any candidate or candidate's committee. [www.freedomparty.com](http://www.freedomparty.com)**

Because this contains a solicitation outside the federal limits and prohibitions, it requires a clear & conspicuous disclaimer that the solicitation is not being made by the federal officeholder.

The solicitation disclaimer may be placed in the same box as any other applicable federal disclaimer requirement. Any other applicable disclaimer requirement under state law, which this example does not address, should be placed outside of the federal box.

Contains a solicitation outside the federal amount limits and source prohibitions

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**3. What are some examples of incorrect wording?**

**Answer:** If the publicity contains a solicitation for funds outside the federal limits and source prohibitions, the committee must not identify the federal officeholder in a role specifically related to fundraising and must not use wording which makes it appear the federal officeholder is extending the invitation to the event. The problem is not averted by including a disclaimer that the solicitation is not being made by the federal officeholder. Here are some examples of incorrect wording:

*See Examples on Next Page*

## Example: Impermissible

Contains a solicitation outside the federal amount limits and source prohibitions

**U.S. Senator John Smith cordially invites you to a fundraising event for the Freedom Party (nonfederal account).**

*Friday, September 18th, 7 P.M.  
Windy City Hotel  
1234 Michigan Avenue*

*Please RSVP with your \$25,000 contribution to (123) 456-7890.  
Make checks payable to the Freedom Party (nonfederal account)  
and mail to: 222 Central Avenue, Union, ST 12346*

**All solicitations of funds in connection with this event are by the Freedom Party and not by Senator Smith.  
Paid for by the Freedom Party and not authorized by any candidate or candidate's committee. [www.freedomparty.com](http://www.freedomparty.com)**

In this example, the federal officeholder impermissibly is extending the invitation on publicity containing a solicitation for funds outside the federal limits and prohibitions.

This problem cannot be "cured" by including a disclaimer that the impermissible solicitation is not being made by the federal officeholder.

## Example: Impermissible

Contains a solicitation outside the federal amount limits and source prohibitions

**Join Honorary Chair U.S. Senator John Smith at a fundraiser for the Freedom Party (nonfederal account).**

*Friday, September 18th, 7 P.M.  
Windy City Hotel  
1234 Michigan Avenue*

*Please RSVP with your \$25,000 contribution to (123) 456-7890.  
Make checks payable to the Freedom Party (nonfederal account)  
and mail to: 222 Central Avenue, Union, ST 12346*

**All solicitations of funds in connection with this event are by the Freedom Party and not by Senator Smith.  
Paid for by the Freedom Party and not authorized by any candidate or candidate's committee. [www.freedomparty.com](http://www.freedomparty.com)**

In this example, the federal officeholder impermissibly is identified in a role specifically related to fundraising on publicity containing a solicitation for funds outside the federal limits and prohibitions.

This problem cannot be "cured" by including a disclaimer that the impermissible solicitation is not being made by the federal officeholder.

## Workshop Evaluation

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*Help Us Help You!*

Please complete an evaluation  
of this workshop.



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## Next Workshop

**FEC JEOPARDY**

**3:15 p.m.**

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## Tomorrow Morning

**Party Operations, Part 2**

**8:30 a.m.**



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