FECLIVE CONNECT

INTERACTIVE ONLINE TRAINING PROGRAM

Basics & Best Practices

May 11, 2016
10:30 a.m.

FECConnect LIVE
2015-16 Election Cycle

Basics & Best Practices

Objectives

- **Review Basic Provisions of FECA**
- Examine Recordkeeping and Filing Requirements
- Recommend "Best Practices"
- Highlight Compliance Resources

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PART 1: BASIC PROVISIONS OF THE FEDERAL CAMPAIGN FINANCE LAW

Federal Election Campaign Act

- Limits sources and amounts of funds used to finance federal elections
- Requires candidates and committees that support them to register and report activity
- Establishes FEC to administer and enforce law

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Contribution Source Limits

- Prohibited Sources of Contributions
  - Corporations and Unions
  - Federal Government Contractors
  - Foreign Nationals
  - Contributions in Name of Another

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I. Contribution Prohibitions

A. Corporations (including incorporated membership, trade and cooperative organizations or associations), labor organizations and national banks

Corporations (including incorporated membership, trade and cooperative organizations or associations), labor organizations and national banks are prohibited from making contributions in connection with federal elections. **11 CFR 114.2.** Therefore, they may not:

1. **Act as conduit for earmarked contribution.**
2. **Give discount to campaign or committee that is not in normal business practice.**
3. **Allow use of facilities or resources without reimbursement, and, in some cases, advance payment.**

B. Federal Government Contractors (11 CFR Part 115)

C. Foreign Nationals (11 CFR 110.20)

1. **US subsidiary of foreign corporation may establish SSF only if:**
   a) Foreign nationals do not control or participate in decisions of SSF; and
   b) SSF is not administered or otherwise funded with foreign revenues.
2. **Ban does not apply to permanent resident aliens (green card holders).**
3. **Individuals who are foreign nationals may:**
   a) Volunteer for Congressional campaign and participate in decision-making, (Note: because volunteer is engaged to candidate.) AO 2004-26.
   b) Attend campaign fundraising events (Note: because attendee is engaged to candidate). AO 2004-26.
   c) They may not, however, participate in decision-making regarding election activities for a corporation or a political committee. AO 2004-32.

D. Contributions in Name of Another (11 CFR 110.4(b))

1. Cannot reimburse or be reimbursed for contributions.
2. Parents cannot give in names of children.
3. BCRA increased penalties for violations of this ban.

Contribution Source Limits

- Prohibited in All U.S. Elections
  - Foreign Nationals
  - National Banks
  - Federally Chartered Corporations

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E. Certain Prohibitions Apply to All Elections (11 CFR 114.2(a))

1. Foreign nationals
2. National banks
3. Federally chartered corporations

Separate Segregated Funds

- Corporations and unions cannot make contributions in federal elections
- Exception permits sponsorship of SSF
  - Establishment, administrative and solicitation costs
  - Limits on solicitations for SSF contributions
  - SSF may make contributions to candidates

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II. Separate Segregated Funds (SSF) (11 CFR 114.5)

A. Prohibition on Corporate 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

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.

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	
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	

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III. Contribution Amount Limits (11 CFR 100.52)

A. Broad Definition

Anything of value given or loaned to influence a federal election.

B. Types

1. Money
2. In-Kind (goods and services)
3. Loans of money or advances of goods and services
4. Bank loan endorsements and guarantees
5. Advances of personal funds by staff and volunteers
6. Proceeds from sales of fundraising items
7. Extension of credit to committee outside ordinary course of business

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	$100,200
Candidate Committee	$2,000	$5,000	Unlimited Transfers	Unlimited Transfers	
PAC: multicandidate	$5,000	$5,000	$5,000 (combined)	$15,000	$45,000
PAC: Nonmulticandidate	$2,700	$5,000	$10,000 (combined)	$33,400	$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	

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C. Contribution Limits (11 CFR 110.1 and 110.2)

1. Certain Limits Increased and Indexed for Inflation

a) Candidate and party limits increased and indexed; multicandidate committee limits unchanged.

b) Indexing began in 2005 – odd-numbered years.

2. How Applied

a) Limits apply to contributions received and contributions made by committee.

b) If made by an individual, counts against the limit of the person signing the check or accompanying note.

3. Presidential

a) Primaries – One limit for all.

b) General – No contributions if candidate accepts public funds. (See AO 2007-03, Obama)

c) General Election Legal and Compliance (GELAC) Fund – OK if donations comply with limits.

Limits to Corporate PACs

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	$100,200
Candidate Committee	$2,000	$5,000	Unlimited Transfers	Unlimited Transfers	
PAC: multicandidate	$5,000	$5,000	$5,000 (combined)	$15,000	$45,000
PAC: Nonmulticandidate	$2,700	$5,000	$10,000 (combined)	$33,400	$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	

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Limits from Corporate PACs

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	$100,200
Candidate Committee	$2,000	$5,000	Unlimited Transfers	Unlimited Transfers	
PAC: multicandidate	$5,000	$5,000	$5,000 (combined)	$15,000	$45,000
PAC: Nonmulticandidate	$2,700	$5,000	$10,000 (combined)	$33,400	$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	

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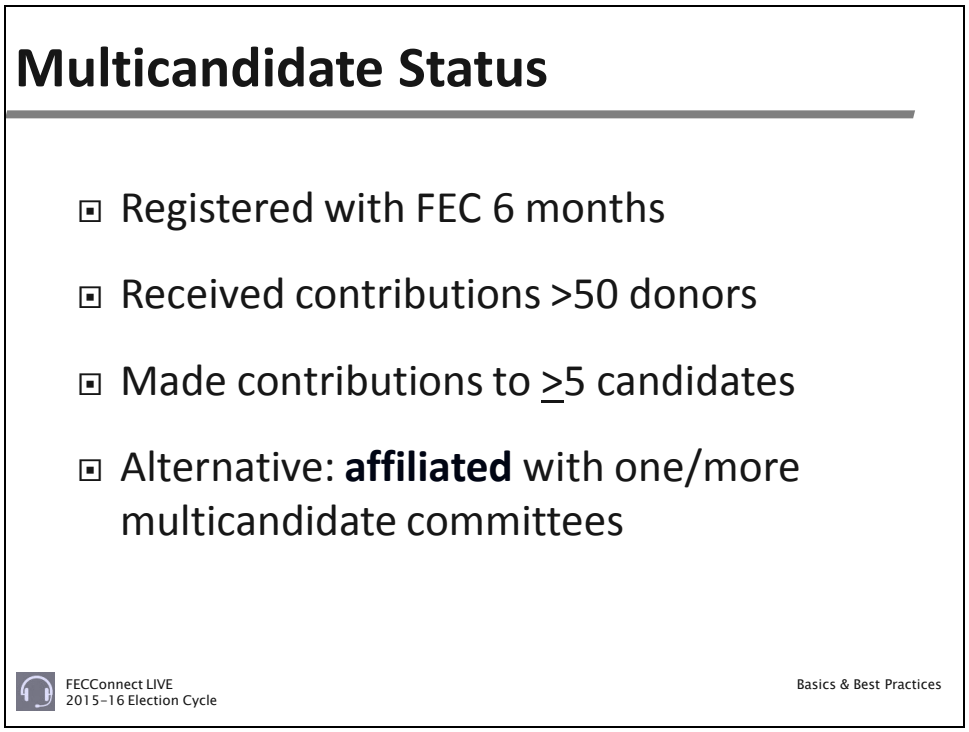


D. Multicandidate Committee Status (11 CFR 100.5(e))

1. Why Important:

Determines whether PAC or party committee can give up to $5,000 to candidate, per election (and whether candidate can accept it).

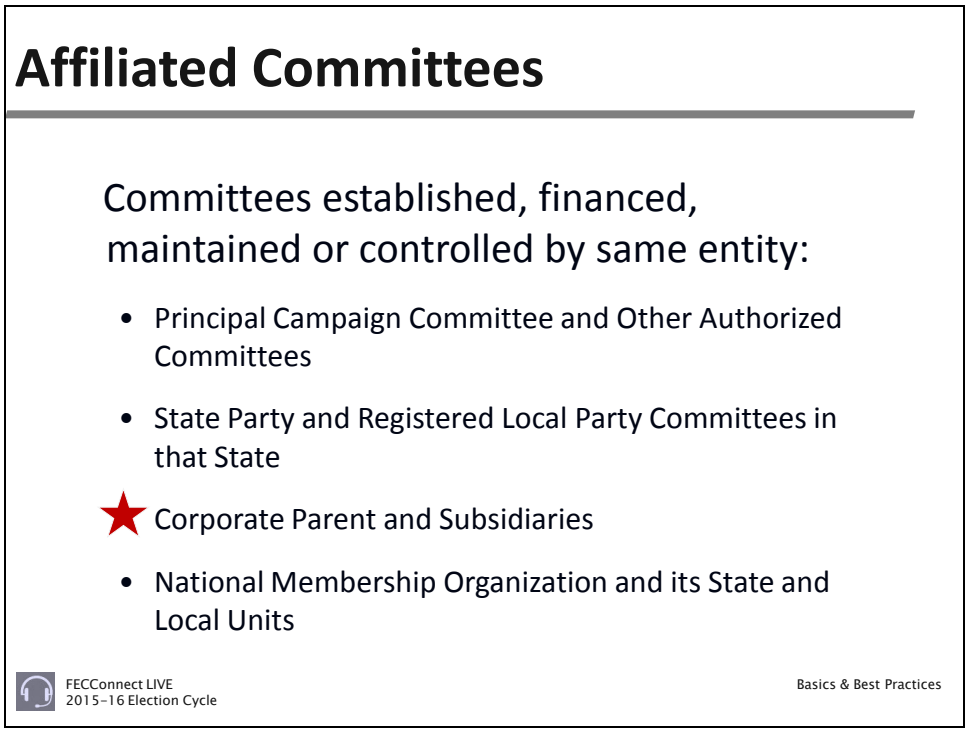
2. Criteria

a) Registered with FEC 6 months.

b) Received contributions from more than 50 contributors.

c) Has made contributions to at least 5 federal candidates (not needed for state party committee).

d) Alternative: be affiliated with multicandidate committee.



E. Affiliated Committees (11 CFR 100.5(e) and 110.3(a)(3))

1. How to Determine:

a) Principle: committees established, financed, maintained, or controlled by same entity or group of persons.

b) Others may also be affiliated depending on various factors, such as similar patterns of contributions, common officers, etc. See 11 CFR 100.5(g) & 110.3(a).

2. Corporation

a) PACs set up by parent, subsidiary, branch, division or other affiliate.

b) **Example:** In AO 2007-16, the Commission ruled that a corporation spun off from another corporation were no longer affiliated as of the date of the spin-off. Although the two companies had a large common shareholder base, factors indicating disaffiliation were stronger, including lack of ownership by one company in the other, the minimal personnel overlap between the companies (including the companies' subsidiaries), the lack of any plan for personnel of one of the companies or its subsidiaries to serve in the future in either of the other companies or its subsidiaries (other than the two currently overlapping individuals), and the fact that a majority of the two companies' respective board members did not serve on the board of, and were not officers of, any pre-spin-off corporate entities.

Affiliated Committees

Generally treated as one committee for purposes of federal campaign finance law:

- Share limits on contributions made and received

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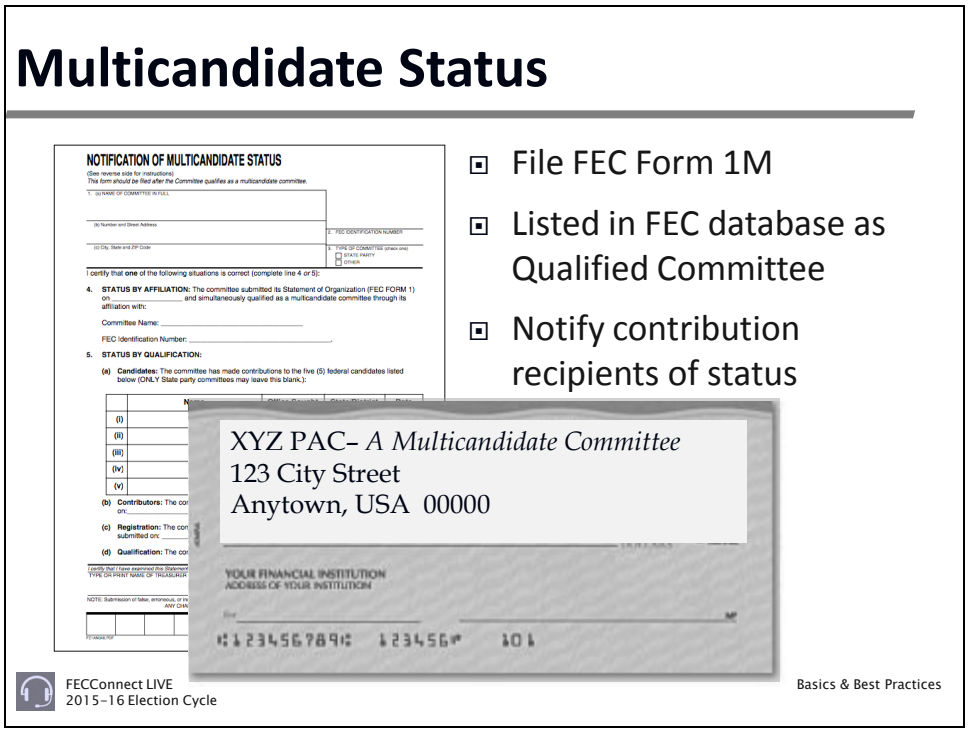
3. Why Important:

a) Same contribution limit applies to contributions received and made by affiliated committees.

b) If one committee qualifies as multicandidate, all its affiliated committees qualify.

c) No limit on transfers between affiliated committees.



F. Multicandidate Committee Responsibilities

1. How to Inform the FEC

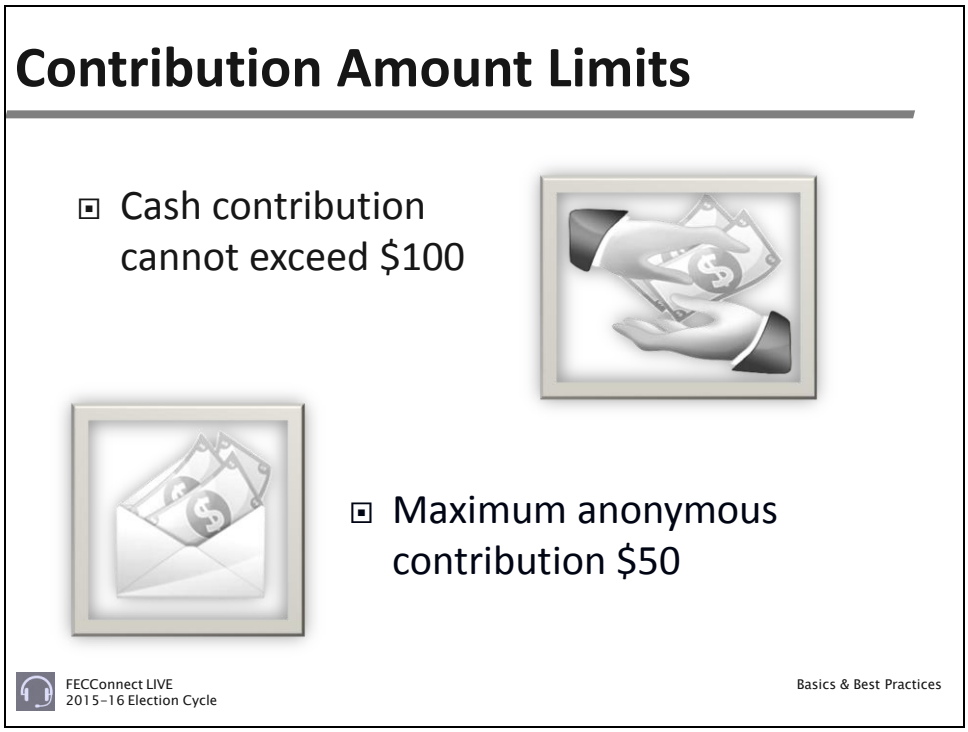
a) PAC must file Form 1M within 10 days of qualifying as multicandidate committee.

b) Check box at end of page 2, Form 3X.

2. How to Inform the Campaigns

a) Multicandidate committee must inform recipients that it has qualified as multicandidate committee.

b) Call FEC's Public Records Office to verify status as *qualified* multicandidate committee.

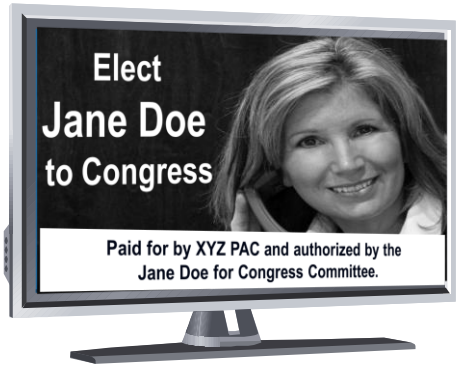


G Other Contribution Limits

1. Cash Contributions – $100

2 Anonymous Contributions – $50

Supporting Candidates



- Contributions
  - Per election limit of $2,700 or $5,000
  - Affiliated PACs share limits

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Supporting Candidates

- Contributions
- **Independent Expenditures**

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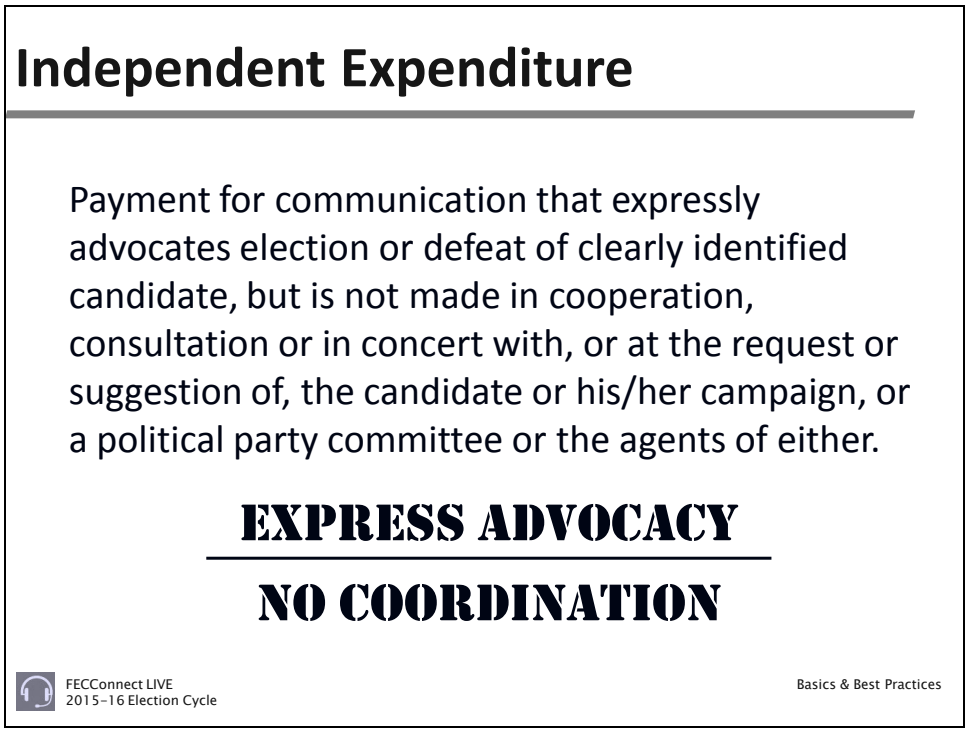

IV. Independent Expenditures (11 CFR 100.16)

A. Definition

Expenditure for communication that "expressly advocates" the election or defeat of a clearly identified candidate and that is not made in cooperation with, or at the request or suggestion of, the candidate or his/her campaign or its agents, or a political party or its agents.

Independent Expenditure

- No limit on amount of expenditure
- Corporations and labor organizations may make IEs, but prohibited in-kind contribution results if coordinated

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B. The Basics

1. No Limits if Definition Met
One may spend an unlimited amount because the expenditure is not coordinated (and thus, a contribution).

2. If Coordinated, In-kind Contribution Results (11 CFR 109.21)
Corporation prohibited from making (coordinated) in-kind contribution.

3. Disclaimer required

Supporting Candidates

- Contributions
- Independent Expenditures
- **Disclaimers**

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Disclaimers

- Identify who paid for a communication
- Clarify whether a campaign authorized it
- Appear on all "public communications," widely distributed emails, public websites

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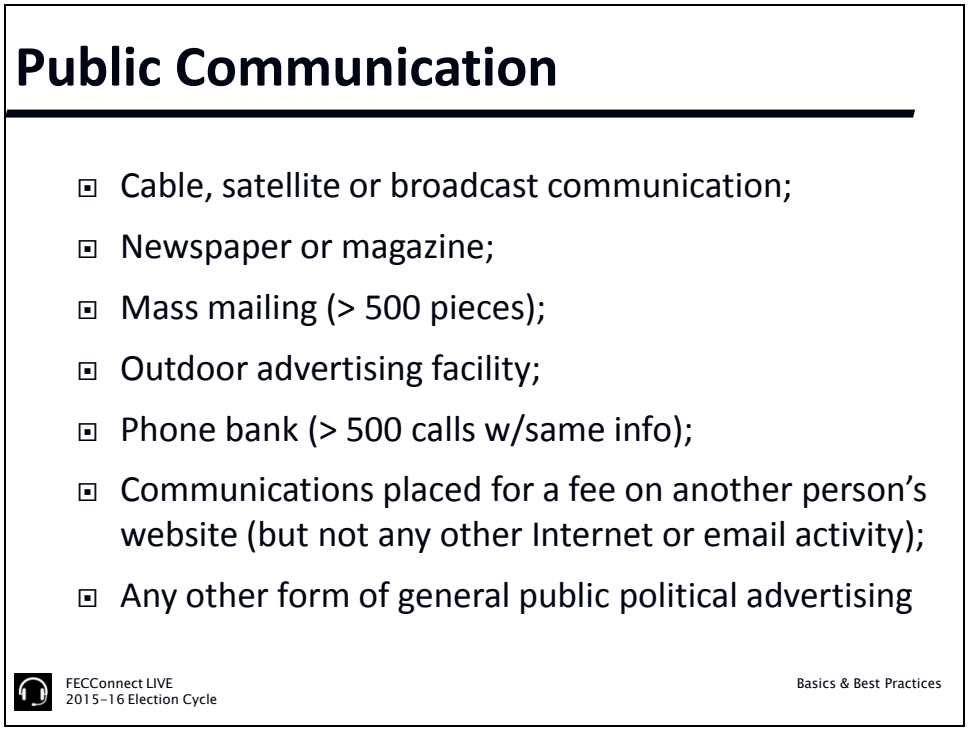
V. Disclaimer Notices on Communications (11 CFR 110.11)

A. Basic Rules

1. Identifies who paid for a public communication
2. Clarifies whether a campaign authorized it
3. Required on all "public communications," widely distributed emails and public websites



B. Public Communication Defined (11 CFR 100.26)

Includes communications made using the following media:

1. Broadcast, cable or satellite;
2. Newspaper or magazine;
3. Outdoor advertising facility;
4. Mass mailing (>500 substantially similar mailings w/in 30 days);
5. Phone bank (>500 substantially similar calls w/in 30 days);
6. Communications placed for a fee on another person's web page.

C. Disclaimer Also Required On:

1. Electronic mail (> 500 substantially similar communications sent by a campaign committee); and
2. Websites of political committees.

Disclaimer Examples

- SSF Ad Authorized by Candidate:

  "Paid for by XYZ PAC and authorized by the Jane Doe for Congress committee."

- SSF Ad Not Authorized by Candidate:

  "Paid for by XYZ PAC (www.xyzpac.com) and not authorized by any candidate or committee."

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D. Wording of Disclaimer (11 CFR 110.11(b))

1. Authorized but Not Financed by Campaign
"Paid for by Play Now PAC and authorized by the Cosmo Kramer for Congress Committee."

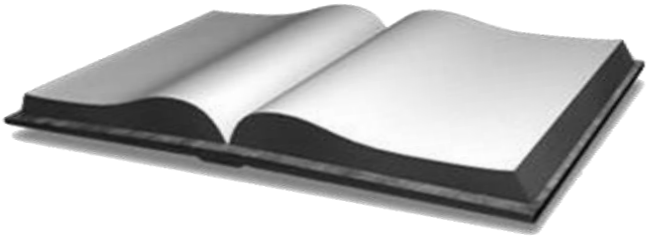
2. Not Authorized by Campaign (i.e., Independent Expenditure, Electioneering Communication)
"Paid for by Play Now PAC (www.playnow.com) and not authorized by any candidate or candidate committee."

3. Clear and Conspicuous Placement of Disclaimer Notice
Disclaimer notices must be clearly and conspicuously displayed. Cannot be difficult to read or placed where it is easily overlooked.

Clear and Conspicuous

A disclaimer must be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of who is responsible for the message

- 11 CFR 110.11(c)(1)



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Clear and Conspicuous

- Printed Materials

Disclaimer must be contained within a printed box set apart from content of communication

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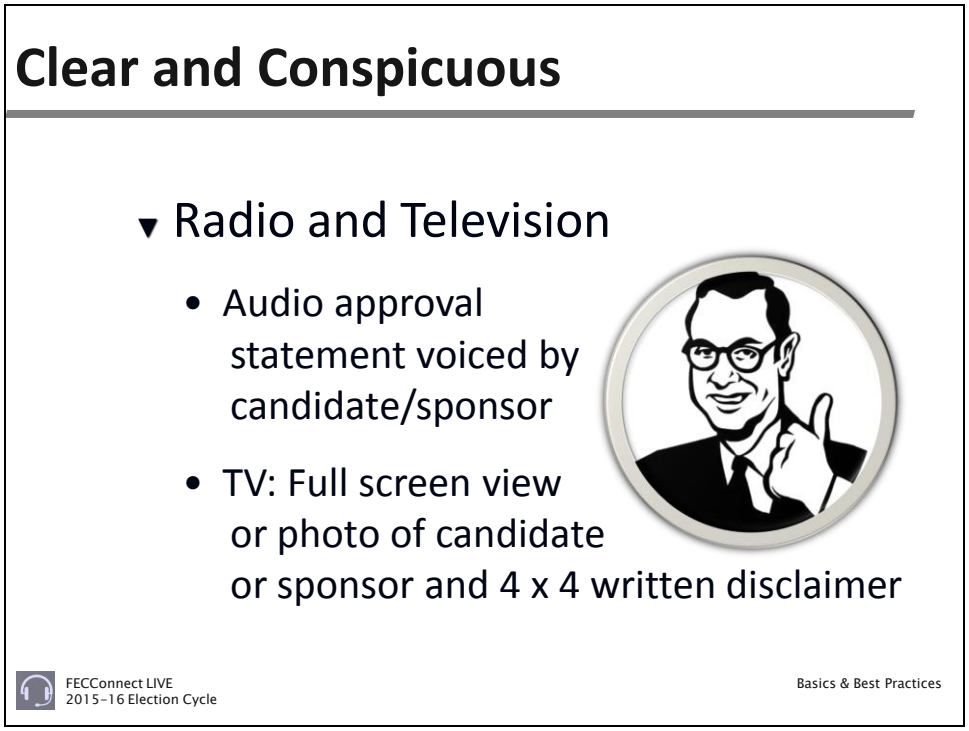
E. Special Rules for Printed Communications

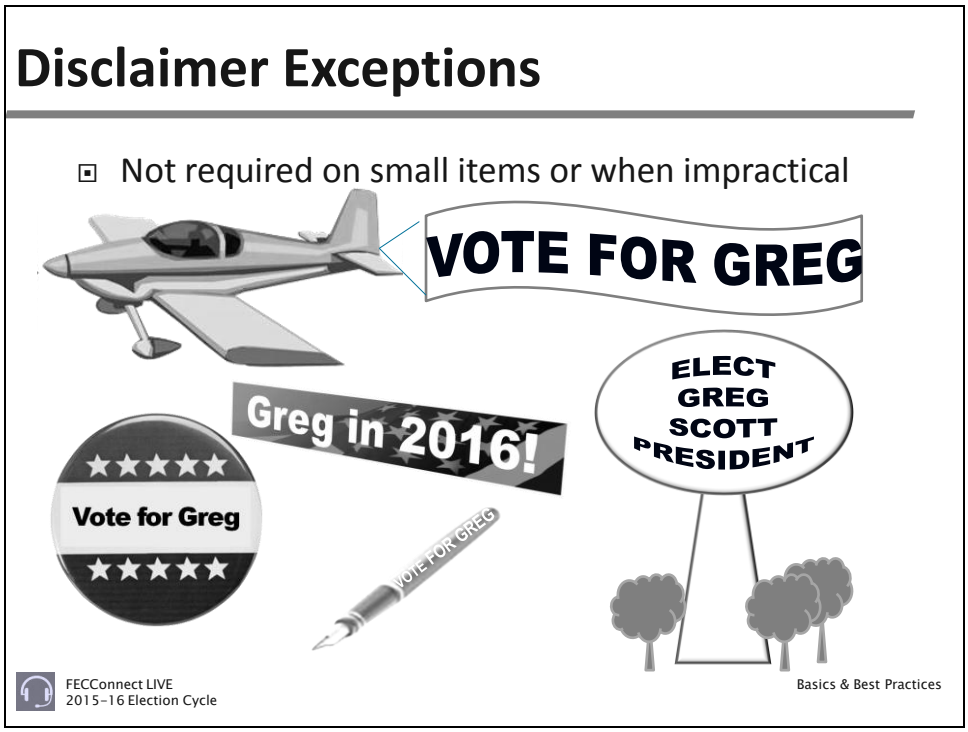
1. Disclaimer must be contained within a printed box set apart from content of communication.

2. Print must be of sufficient type size to be "clearly readable" and must have a reasonable degree of color contrast between the background and the printed statement.
3. Safe Harbor: 12 point type in newspapers; magazines; flyers; signs; and other printed communications no larger than 24" x 36."



F. Special Rules for TV and Radio Ads Not Authorized by a Candidate's Committee (11 CFR 110.11(c)(4))

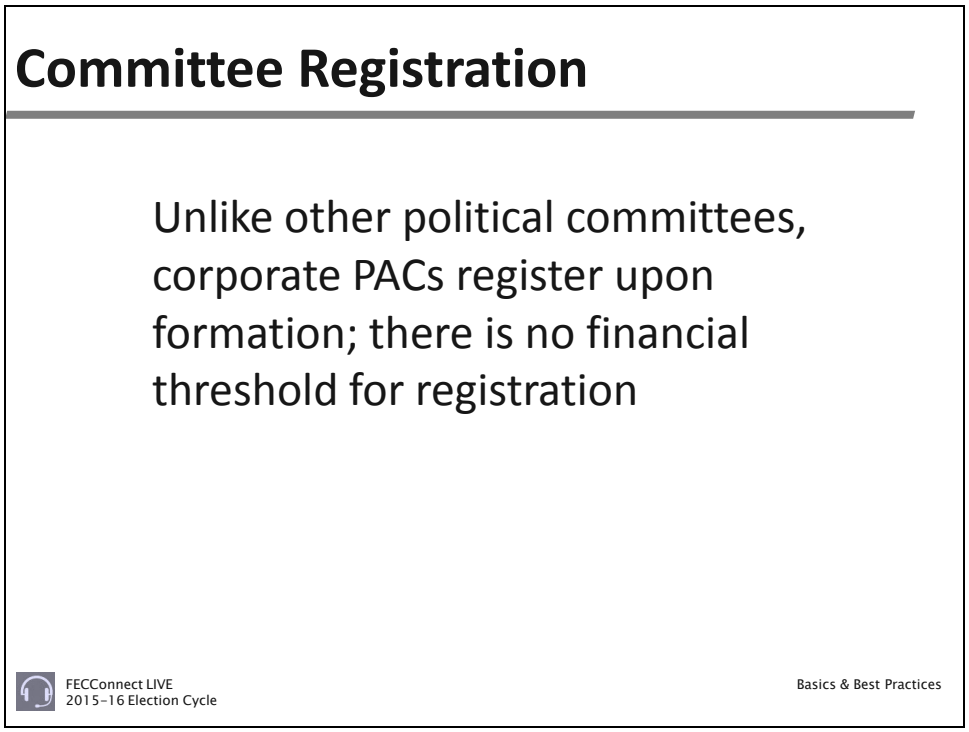
Identify the committee responsible for the communication (e.g., *"The Pendant Publishing PAC is responsible for the content of this ad."*)



G. Disclaimer is Not Required When:

1. It cannot be conveniently printed (e.g., pens, bumper stickers, campaign pins and buttons);
2. Its display is not practical (e.g., wearing apparel, skywriting, water towers); or
3. Item is of minimal value, does not contain a political message and is used for administrative purposes (e.g., committee checks and receipts).

PART 2: REGISTRATION AND REPORTING REQUIREMENTS



I. Committee Registration (11 CFR 102.1(c) and 102.2)

A. FEC Form 1 (Statement of Organization)

1. When to File

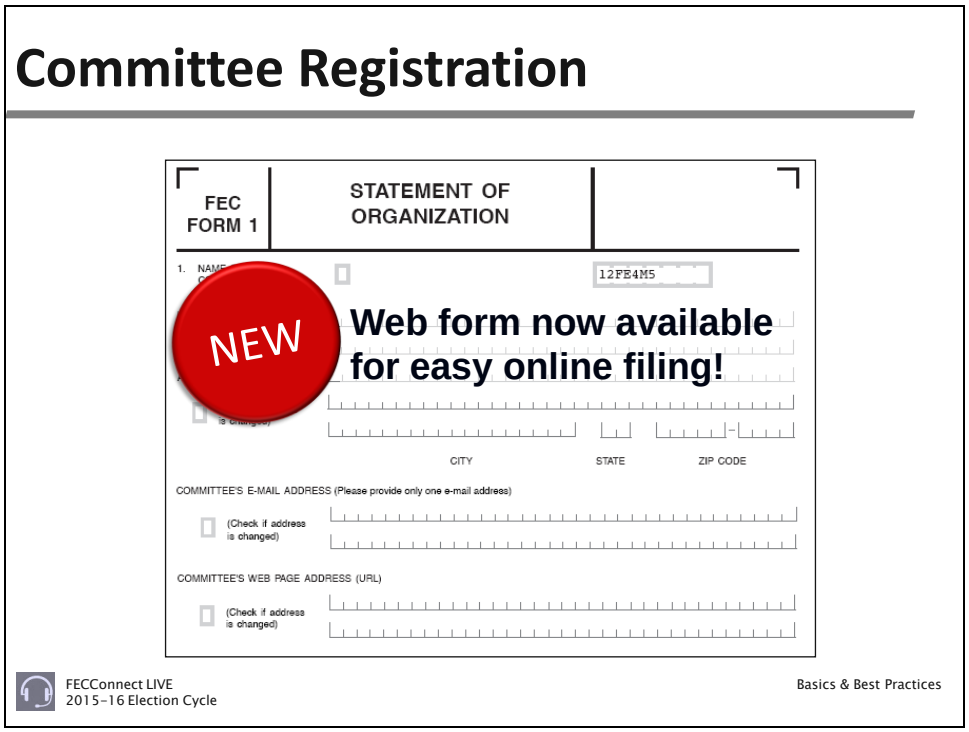
a) Political committees (other than campaign committees) file within 10 days of triggering registration.

b) An SSF (PAC connected to incorporated entity such as corporation, labor/membership organization, trade association) must register with the FEC within 10 days of establishment – for example within 10 days of the date when:

(1) The board of directors (or comparable governing body) votes to create the SSF

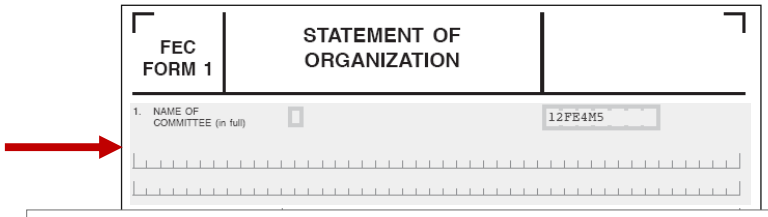
(2) Officers are selected to administer the fund, or

(3) The SSF's initial operating expenses are paid.



2. **How to File**
   a) Forms may be downloaded and printed from the FEC website: http://www.fec.gov/info/forms.shtml
   b) Link to Form 1 webform: https://webforms.fec.gov/webforms/form1/index.htm
3. **Requirements**
   Committees that file electronically must include their email address. Others are encouraged to do so.
4. **Amendments**
   Amend Statement of Organization (and other filings) when necessary within 10 days of change.

Committee Registration



- Name of Committee
  - SSF's name must include the full name of its connected organization
  - Full name required on FEC reports and in disclaimers

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B. Name and Address of Committee

1. Separate Segregated Funds

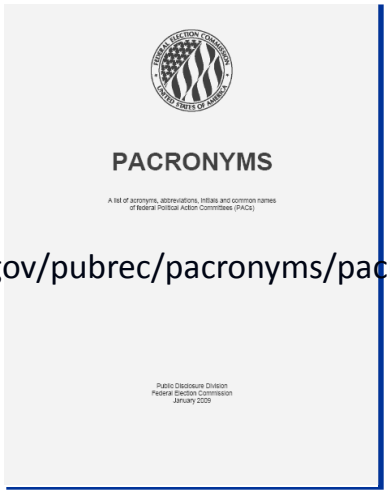
Name must include full name of the connected organization.

2. Use Committee's Official Name on:

a) FEC reports and statements.

b) Disclaimer notices for public advertising.

Committee Registration



www.fec.gov/pubrec/pacronyms/pacronyms.shtml

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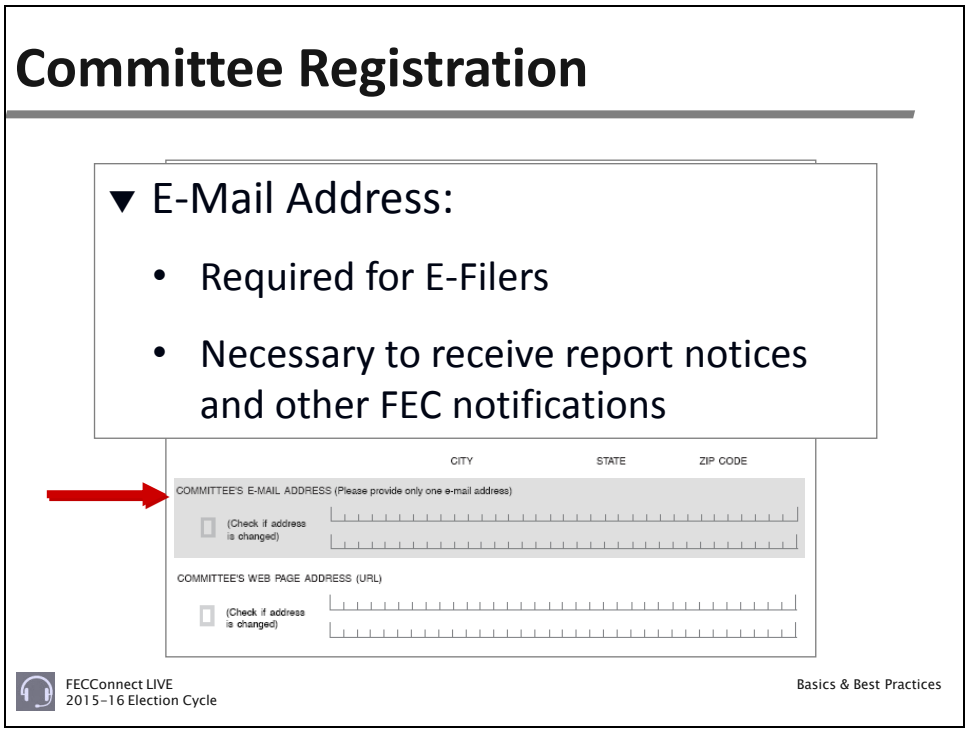

3. Street Address, Email, Website

a) E-Mail required for electronic filers; necessary to receive FEC report notices and other courtesy materials.

b) URL required if committee has web page.

Committee Registration

List Connected Organization

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

XYZ Corporation

Mailing Address 123 City Street

Anytown (CITY) US (STATE) 00000 – 0000 (ZIP CODE)

Relationship: [X] Connected Organization [ ] Affiliated Committee [ ] Joint Fundraising Representative [ ] Leadership PAC Sponsor

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Committee Registration

List Affiliated Committees

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

XYZ Subsidiary Corporation

Mailing Address 123 Subsidiary Circle

Anytown (CITY) US (STATE) 00000 – 0000 (ZIP CODE)

Relationship: [ ] Connected Organization [X] Affiliated Committee [ ] Joint Fundraising Representative [ ] Leadership PAC Sponsor

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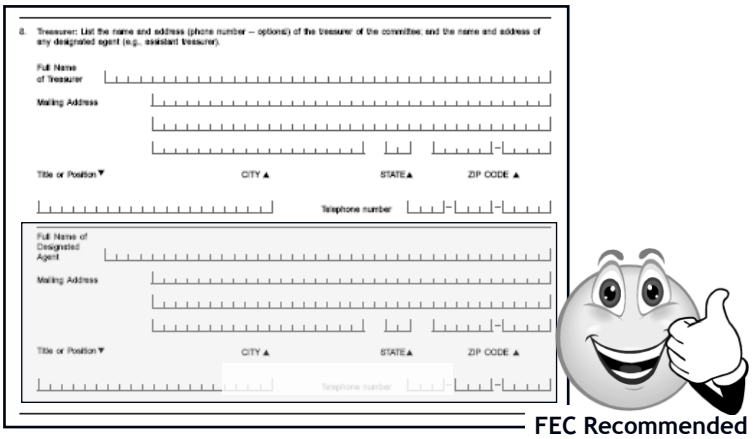
Committee Registration

- Treasurer & Assistant Treasurer


8. Treasurer: List the name and address (phone number – optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name of Treasurer

Mailing Address

Title or Position ▼ CITY ▲ STATE ▲ ZIP CODE ▲

Telephone number

Full Name of Designated Agent

Mailing Address

Title or Position ▼ CITY ▲ STATE ▲ ZIP CODE ▲

Telephone number

FEC Recommended

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C. Treasurer & Assistant Treasurer (11 CFR 102.7, 102.9 and 104.14)

1. Treasurer Required – Asst. Treasurer Recommended

a) Identify on Form 1.

Committee Registration

- Treasurer & Assistant Treasurer
  - Deposits receipts
  - Authorizes all expenditures
  - Monitors contributions
  - Keeps all required records
  - Signs reports
  - Files accurate reports on time

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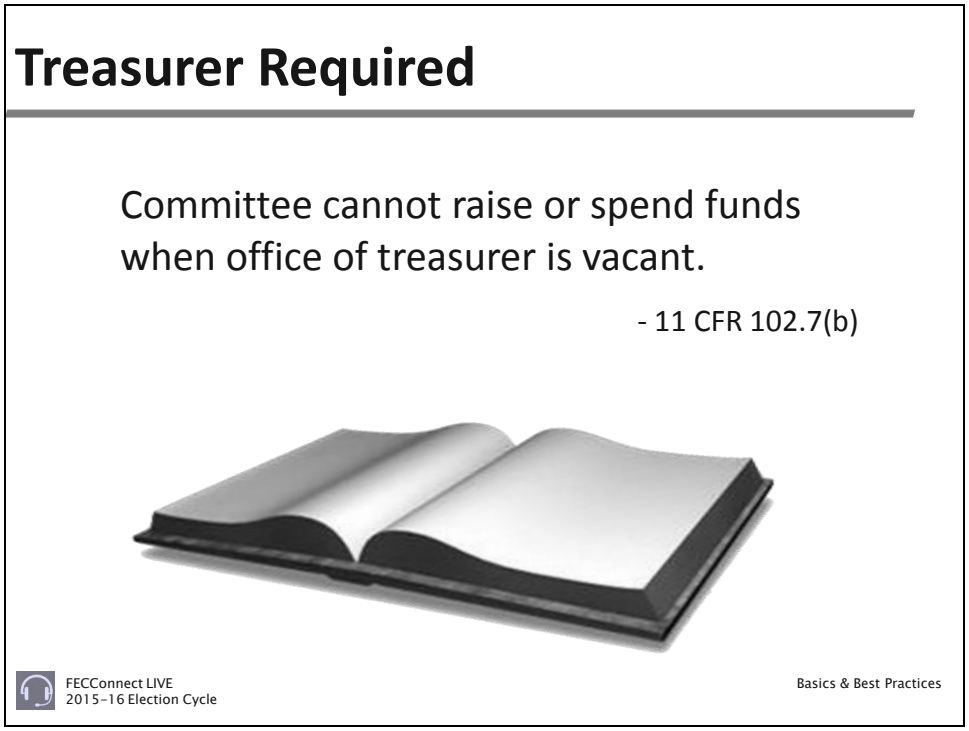
2. Duties:

a) Depositing receipts.
b) Authorizing all expenditures.
c) Monitoring contributions.
d) Keeping all required records.
e) Signing reports.
f) Filing accurate reports on time.



D. Amendments to Form 1 (11 CFR 102.2(a)(2))

1. Required within 10 days after change in information.
2. Paper filers may amend by letter or Form 1; E-filers must amend electronically by submitting a replacement Form 1.

Treasurer's Liability

- Treasurer generally named as enforcement respondent in official capacity
- Personal liability possible if:
  - Knowingly & willfully violated the Act;
  - Recklessly failed to fulfill duties; or
  - Intentionally ignored information that led to the violation

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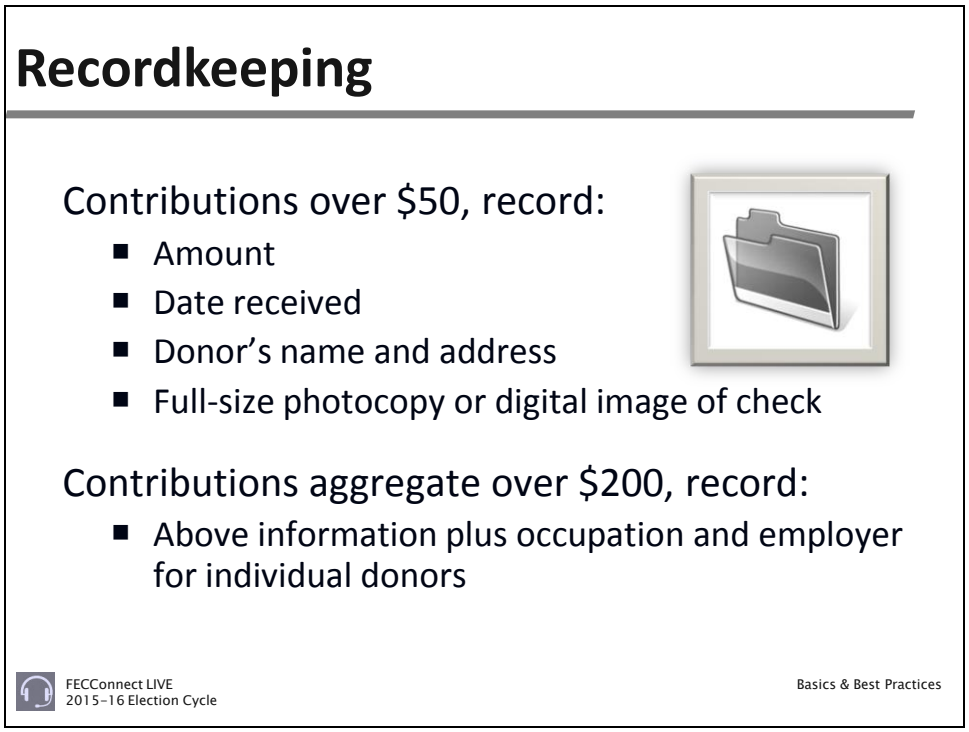
3. Treasurer Responsible for Compliance.

a) Usually named in enforcement actions.

b) Policy statement on when treasurer may be found personally liable (online at http://www.fec.gov/law/policy/2004/notice2004-20.pdf)

c) Embezzlement policy (online at http://www.fec.gov/law/policy/embezzlepolicy.pdf)



E. Recordkeeping (11 CFR 102.8 and 102.9)

1. For Receipts

a) For any amount, need date received and amount.

b) Over $50, name and address of contributor/payor.

c) Over $200, above plus occupation and employer.

Recordkeeping

All disbursements, record:

- Amount
- Date
- Name and Address of Payee
- Purpose of Disbursement

For contributions:

- Above information, plus name of candidate, state, district and election designation

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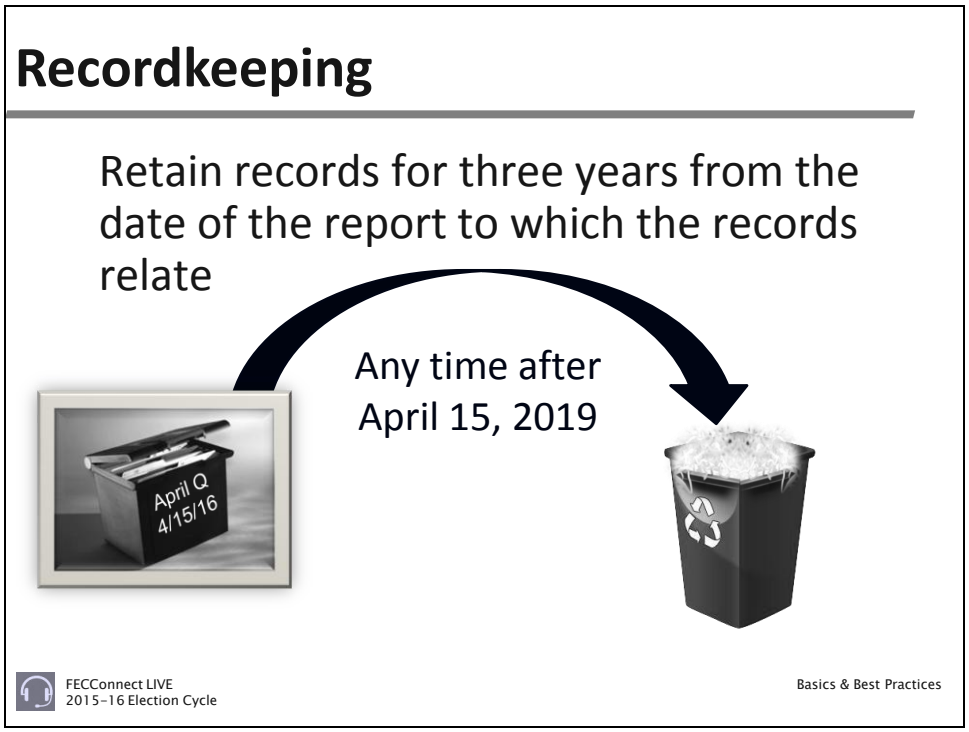
2015–16 Election Cycle

Basics & Best Practices

3. For Disbursements

a) For any amount, need name of payee, address, purpose, date made.

b) For contributions made, also need name of candidate, state, district, and election designation.



4. Record Retention
Retain each record for three years from the date of the report on which it was last disclosed.

II. Filing Dates (11 CFR 104.5(c))

Quarterly Filers - 2016

Report Type	Coverage and Due Dates
April Quarterly	Covers 1/1 - 3/31; Due 4/15/16
July Quarterly	Covers 4/1 - 6/30; Due 7/15/16
October Quarterly	Covers 7/1 - 9/30; Due 10/15/16
Pre-Election	Covers 1st day of current period to 20 days before election; Due 12 days before election (12G covers 10/1 - 10/19; Due 10/27/16)
Post-General	Covers from 1st day of period to 11/28; Due 12/8/16
Year-End	Covers 11/29 - 12/31/16; Due 1/31/17

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2015-16 Election Cycle

Basics & Best Practices

Quarterly Filers - 2016

Pre-Primary Reports

- Due 12 days before any primary in which the committee makes previously undisclosed contributions or expenditures
- Required for campaign committees in connection with candidate's primary

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2015-16 Election Cycle

Basics & Best Practices

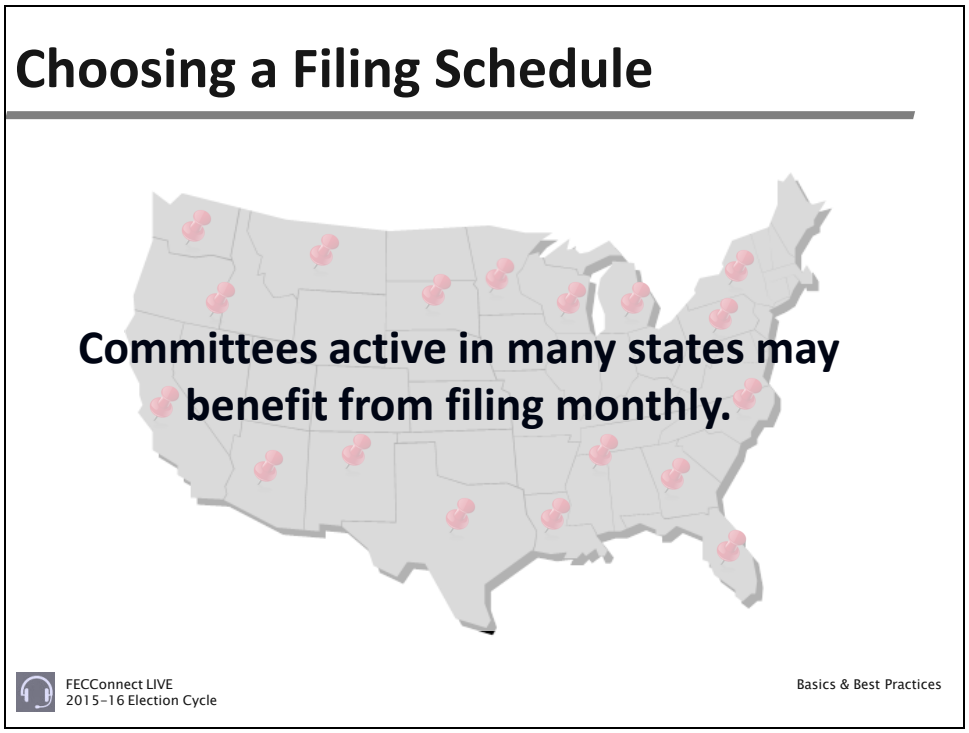
A. During Election Year (even-numbered year)

Corporate PACs file quarterly or monthly See *Reports Due in 2016* at http://www.fec.gov/info/report_dates_2016.shtml.

1. Quarterly Reporting Schedule

a) Quarterly reports due April 15, July 15 and October 15 and January 31; Pre-Primary, Pre-General (if applicable), and a Post-General Report.

b) Reporting period begins the day after close of books of last report filed.



Monthly Filers - 2016

Reporting Period	Due Date
January 1-31	February 20
February 1-29	March 20
March 1-31	April 20
April 1-30	May 20
May 1-31	June 20
June 1-30	July 20
July 1-31	August 20
August 1-31	September 20
September 1-30	October 20
October 1-19 (Pre-General)	October 27
October 20-November 28 (Post-General)	December 8
November 29-December 31 (Year-End)	January 31, 2017

NO PRE-PRIMARY REPORTS

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Basics & Best Practices

2. Monthly Reporting Schedule

a) Monthly filers must file report on 20th of each month, except Pre-General and Post-General in lieu of November and December monthly reports.

b) Reporting period begins the day after close of books of last report filed.

B. During Non-Election Year (odd-numbered year)

Corporate PACs file quarterly (semi-annually) or monthly.

1. Quarterly Reporting Schedule

Committees that file quarterly in election years file on a semi-annual schedule in non-election years.

2. Monthly Reporting Schedule

a) File reports on the 20th of each month.

b) Monthly filers must file a Year-End Report on January 31 of each year.

Changing Filing Frequency

- Request on or before next report
  - Electronic filers must submit request electronically
- No more than once per year

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Basics & Best Practices

C. Changing Filing Schedule

1. Timing

a) PACs may change their filing schedule from quarterly to monthly or from monthly to quarterly only after notifying the Commission in writing (or electronically if an e-filer), of its intention at the time it files a required report under its current filing schedule or in a separate miscellaneous text submission (Form 99) filed at any time.

b) Such political committee will then be required to file the next required report under its new filing schedule and will receive a letter which lists the subsequent filing requirements.

2. May only change filing schedule once per calendar year.

3. A PAC that files quarterly in 2016 automatically files semi-annually in 2017. No need to notify FEC (unless switching to monthly).

III. Where to File FEC Financial Reports (11 CFR 108.4)

Where to File

Federal Election Commission
999 E Street, NW
Washington, DC 20463

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Basics & Best Practices

Where to File – Senatorial Only

Office of Public Records
P.O. Box 77578
Washington, DC 20013-7578

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Basics & Best Practices

IV. Other Filing Issues

Filing on Time

- No Extensions
  - Filing dates not extended for weekends or holidays.
  - Must be received on business day preceding filing date.
- Registered/Certified vs. Overnight Mail
  - If filing using USPS registered/certified mail, keep receipt.
  - "Overnight Mail" means next-day express or priority mail with delivery confirmation or overnight service with online tracking system. Same terms as registered/certified mail. (Keep receipt/tracking number.)

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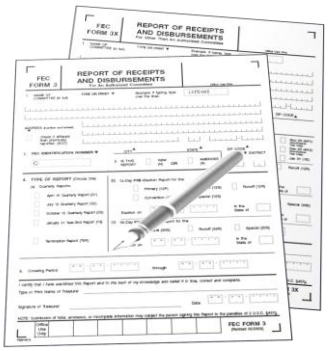
Basics & Best Practices

How to File FEC Reports

On Paper



Electronically*

*PACs filing with the Senate may voluntarily submit an unofficial electronic copy of their reports to the FEC, but their official filings must be filed on paper with the Secretary of the Senate.

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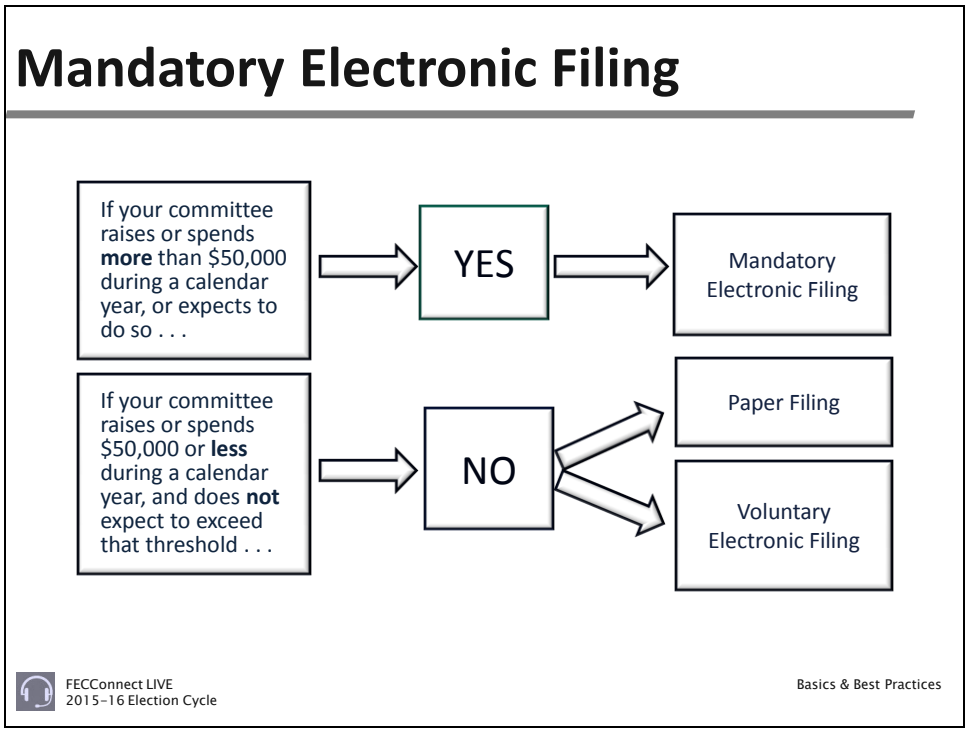
Basics & Best Practices



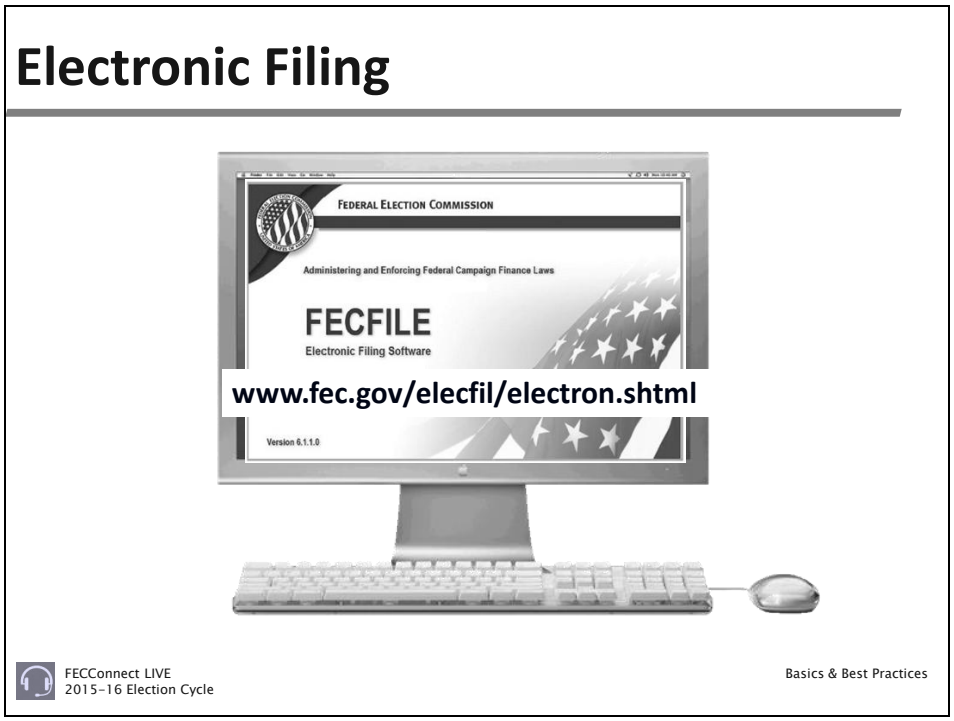
A. Electronic Filing (11 CFR 104.18)

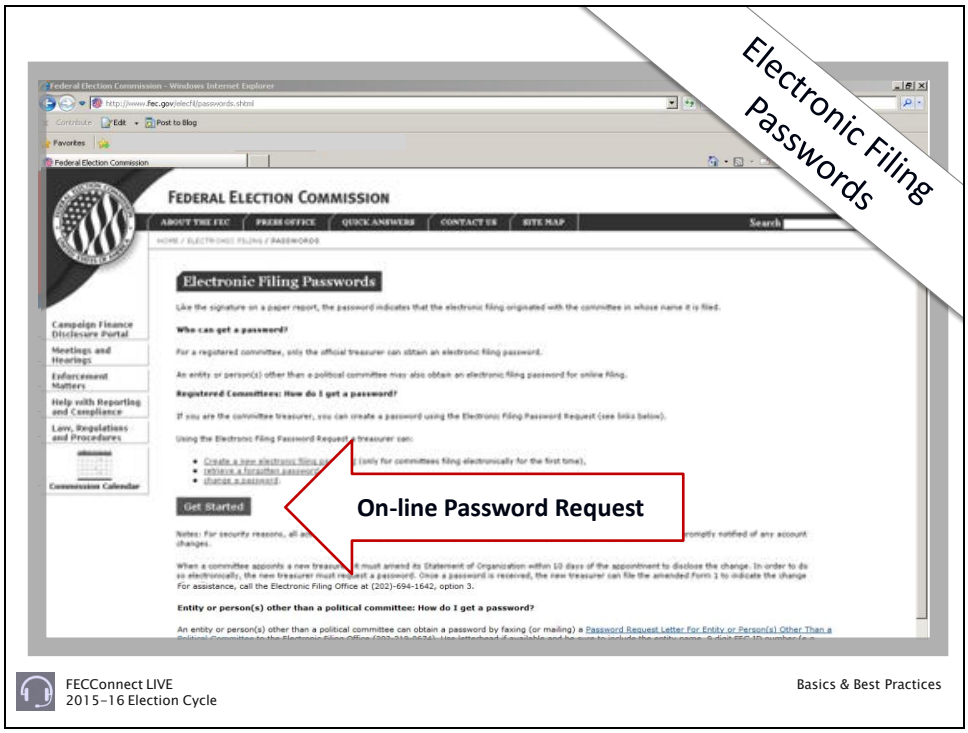
1. Mandatory v. Voluntary

a) Mandatory: Presidential and House campaigns, PACs and party committees that raise or spend more than $50,000 in calendar year or have reason to expect to do so.

b) Voluntary: All other filers.

c) Note: Senate campaigns (or PACs/parties that only support Senate candidates) must file paper copy of report with Secretary of Senate - this is a statutory requirement.





2. Passwords

a) Required

Before you can electronically file your report, you will have to obtain a password. You cannot file without one.

b) Who Can Get a Password?

For registered committees, only the official treasurer can obtain an electronic filing password. It is important that the committee has provided a valid e-mail address on its Statement of Organization, as a validation e-mail will be sent to the Committee.

c) How Do You Get a Password?

(1) Most committees may obtain or change their password on-line at http://www.fec.gov/elecfil/passwords.shtml

(2) Existing committees that have not previously used the on-line system should contact the Electronic Filing Office for assistance at 202-694-1307.

3. Use Updated Software

a) Software revised when forms changed – always use the latest version. Auto update feature makes it simple.

b) Latest version of FECFile 8 – build 8.1.0.4 available for download at http://www.fec.gov/elecfil/updatelist.html.

4. Paper Filing by E-Filer

Committees that submit a report on paper that should have been filing electronically will be treated as non-filers and may be subject to enforcement actions (including Administrative Fines).

5. For more information: http://www.fec.gov/elecfil/electron.shtml.

B. Other Reporting Considerations for Paper Filers

1. Statute Prohibits Extensions (Applicable to Paper and Electronic Filers)**.**

2. Weekends and Holidays

Filing dates not extended for weekends or holidays. Must be received on business day preceding filing date.

3. Registered vs. Overnight Mail

a) If filing using USPS registered mail, keep receipt.

b) "Overnight Mail" means express or priority mail with a delivery confirmation or an overnight service with an on-line tracking system. File using same terms as certified/registered mail. (Keep receipt.)

C. Filing Amendments Required For:

1. Errors

Committee discovers that an earlier report contained erroneous information or mathematical errors.

2. Disclosure of Late Information

Committee obtains required reporting information concerning a particular transaction after the transaction has been reported.

3. Response to Request for Additional Information (RFAI)

FEC sends letter (e-mail) and requests amendment. Response due date appears in upper right corner of RFAI.

4. Procedures for Filing Amendments:

a) Paper Filers

(1) It is not necessary to resubmit the entire report.

(2) Complete the signature page of the Summary Page, checking box indicating that it is an amended report.

(3) Attach corrected schedules, if necessary.

(4) Attach cover letter explaining change (recommended).

b) Electronic Filers

(1) Must submit amendments in electronic format (if original was filed electronically).

(2) Amendment must include complete report (as opposed to just the portion requiring an amendment).

Administrative Fine Program

- Civil money penalties for filing late, or not filing at all.
- Size of fine depends on various factors.

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2015-16 Election Cycle

Basics & Best Practices

D. Administrative Fine Program (AFP)

1. Background

Program for assessing civil money penalties for violations for failure to file reports on time and/or at all.

2. Applies to:

a) Late filers

b) Non-filers

c) Regulations found at 11 CFR 111.30-111.45

Administrative Fine Program

- Election-sensitive reports:
  - **Late filer –** filed after due date, but prior to four days before the applicable election
  - **Non-filer –** filed later than that or not at all
- Non-sensitive reports:
  - **Late filer –** filed ≤ 30 days after the due date
  - **Non-filer –** filed > 30 days late or not at all

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Basics & Best Practices

3. Civil Money Penalties -- Factors in determining:
The interaction of several factors will determine the size of the penalty (also see calculator on website at http://www.fec.gov/af/af_calc.shtml).

a) Election Sensitivity

(1) Election sensitive reports include:
- October Quarterly of election year,
- October Monthly of election year, and
- Pre-election reports for primary, general and special elections.

(2) All other reports are considered nonsensitive.

b) Whether Committee is a Late filer or a Non-filer

(1) <u>For Sensitive Reports</u>

(a) Late filer – when report is filed after the due date but more than four (4) days prior to the election.

(b) Non-filer - report filed after due date and four (4) days or less before the election, or not at all.

(2) <u>For Nonsensitive Reports</u>

(a) Late filer – when report is filed within 30 days after the due date.

(b) Non-filer – when report is filed 31 or more days after due date, or not at all.

(3) Can still be considered a "nonfiler" even if report is eventually filed.

Administrative Fine Program

- Prior civil money penalties for reporting violations
- Financial activity in report
- Smaller penalties for activity < $50,000
- Penalty calculator on FEC website at *http://www.fec.gov/af/af_calc.shtml*

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Basics & Best Practices

c) Prior civil money penalties for reporting violations under the AFP.

d) Financial Activity

(1) Amount of financial activity in the report – total amount of receipts and disbursements.

(2) Committees with less than $50,000 in financial activity during the reporting period in question are subject to reduced penalties under the AFP pursuant to April 2003 revisions to the regulations.

(3) July 2013 revisions to the AFP regulations adjusted penalties for inflation.

(4) Campaign Finance Analysts will not be able to tell you if you will be fined or how much. You can use the Administrative Fine calculator (http://www.fec.gov/af/af_calc.shtml) to estimate your fine. Your committee will be notified in writing if the FEC assesses a civil penalty against your committee under the AFP.

Best Efforts to File on Time

- Best efforts may be used as a defense for late filing if:
  - Committee was prevented from filing report on time by reasonably unforeseen circumstances beyond committee's control
  - Filed the report no later than 24 hours after the end of those circumstances

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Basics & Best Practices

E. Timely Filing/Using Best Efforts (not the same as "best efforts" for obtaining contributor information)

1. **Reports required on time**; no extensions.
2. **If report not filed on time**, committees may use "best efforts" defense if committee took normal precautions and trained staff, but failure to report was due to circumstances beyond committee's control and the late report was filed within 24 hours after those circumstances ended (pursuant to April 2007 revisions to AFP regulations).

Best Efforts to File on Time

- Committee may use best efforts defense if late filing is due to:
  - Failure of FEC computers/Commission-provided software, despite committee seeking technical assistance from FEC personnel and resources
  - Widespread disruption of information transmissions over internet
  - Severe weather or other disaster-related event

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Basics & Best Practices

3. When can best efforts defense be used:

a) Committee may use best efforts defense if failure to report is due to failure of Commission computers or software, despite receiving Commission technical assistance, widespread disruption of information transmissions over the internet, or severe weather or other disaster-related event.

Best Efforts to File on Time

- Committee may **not** use best efforts defense if late filing is due to:
  - Negligence;
  - Illness, inexperience or unavailability of treasurer or committee staff;
  - Committee computer, software or ISP failures;
  - Delays caused by committee vendors/contractors;
  - Failure to know; or
  - Failure to use filing software properly.

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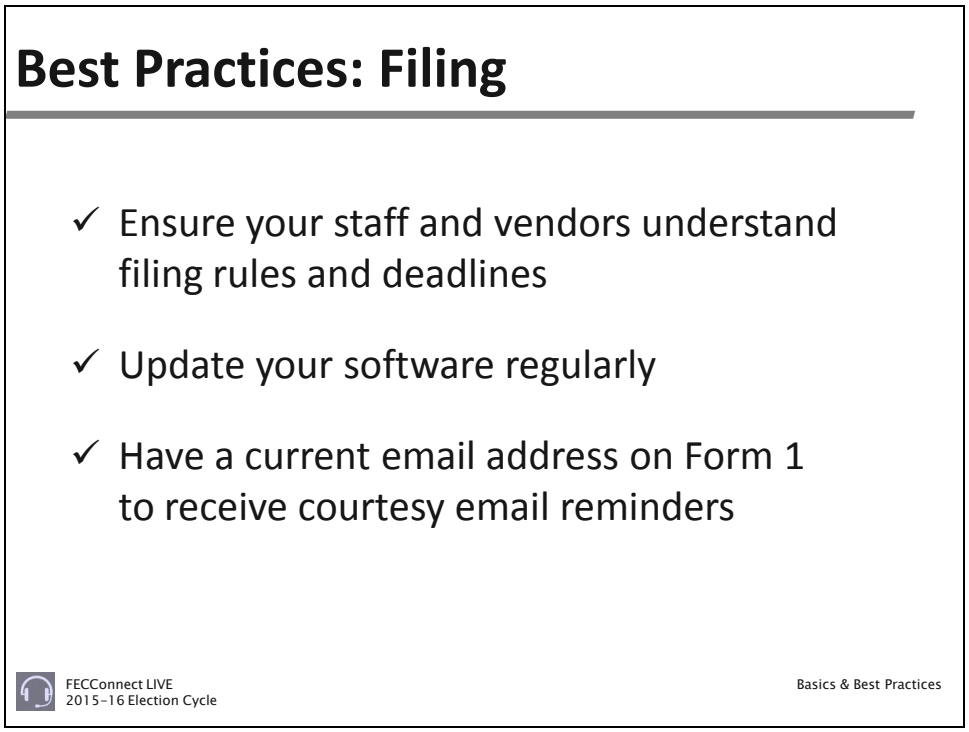
Basics & Best Practices

b) Committee may not use best efforts defense if failure to report is due to unavailability, inexperience or negligence of staff, counsel or organization, failure of committee's computer system, delays caused by vendors, failure to understand or know the law or failure to use filing software properly.

4. For more information, review:
http://www.fec.gov/law/cfr/ej_compilation/2007/notice_2007-7.pdf (rules) and
http://www.fec.gov/law/cfr/ej_compilation/2007/notice_2007-13.pdf (policy statement) and the May and July 2007 *Record* issues.

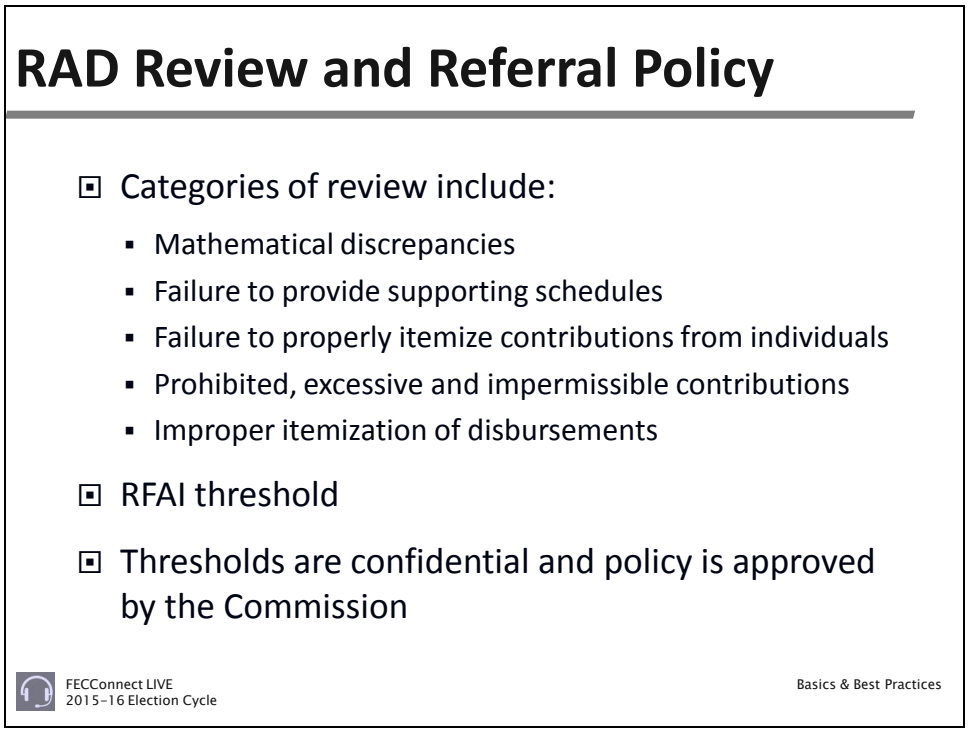
PART 3: BEST PRACTICES FOR FILING



Best Practices:

- Ensure your staff, vendors and counsel understand reporting and filing rules and deadlines.
- Update your software regularly.
- To keep up with filing deadlines, make sure your committee has a current email address on its Form 1 (for receiving courtesy reminders). (To do this, submit a complete electronic Form 1 with a new email address.) Deadlines are also posted online at http://www.fec.gov/info/report_dates.shtml and in the January *Record* each year.

I. RAD Review Process



A. RAD Review of Reports

1. RAD Review and Referral Policy

a) Internal policy contains categories of review the analyst checks, such as: prohibited, excessive and impermissible contributions, mathematical discrepancies, failure to provide supporting schedules and failure to properly itemize contributions from individuals and disbursements, to name a few.

b) Policy has established thresholds for making determinations on whether to send a Request for Additional Information (RFAI).

c) Thresholds are confidential and policy is approved by the Commission. A redacted version of the RAD Review and Referral Policy can be found on the RAD web page.

Review of Reports

- Thresholds are applied on a per report basis.
  - If reoccurring reporting issues exist on multiple reports, committee may receive multiple RFAIs on same issue
  - RAD does not consider previous responses to RFAIs, except responses apply for the two year election cycle for:
    - Best efforts procedures; and
    - Foreign address inquiries that indicate safe harbor guidelines are followed for **all** contributions
- It's possible to see an issue questioned on one report, but not on another

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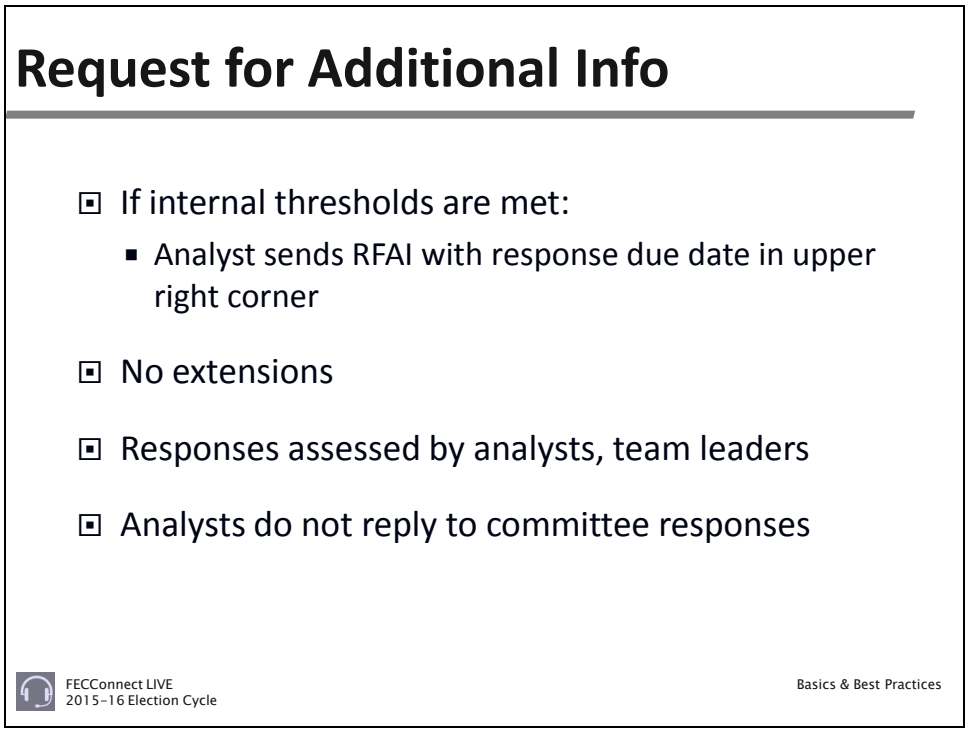
2015-16 Election Cycle

Basics & Best Practices

d) Review is conducted on a per report basis, meaning the thresholds are applied to each report reviewed.
   (1) This means a committee may receive a RFAI which includes the same issue already addressed in response to a RFAI referencing a different report.
      - Exceptions include outlining Best Efforts procedures which would apply to the two-year cycle and responses relating to foreign address inquiries that indicate safe harbor guidelines are followed for all contributions apply for the two-year election cycle.
   (2) There may be several issues that are aggregated together to meet a single threshold, so it's possible to see an issue questioned on one report that isn't included in an RFAI on for another report**.**

e) Policy is reassessed every election cycle and revisions/changes made based on input from RAD and other offices (such as OGC), and Commissioners.

II. Request for Additional Information (RFAI)



A. If internal thresholds are met, an RFAI is sent.

1. RFAI has a "Response Due Date" in the upper right hand corner of the letter, extensions are not granted. The committee analyst's name and contact telephone number are also provided in the letter.
2. **Tip:** You can find out who your analyst is by visiting: http://www.fec.gov/rad/index.shtml

RFAIs via Email

- RAD is now emailing RFAIs to email address on Form 1 (Statement of Organization).
  - Opt-Out Option: File a Form 99 to request that RFAIs be mailed via USPS.
- Committees can now list up to two email addresses on Form 1.
- Ensure current contact information (mailing address, email address, and phone number) appear on FEC Form 1.

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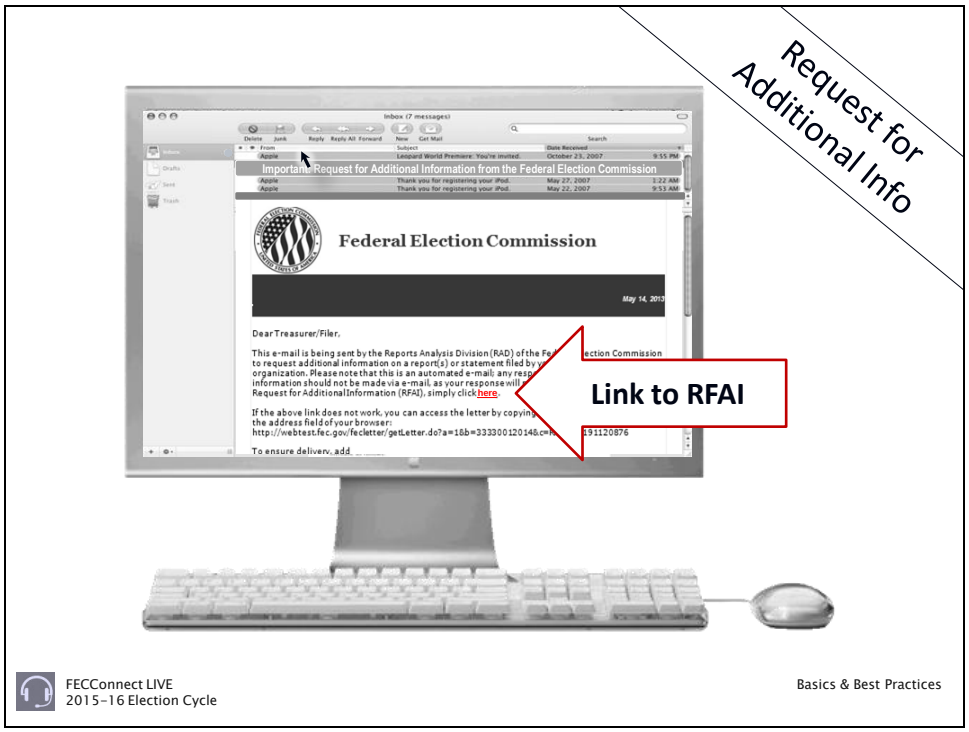
2015-16 Election Cycle

Basics & Best Practices

B. RFAI via email

1. Most RFAIs are now sent via email to the Committee's official email address, as disclosed on the Statement of Organization (FEC Form 1).
2. Up to two email addresses can now be provided (both will be used for emailing RFAIs.
3. Committees will the option to continue to receive RFAIs on paper through the mail.


Request for Additional Info
Important Request for Additional Information from the Federal Election Commission
Federal Election Commission
Dear Treasurer/Filer,
Link to RFAI
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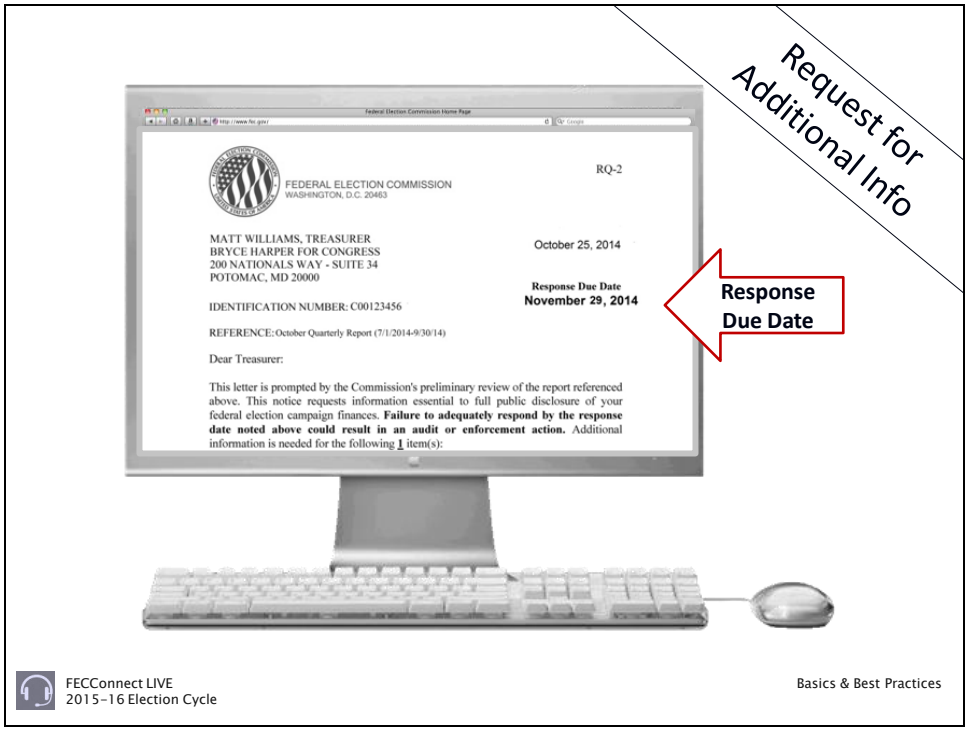
2015-16 Election Cycle
Basics & Best Practices


Request for Additional Info
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463
RQ-2
MATT WILLIAMS, TREASURER
BRYCE HARPER FOR CONGRESS
200 NATIONALS WAY - SUITE 34
POTOMAC, MD 20000
October 25, 2014
Response Due Date
November 29, 2014
Response Due Date
IDENTIFICATION NUMBER: C00123456
REFERENCE: October Quarterly Report (7/1/2014-9/30/14)
Dear Treasurer:
This letter is prompted by the Commission's preliminary review of the report referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. Failure to adequately respond by the response date noted above could result in an audit or enforcement action. Additional information is needed for the following 1 item(s):
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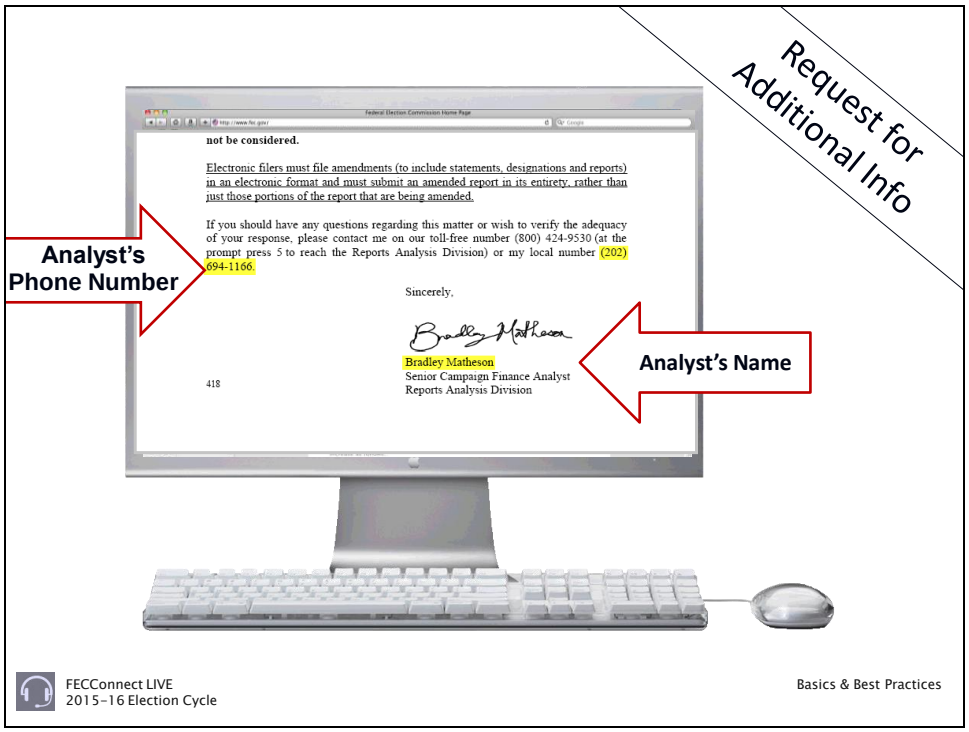
2015-16 Election Cycle
Basics & Best Practices



Responding to RFAIs

- Analysts do not contact committees in every case when a response is not sufficient
- Committee should contact its analyst before and/or after filing a response
- Analysts do not make legal conclusions
- Analysts cannot categorize your activity
- In some cases, RAD consults OGC before sending an RFAI and when assessing a committee's response

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Basics & Best Practices

C. Responses are assessed by the analysts and in some cases, team leaders.

1. Analysts do not reply to responses.
2. Contact is not made with committees in every case when a response is not sufficient. Further explanation below.

3. Committees are encouraged to contact their assigned analyst prior to responding if unsure about how to respond or after a response is filed to ensure an adequate response is received.
4. Keep in mind that analysts can't make legal conclusions or give guidance on a legal conclusion being made by a committee. In addition, they cannot determine what category your activity falls under (i.e., independent expenditures or coordinated party expenditures).
5. In some cases, RAD consults with OGC before sending a RFAI and when making a response assessment.

Responding to RFAIs

- File amendment to:
  Add, Change or Delete actual entries on FEC report
- Use miscellaneous text submission (Form 99) for:
  Narrative responses that do not affect actual entries within a report
  (e.g., demonstrating best efforts, demonstrating safe harbor guidelines are followed for **all** contributions with a foreign address)

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2015–16 Election Cycle

Basics & Best Practices

D. Must amend report when changing information that affects entries on a report.
This would include additions, changes or deletions.

E. Miscellaneous Text Submission (Form 99)
Used for narrative responses that do not affect actual entries within a report. (For example, when outlining procedures for "Best Efforts" in obtaining contributor information.)

Responding to Misappropriation

- Contact the FEC
  - RAD Analyst can help with reporting challenges
  - OGC can help with *sua sponte* submission
- Consult with Counsel
  - Determine if *sua sponte* submission is appropriate
- Notify law enforcement
- Do best to file complete and accurate reports by the established deadlines

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Basics & Best Practices

Internal Controls Resources

- Best Practices for Committee Management (Brochure)
- Best Practices: Internal Controls & Recordkeeping (Video)
- Internal Controls for Political Committees (Audit Handout)
- Policy: Safe Harbor for Misreporting Due to Embezzlement
  - *Record* Summary of Policy Statement

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Basics & Best Practices

Audit Consideration Factors

- Level of financial activity
- Responses to RFAIs
  - ✓ Late or no response
  - ✓ Inadequate response
- Number of amendments filed is NOT a factor
- Election results (Authorized committees only)
- Number of RFAIs received is NOT a factor if responses were adequate and timely

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Basics & Best Practices

F. Referrals to the Audit Division

1. Factors for making referrals to the Audit Division

a) Level of financial activity;

b) Responses to RFAIs:

(1) Late or no response,

(2) Inadequate response.

2. The number of amendments filed is not a factor.

3. The number of RFAIs is not a factor if responded to adequately and on time.

OGC & ADRO Referrals

- Policy includes referral thresholds
- RAD calls committee before referring to OGC or ADRO to explain RFAI and request response
- Adequate and timely response may prevent referral

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Basics & Best Practices

G. Referrals to OGC (Office of General Counsel) and ADRO (Alternative Dispute Resolution Office)

1. Internal policy includes thresholds for determining whether a matter should be referred to OGC or ADRO.
2. Committee will receive a phone call from RAD prior to a referral to ADRO or OGC to explain RFAI and request a response.
3. An adequate response is required by the timeframe given to prevent the matter from being referred.

PART 4: HIGHLIGHT COMPLIANCE RESOURCES

Objectives

- Review Basic Provisions of FECA
- Examine Recordkeeping and Filing Requirements
- Recommend "Best Practices"
- **Highlight Compliance Resources**

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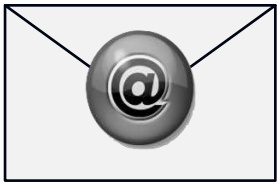
Basics & Best Practices

Compliance Help



www.fec.gov 1-800-424-9530 info@fec.gov

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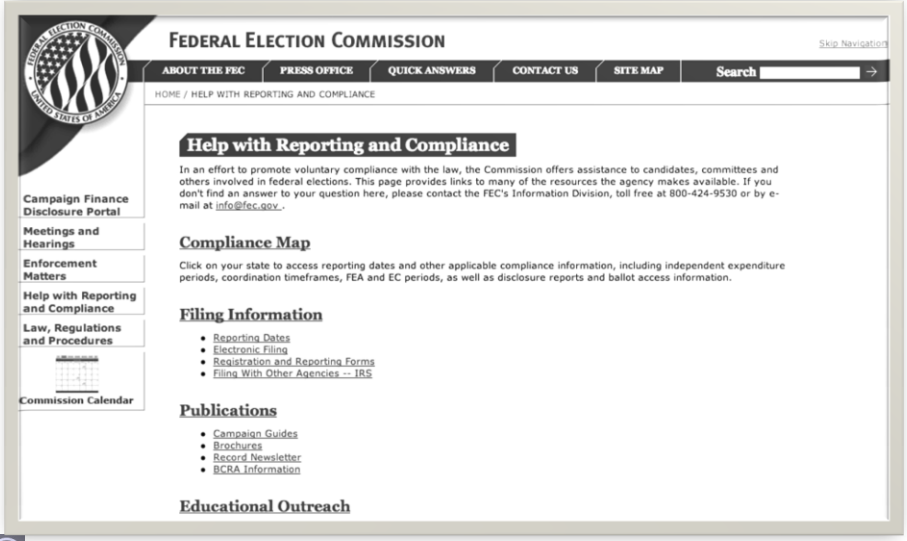
Basics & Best Practices

Compliance Help



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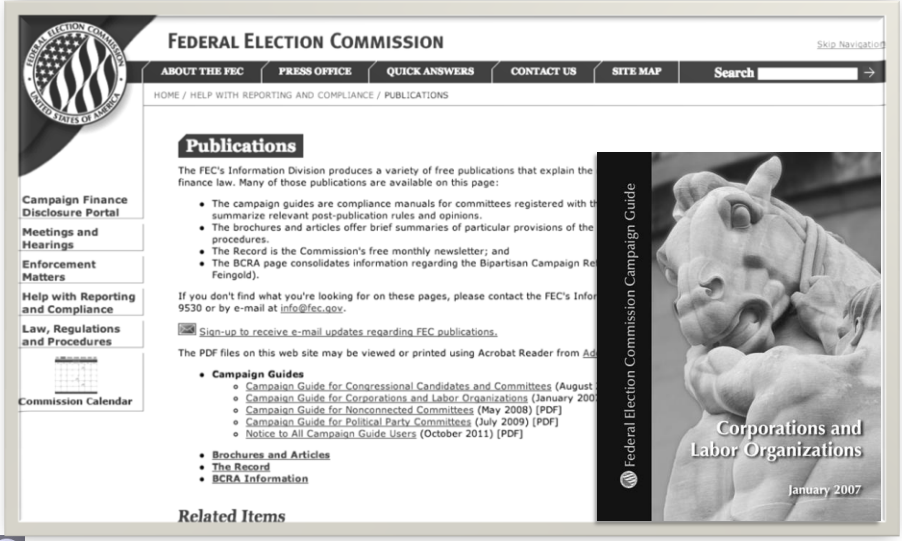
Basics & Best Practices

http://www.fec.gov/info/compliance.shtml

Compliance Help



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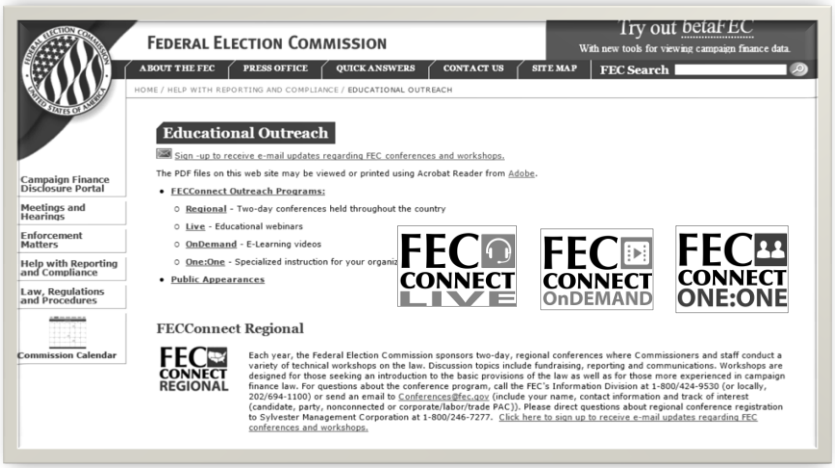
Basics & Best Practices

http://www.fec.gov/info/publications.shtml

Compliance Help



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2015–16 Election Cycle

Basics & Best Practices

http://www.fec.gov/info/outreach.shtml

Compliance Help

FECConnect LIVE
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Basics & Best Practices

http://www.fec.gov/info/elearning.shtml

Compliance Help

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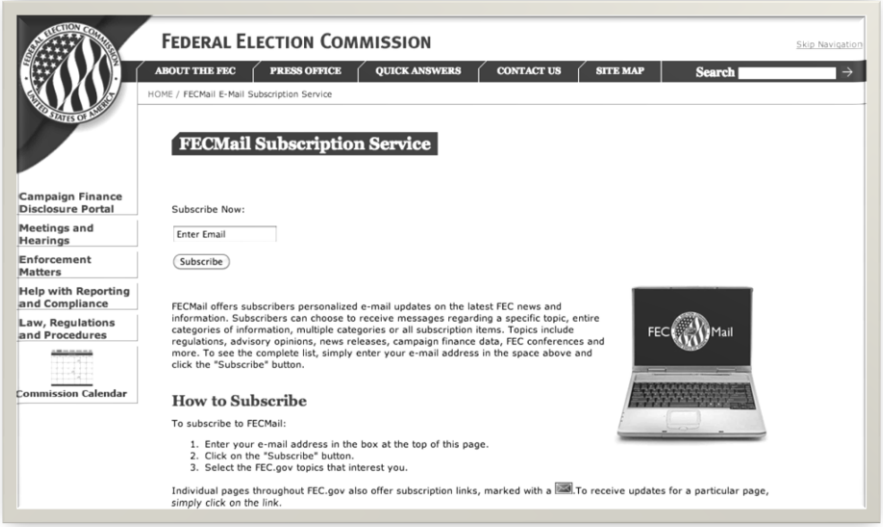
Basics & Best Practices

http://www.fec.gov/ans/answers_pac.shtml

Compliance Help



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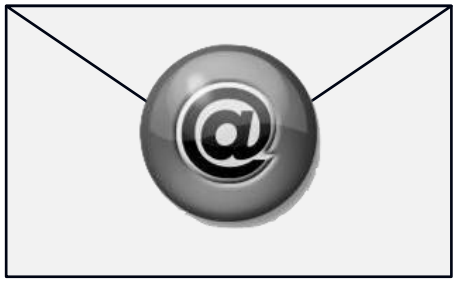
Basics & Best Practices

http://www.fec.gov/info/fecmaill.shtml

Compliance Help



1-800-424-9530

info@fec.gov

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Basics & Best Practices

Toll-free Information Line

- For tech support with e-filing, press 4 for the Electronic Filing Office
- For reporting help, press 5 to reach your RAD Analyst
- For other questions, press 6 for an Information Specialist

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Latest FEC Updates

Live Commission Meeting Video and Recorded Podcasts

FECUpdates on Twitter

Record FEC Record

Press Releases and Weekly Digest News

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Commission Meetings: http://www.fec.gov/agenda/agendas.shtml
FEC Record Blog: http://www.fec.gov/pages/fecrecord/fecrecord.shtml
Press Office: http://www.fec.gov/press/index.shtml

RAD FAQs Web Page

http://www.fec.gov/rad/index.shtml

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Basics & Best Practices

http://www.fec.gov/rad/index.shtml

Beta Website (beta.fec.gov)

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https://beta.fec.gov/

Workshop Evaluation

Help Us Help You!

Please complete an evaluation of this workshop.

https://www.surveymonkey.com/r/YGM3GFY

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Workshop Evaluation: https://www.surveymonkey.com/r/YGM3GFY