



## Commission: Message from FEC Chair Caroline C. Hunter



With the 2012 elections already underway, the Commission anticipates an exciting and challenging year ahead. This election cycle promises to set new records in campaign finance activity. The FEC projects that the total amount spent during the election cycle could top \$11 billion. Our staff has spent the past year developing technological advances to ensure that the Agency can easily receive and make public this volume of campaign finance data, and we look forward to seeing the success of these efforts as we meet the public's demand for quick and clear

access to campaign finance information.

The FEC also provides a robust education and outreach program to provide campaigns, political committees and others regulated under the Federal Election Campaign Act with information necessary to comply with the campaign finance laws. Our first roundtable of the year to help committees prepare for filing their year-end reports will be held this month at FEC headquarters. Others will follow as future filing deadlines approach. In addition, the Commission will offer a two-day conference in Miami, Florida, in February. In an effort to reduce costs for individuals attending FEC conferences, the Commission has replaced its DC conferences with a series of one-day seminars held at the FEC. The Commission plans to hold three one-day seminars in the spring of 2012 to help campaigns and committees conduct their activities for the year.

The Commission is also taking steps to simplify and clarify its campaign finance regulations by repealing FEC regulations prohibiting corporations and labor organizations from making independent expenditures and electioneering communications. These prohibitions were found unconstitutional by the Supreme Court's decision in *Citizens United v. FEC*. The Commission is currently seeking public comments on proposed rules regarding independent expenditures and electioneering communications by corporations and labor organizations, and plans to hold a hearing on these proposed rules on March 7, 2012. We look forward to bringing the FEC's regulations in line with the Court's decision in *Citizen's United*, as well other court decisions.

It is an honor and a pleasure to serve as the FEC's Chair during this exciting election year. The Commission has many things to accomplish in 2012, and I look forward to working with my fellow Commissioners and the dedicated staff of the FEC to meet the Commission's goals.

Sincerely,

Caroline C. Hunter

(Posted 1/15/12; By: FEC Chair Caroline C. Hunter)

## Resources:

- [December 15, 2011 Press Release](#)
- [Commissioners' Biographies and Information](#)
- [Campaign Finance Reports and Data](#)
- [Help with Reporting and Compliance](#)
- [Miami Conference for Candidates, Parties and Corporate/Labor/Trade PACs](#)
- [Independent Expenditure/Electioneering Communication Rulemaking](#)

## Commission: FEC Elects Hunter as Chair for 2012; Weintraub to Serve as Vice Chair



2012 FEC Chair  
Caroline C. Hunter

2012 FEC Vice Chair  
Ellen L. Weintraub

At its open meeting of December 15, 2011, the Federal Election Commission elected Caroline C. Hunter as Chair and Ellen L. Weintraub as Vice Chair for 2012. Commissioner Hunter was nominated by President George W. Bush and confirmed unanimously by the United States Senate on June 24, 2008. Commissioner Weintraub took office on December 9, 2002, after receiving a recess appointment. She was renominated and confirmed unanimously by the Senate on March 18, 2003.

Prior to her appointment to the Commission, Commissioner Hunter served as Vice Chair of the U.S. Election Assistance Commission. She previously served as Deputy Director of the White House Office of Public Liaison, and before that she served as Executive Officer at the U.S. Department of Homeland Security, Office of Citizenship and Immigration Services Ombudsman.

From 2001 to 2005, Commissioner Hunter was Associate Counsel and then Deputy Counsel at the Republican National Committee, where she provided guidance on election law and implementation of the Help America Vote Act.

Commissioner Hunter graduated *cum laude* from the University of Memphis School of Law and received her B.A. from The Pennsylvania State University.

Prior to her appointment to the Commission, Commissioner Weintraub was Of Counsel to Perkins Coie LLP and a member of its Political Law Group. There, she counseled clients on federal and state campaign finance laws, political ethics, nonprofit law and lobbying regulation. Commissioner Weintraub had previously practiced as a litigator with the New York firm of Cahill Gordon & Reindel.

Before joining Perkins Coie, Commissioner Weintraub was Counsel to the Committee on Standards of Official Conduct for the U.S. House of Representatives (the House Ethics Committee). There, Commissioner Weintraub focused on implementing the Ethics Reform Act of 1989. She was Editor in Chief of the House Ethics Manual and a principal contributor to the Senate Ethics Manual.

Commissioner Weintraub received her B.A., *cum laude*, from Yale College and her J.D. from Harvard Law School.

(Posted 12/16/11; By: Dorothy Yeager)

### **Resources:**

- [December 15, 2011 Press Release](#)
- [Meeting Agenda for December 15, 2011](#)
- [Commissioners' Biographies and Information](#)

### **Advisory Opinions: AO 2011-21 Leadership PAC May Not Raise and Spend Unlimited Funds**

A PAC that is sponsored by a federal officeholder (aka a leadership PAC) may not receive unlimited funds from individuals or any funds from corporations and labor organizations for the purpose of financing independent expenditures.

#### **Background**

Constitutional Conservatives Fund PAC (the Committee) is a leadership PAC sponsored by and established, financed, maintained or controlled by Senator Michael Lee of Utah. It is affiliated with Lead Encourage Elect PAC (known as "LEE PAC"), another leadership PAC sponsored by Senator Lee.

The Committee maintains a single federal campaign account (current account), into which it receives contributions that are subject to the limitations, prohibitions and reporting requirements of the Federal Election Campaign Act (the Act). The Committee asked the Commission if it could establish a separate federal account (separate account), into which it would receive unlimited contributions from individuals, corporations and labor organizations. It would use the current account for making direct contributions to candidates, and the separate account to finance independent expenditures.

Independent expenditures financed from the Committee's proposed separate account would expressly advocate for the election or defeat of federal candidates other than Senator Lee. These expenditures would not be coordinated communications, as defined at 11 CFR 109.21, and candidates that benefited from these independent expenditures would not be involved in fundraising for the Committee's separate account.

#### **Analysis**

The Act provides that federal candidates and officeholders, their agents and entities directly or indirectly established, financed, maintained or controlled by, or acting on their behalf (collectively "covered persons"), may not solicit, receive, direct, transfer or spend funds in connection with an election for federal office unless those funds are subject to the limitations, prohibitions and reporting requirements of the Act. 2 U.S.C. §441i(e)(1) (A); 11 CFR 300.61.

By definition, leadership PACs are “directly or indirectly established, financed, maintained, or controlled” by a candidate for federal office or a federal officeholder. 11 CFR 100.5(e) (6). Therefore, funds received by such committees must be subject to the limitations, prohibitions and reporting requirements of the Act. Recent court cases such as *Citizen’s United v. FEC* (holding that corporations may make independent expenditures and electioneering communications with general treasury funds, but also reaffirming that contribution limits are an accepted means to prevent *quid pro quo* corruption and its appearance) and *EMILY’s List v. FEC* (holding that political committees and other non-profit groups may finance certain independent political activity with funds outside the limitations and certain prohibitions of the Act) do not invalidate these restrictions on covered persons. Section 441i(e) of the Act still governs the activity of covered persons when they solicit, receive, direct, transfer or spend funds in connection with an election for federal office.

It follows that the Committee may not receive unlimited funds from individuals, or any funds from corporations or labor organizations, because such funds would not be subject to the limitations and prohibitions of the Act. See [Advisory Opinion 2011-12 \(Majority PAC and House Majority PAC\)](#).

This conclusion is not altered by the fact that the Committee would use the funds solely to finance independent expenditures supporting or opposing federal candidates and officeholders other than Senator Lee. Nor does it matter that the funds would be deposited into a separate federal account.

Date Issued: December 1, 2011; Length: 5 pages.

(Posted December 13, 2011; By: Isaac Baker)

#### **Resources:**

- [Advisory Opinion 2011-21](#) [PDF; 5 pages]
- [Commission's consideration of AOR 2011-21](#) 
- [Corporate/Labor Expenditures](#) (*Citizens United*)
- [Allocation of Expenses by SSFs and Nonconnected Committees; Funds Received in Response to Solicitations](#) (*EMILY's List*)
- [Brochure: Coordinated Communications and Independent Expenditures](#)

#### **Advisory Opinions: AO 2011-22 Membership Organization Solicitations**

The Virginia Poultry Growers Cooperative, Inc. (VPGC) qualifies as a membership organization under the Federal Election Campaign Act (the Act). As a membership organization, it may establish a separate segregated fund (SSF) and collect contributions to the fund from its unincorporated members through deductions from settlement payments owed to those members. However, VPGC may not solicit executive or administrative personnel of incorporated members of the organization for contributions to the SSF.

## **Background**

VPGC is incorporated in the Commonwealth of Virginia as an agricultural cooperative whose purpose is to grow and process turkeys and engage in other lawful activity under Virginia law. VPGC sets several requirements for membership in the cooperative, including entering into a production contract with VPGC, consenting to membership in writing and acquiring one share of Class A common stock of VPGC. The VPGC Board of Directors votes to approve membership in the cooperative. Members of VPGC have the power to operate and administer the organization.

VPGC wishes to establish and administer an SSF and to solicit contributions to the SSF from its own executive and administrative personnel and their families and from its unincorporated members. Additionally, VPGC asks whether it may collect contributions to the SSF from unincorporated members through deductions from settlement payments owed to the members by VPGC pursuant to their poultry production contracts. VPGC also asks whether it may solicit contributions to the SSF from executive or administrative personnel of incorporated members of the cooperative.

## **Analysis**

*Qualification as a Membership Organization.* The Act and Commission regulations define a membership organization as a trade association, cooperative, or corporation without capital stock, or a local, national or international labor organization that 1) is composed of members, some or all of whom are vested with the power and authority to operate or administer the organization; 2) expressly states the qualifications and requirements for membership, 3) makes its articles, bylaws or other organizational documents available to its members upon request; 4) expressly solicits persons to become members; 5) expressly acknowledges the acceptance of membership such as by sending a membership card or including the member's name on a membership list; and 6) is not organized primarily for the purpose of influencing a federal election. 11 CFR 114.1(e)(1); 11 CFR 100.134(e).

VPGC meets each of the above criteria because it is composed of members that have the power and authority to operate and administer the organization. Commission regulations define "members" as persons who satisfy the requirements for membership in a membership organization, affirmatively accept the membership organization's invitation to become a member, and either: 1) have a significant financial attachment to the organization, such as a significant investment or ownership stake; 2) pay membership dues on at least an annual basis; or 3) have a significant organizational attachment to the membership organization which includes affirmation of membership on at least an annual basis and direct participatory rights in the governance of the organization. 11 CFR 114.1(e)(2)(i) – (iii) and 100.134(f)(1)-(3). Voting rights in VPGC are vested in Class A common stockholders equally. Holders of Class A stock qualify as members because they satisfy VPGC's requirements for membership, they affirmatively accept VPGC's invitation to become members by entering production contracts and they have significant financial attachments to VPGC (in the form of stock they are issued upon joining the organization).

Additionally, VPGC expressly states the qualification and requirements for membership in its Articles of Incorporation and Bylaws and makes them available upon request to members of the organization. VPGC expressly solicits poultry producers to become members and expressly acknowledges acceptance of membership. Finally, VPGC is not organized primarily for the purpose of influencing a federal election.

Since VPGC meets the above criteria, it qualifies as a membership organization under the Act and Commission regulations and may thus establish an SSF.

*Collection of Contributions from Unincorporated Members.* VPGC may collect contributions to the SSF from unincorporated members of the organization by means of deductions from settlement payments owed to those members. The Commission has previously concluded that a cooperative may collect contributions to its SSF from its unincorporated members by means of deductions from regular payments owed by the cooperative to the members. See [AO 1986-07 \(Crystal Sugar Co.\)](#).

Additionally, the Commission has previously concluded that where an SSF's solicitable class includes unincorporated entities, the SSF or its connected organization may solicit contributions from such entities by addressing solicitations to the one or two individuals who normally represent the entity in its dealings with the SSF or the connected organization. See [AO 2005-14 \(AKFCF\)](#).

*Solicitations of Incorporated Members.* VPGC may not, however, solicit contributions from the executive and administrative personnel of members of the organization that are incorporated. The Act and Commission regulations do not permit a membership organization to solicit for its SSF other than from its members and its executive or administrative personnel and their families. The Act does contain a provision that allows trade associations to solicit contributions from "the stockholder and executive or administrative personnel of the member corporations of such trade association and families of such stockholders or personnel." 2 U.S.C. §441b(b)(4)(D); see also 11 CFR 114.8(c). Commission regulations define a trade association as a "membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind ordinarily carried on for profit, and no part of the net earnings of which inures to the benefit of any member." 11 CFR 114.8(a). Since VPGC is a membership organization of persons engaged in a similar line of commerce, but is organized for the purpose of growing and processing turkeys, a business ordinarily carried on for profit, and because its net earnings inure to the benefit of its members, it does not fall within the statutory provision pertaining to trade associations. Accordingly, VPGC may not solicit the executive and administrative personnel of incorporated members for contributions to the SSF. See also [AOs 1990-18 \(Oahu FCU\)](#) and [1990-22 \(Blue Cross/Blue Shield\)](#).

(Posted 12/21/11; By: Isaac Baker)

#### **Resources:**

- [Advisory Opinion 2011-22](#) [PDF; 5 pages]
- [Commission's consideration of AOR 2011-22](#) 
- [Campaign Guide for Corporations and Labor Organizations](#) [PDF; 134 pages]

## **Regulations: Notice of Proposed Rulemaking on Corporate and Labor Expenditures**

On December 27, 2011, the Commission published in the *Federal Register* a Notice of Proposed Rulemaking (NPRM) seeking comments on proposed changes to its rules regarding corporate and labor organization funding of expenditures, independent expenditures and electioneering communications. These proposed changes are in response to a Petition for Rulemaking filed by the James Madison Center for Free Speech urging the Commission to amend its regulations in response to the Supreme Court's ruling in *Citizens United v. FEC*. In that decision the Supreme Court held that the two provisions of the Federal Election Campaign Act (the Act) that prohibit corporations from making independent expenditures and electioneering communications violate the First Amendment. 559 U.S.\_\_\_\_, 130 S. Ct. 876 (2010). The Court upheld the validity of the Act's reporting, disclosure and disclaimer requirements for independent expenditures and electioneering communications.

### **Proposed Rules**

The Commission proposes to change 11 CFR Part 114 by modifying specific language within that section that prohibits corporations and labor organizations from using general treasury funds to finance independent expenditures and electioneering communications, and removing language that may be unnecessary given the permissible uses of treasury funds under *Citizens United*.

The Commission proposes to modify 11 CFR 114.2(b)(2)(i) in one of two ways: either by narrowing the prohibition to allow all expenditures except those that are coordinated with a candidate or political party committee, including coordinated communications, or by narrowing the prohibition to allow only communications that are not coordinated with a candidate or party committee, while continuing to prohibit expenditures that are not made for communications.

These alternative approaches would also apply to the regulations governing communications by corporations and labor organizations to the restricted class in 11 CFR 114.3 and to those outside the restricted class in 11 CFR 114.4. Concerning the latter regulation, the Commission proposes to remove the prohibition on making express advocacy communications to those outside the restricted class, but would maintain the restrictions on coordinating with candidates and political parties when making communications to those outside the restricted class. Among the proposed changes to both 11 CFR 114.3 and 114.4 are alternatives for changing the current restrictions on how corporations and labor organizations may conduct voter registration and GOTV drives. For both 11 CFR 114.3 and 114.4, Alternative A would remove all existing requirements and prohibitions regarding voter registration and GOTV drives, with the exception of the prohibition on coordination with candidates or parties, while Alternative B would retain those requirements and prohibitions. Alternative B for proposed 11 CFR 114.4 would, however, remove the prohibition on express advocacy currently at 11 CFR 114.4(d)(1).

The Commission seeks comment on whether to remove or revise section 114.10, certain provisions of which currently exempt qualified nonprofit corporations (QNC) from the pre-*Citizens United* ban on corporate independent expenditures and electioneering

communications. The Commission proposes to either remove the section or to revise it to expand the existing rules to apply to all corporations and labor organizations that make such independent expenditures or electioneering communications. The Commission proposes a regulation to state affirmatively that a corporation or labor organization may establish a segregated bank account for funds to be used for the making of electioneering communications.

Finally, the Commission proposes to remove 11 CFR 114.14 and 114.15 in their entirety. Together, these sections prohibit corporations and labor organizations from providing general treasury funds to other persons to make electioneering communications that are the functional equivalent of express advocacy. Because of the Court's decision, the regulation at 114.14, designed to prohibit corporations and labor organizations from doing through another person what the corporation or labor organization could not do directly, may have been rendered unnecessary. Likewise, section 114.15, which provides a safe harbor for certain electioneering communications made by corporations and labor organizations, may have also been rendered unnecessary. The Commission seeks comment as to whether the section is still relevant to any remaining regulations.

## Comments

The complete text of the NPRM is available at <http://sers.fec.gov/fosers/showpdf.htm?docid=115036>. Comments are due on or before February 3, 2012. Reply comments must be limited to the issues raised in the initial comments and must be received on or before February 17, 2012. The Commission will hold a hearing on these proposed rules on March 7, 2012. Anyone wishing to testify at the hearing must file written comments by the due date and must include in those comments a request to testify.

All comments must be made in writing. Commenters are encouraged to submit their comments electronically via the FEC website at <http://www.fec.gov/fosers/>. Alternatively, comments may be sent on paper to the Federal Election Commission, Attn: Robert M. Knop, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of the commenter (and of each commenter contributing to comments filed jointly) or they will not be considered. Comments will be posted on the FEC website at the end of the comment period.

*(Posted 1/5/12; By: Christopher Berg)*

## Resources:

- [Commission Consideration of NPRM](#) 
- [Supreme Court Decision in Citizens United v. FEC](#)
- [11 CFR 114.3 and 114.4](#)

## **Reporting: Oregon Special General Election Reporting: 1st District**

Oregon will hold a Special General Election to fill the U.S. House seat in Oregon's 1st Congressional District vacated by Representative David Wu. The Special General will be held January 31, 2012.

Candidate committees involved in this election must follow the reporting schedule posted at [http://www.fec.gov/pages/report\\_notices/2012/or01.shtml](http://www.fec.gov/pages/report_notices/2012/or01.shtml). Please note that the reporting period for the Post-General election report spans two election cycles. For this report only, authorized committees must use the Post-Election Detailed Summary Page rather than the normal Detailed Summary Page.

PACs and party committees that filed on a semi-annual schedule in 2011 and participate in this election must also follow the schedule above. Because this report spans two calendar years, PACs and party committees filing the Post-General must file this report on two separate forms: One form to cover 2011 activity, labeled as the Year-End Report; and the other form to cover only 2012 activity, labeled as the Pre-General Report. PACs and party committees that file monthly continue to file according to their regular filing schedule.

### **Filing Electronically**

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the applicable filing deadline. Electronic filers who instead file on paper or submit an electronic report that does not pass the Commission's validation program by the filing deadline will be considered nonfilers and may be subject to enforcement actions, including administrative fines. Please note that the FEC does not have authority to extend filing deadlines, even when they fall on weekends or holidays.

### **Timely Filing for Paper Filers**

*Registered and Certified Mail.* Reports sent by registered or certified mail must be post-marked on or before the mailing deadline to be considered timely filed. A committee sending its reports by registered or certified mail should keep its mailing receipt with the U.S. Postal Service (USPS) postmark as proof of filing because the USPS does not keep complete records of items sent by certified mail. 2 U.S.C. §434(a)(5) and 11 CFR 100.19 and 104.5(e). Please note that the FEC does not have authority to extend filing deadlines, even when they fall on weekends or holidays.

*Overnight Mail.* Reports filed via overnight mail [\[fn1\]](#) will be considered timely filed if the report is received by the delivery service on or before the mailing deadline. A committee sending its reports by Express or Priority Mail, or by an overnight delivery service, should keep its proof of mailing or other means of transmittal of its reports. 2 U.S.C. §434(a)(5) and 11 CFR 100.19 and 104.5(e).

*Other Means of Filing.* Reports sent by other means—including first class mail and courier—must be received by the FEC before the Commission's close of business on the filing deadline. 11 CFR 100.19 and 104.5(e).

Forms are available for downloading and printing at the FEC's website (<http://www.fec.gov/info/forms.shtml>) and from FEC Faxline, the agency's automated fax system (202/501-3413).

### **48-Hour Contribution Notices**

Note that 48-hour notices are required of the participating candidate's principal campaign committee if it receives any contribution of \$1,000 or more per source between January 12 and January 28, 2012.

### **24- and 48-Hour Reports of Independent Expenditures**

Political committees and other persons must file 24-hour reports of independent expenditures that aggregate at or above \$1,000 between January 12 and January 29, 2012. This requirement is in addition to that of filing 48-hour reports of independent expenditures that aggregate \$10,000 or more during the calendar year up to and including the 20th day before an election. The 48-hour reporting requirement applies to independent expenditures that aggregate at or above \$10,000 between January 1 and January 11, 2012.

### **Electioneering Communications**

The 60-day electioneering communications period in connection with the Special General Election runs from December 2, 2011 through January 31, 2012.

### **Disclosure of Lobbyist Bundling Activity**

Campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special election must simultaneously file FEC Form 3L if they receive two or more bundled contributions from any lobbyist/registrant or lobbyist/registrant PAC that aggregate in excess of \$16,200 during the special election reporting period. 11 CFR 104.22(a)(5)(v). For more information on these requirements, see the [March 2009 Record](#).

*(Posted 1/5/12; By: Dorothy Yeager)*

*1/ "Overnight mail" includes Priority or Express Mail having a delivery confirmation, or an overnight service with which the report is scheduled for next business day delivery and is recorded in the service's on-line tracking system.*

### **Resources:**

- [Federal Register notice](#)
- [FECFile Filing Software](#)
- [Post-Election Detailed Summary Page](#) (for authorized campaign committees) and [Instructions](#)

### **Reporting: Reports Due in 2012**

This article on filing requirements for 2012 is supplemented by the reporting tables linked at [http://www.fec.gov/info/report\\_dates\\_2012.shtml](http://www.fec.gov/info/report_dates_2012.shtml).

### **Notification of Filing Deadlines**

In addition to publishing this article, the Commission notifies committees of filing deadlines on its website, via its automated Faxline and through reporting reminders called prior notices. Prior notices are distributed exclusively by electronic mail. For that reason, it is important that every committee update its [Statement of Organization \(FEC Form 1\)](#) to disclose a current e-mail address. To amend Form 1, electronic filers must submit Form 1 filled out in its entirety. Paper filers should include only the committee's name, address, FEC identification number and the updated or changed portions of the form.

### **Treasurer's Responsibilities**

The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Federal Election Campaign Act (the Act) and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail ([see below](#)), or electronically, must be received by the Commission's (or the Secretary of the Senate's) close of business on the deadline, or, if the deadline falls on a weekend or holiday, the close of business on the last business day before the deadline.

### **Late Filing**

The Federal Election Campaign Act does not permit the Commission to grant extensions of filing deadlines under any circumstances. Filing late reports may result in enforcement action by the Commission. The Commission pursues compliance actions against late filers and nonfilers under the Administrative Fine program and on a case-by-case basis. For more information on the Administrative Fine program, visit the FEC website at <http://www.fec.gov/af/af.shtml>.

### **Filing Electronically**

Under the Commission's mandatory electronic filing regulations, individuals and organizations that receive contributions or make expenditures, including independent expenditures, in excess of \$50,000 in a calendar year—or have reason to expect to do so—must file all reports and statements with the FEC electronically. [fn1] Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Standard/Daylight Time on the applicable filing deadline. Electronic filers who instead file on paper or submit an electronic report that does not pass the Commission's validation program by the filing deadline will be considered nonfilers and may be subject to enforcement actions, including administrative fines. 11 CFR 104.18(e).

Senate committees and other committees that file with the Secretary of the Senate are not subject to the mandatory electronic filing rules, but, in addition to their official report filed with the Secretary of the Senate, the committees may file an unofficial copy of their reports with the Commission in order to speed disclosure.

The Commission's electronic filing software, FECFile, is free and can be downloaded from the FEC's website. FECFile Version 8.0.1.5 is available for download from the FEC's website at <http://www.fec.gov/elecfil/updatelist.html>. All reports filed after December 14, 2011, must be filed in Format Version 8.0.1.5. Reports filed in previous formats will not be accepted. Filers may also use commercial or privately developed software as long as the software meets the Commission's format specifications, which are available on the Commission's website. Committees using commercial software should contact their vendors for more information about the Commission's latest software release.

### **Timely Filing for Paper Filers**

*Registered and Certified Mail.* Reports sent by registered or certified mail must be postmarked on or before the mailing deadline to be considered timely filed. A commit-

with the U.S. Postal Service (USPS) postmark as proof of filing because the USPS does not keep complete records of items sent by certified mail. See 2 U.S.C. §434(a)(5) and 11 CFR 100.19 and 104.5(e).

*Overnight Mail.* Reports filed via overnight mail [fn2] will be considered timely filed if the report is received by the delivery service on or before the mailing deadline. A committee sending its reports by Express or Priority Mail, or by an overnight delivery service, should keep its proof of mailing or other means of transmittal of its reports. See 2 U.S.C. §434(a)(5) and 11 CFR 104.5(e). See also, generally, 11 CFR 100.19.

*Other Means of Filing.* Reports sent by other means—including first class mail and courier—must be received by the FEC (or the Secretary of the Senate) before close of business on the filing deadline. See 11 CFR 100.19 and 104.5(e). Paper forms are available for downloading at the FEC’s website (<http://www.fec.gov/info/forms.shtml>) and from FEC Faxline, the agency’s automated fax system (202/501-3413). The 2012 Reporting Schedule is also available on the FEC’s website ([http://www.fec.gov/info/report\\_dates\\_2012.shtml](http://www.fec.gov/info/report_dates_2012.shtml)), and from Faxline. For more information on reporting, call the FEC at 800/424-9530 or 202/694-1100.

### **Year-End Reports Covering 2011 Activity**

All committees must file a 2011 year-end report due January 31, 2012. The coverage and reporting dates are found at [http://www.fec.gov/info/report\\_dates\\_2011.shtml](http://www.fec.gov/info/report_dates_2011.shtml).

### **Reports Covering 2012 Activity**

To find out which reports your committee must file in 2012, check the [Guide to 2012 Reporting](#). Then check the bulleted links to tables for various categories of reporting dates. Please note that committees active in special elections in 2012 may have to file additional special election reports, as explained below. All FEC reporting dates are also available on the Commission’s website at [http://www.fec.gov/info/report\\_dates.shtml](http://www.fec.gov/info/report_dates.shtml).

### **Authorized Committees of Candidates**

*House and Senate Candidates.* All campaigns that have a reporting obligation must file quarterly reports in 2012. Generally, an individual becomes a candidate for federal office, thus triggering registration and reporting obligations, when his or her campaign exceeds \$5,000 in either contributions received or expenditures made. If the campaign has not exceeded the \$5,000 threshold, it is not required to file reports. See 11 CFR 100.3(a)(1). See also 11 CFR 100.3(a)(2) and (3). The authorized committees of House and Senate candidates must also file pre-primary election and pre-general election reports before any election in which the candidate runs in 2012. These committees also must file a post-general election report if the candidate runs in the general election. 11 CFR 104.5(a)(2).

Principal campaign committees of candidates who ran in past elections or are running in future elections must also file quarterly reports in 2012. Before a committee can stop filing with the FEC, it must file a termination report with the Commission or the Secretary of the Senate, as appropriate. See [11 CFR 102.3](#). Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

*Presidential Candidates.* All Presidential committees must file on either a monthly or a quarterly schedule in 2012. If on January 1, 2012, the committee has received or anticipates receiving contributions aggregating \$100,000, or has made or anticipates making

expenditures aggregating \$100,000, the committee files monthly reports in 2012. Committees which do not anticipate or have not exceeded the \$100,000 thresholds file quarterly reports in 2012. See [11 CFR 104.5\(b\)\(1\)\(i\)](#) and (ii). Note that quarterly filers must also file a pre-election report for each election in which the candidate seeks nomination or election. See [11 CFR 104.5\(b\)\(1\)\(ii\)](#).

Presidential committees able to change their reporting schedule and that wish to do so are required to notify the Commission in writing. 11 CFR 104.5(b)(2). Electronic filers must file this request electronically. After filing this notice of change in filing frequency with the Commission and receiving an approval notice from the Commission, all future reports must follow the new filing schedule. Please note that, as explained above, Presidential committees that have received contributions or made expenditures of \$100,000 or more during the current presidential election cycle must file monthly reports in 2012. 11 CFR 104.5(b)(1)(i).

### **State, District and Local Party Committees**

State, district and local party committees that engage in reportable "federal election activity" must file on a monthly schedule. 11 CFR 300.36(c)(1). Committees that do not engage in reportable "federal election activity" may file on a quarterly basis in 2012. 11 CFR 104.5(c)(1)(i).

### **National Party Committees**

National committees of political parties must file on a monthly schedule in all years. 2 U.S.C. §434(a)(4)(B) and 11 CFR 104.5(c)(4).

### **Political Action Committees**

PACs (separate segregated funds and nonconnected committees) that filed on a semi-annual basis during 2011 must file on a quarterly basis in 2012. Monthly filers continue on the monthly schedule. PACs may change their filing schedule, but must first notify the Commission in writing. Electronic filers must file this request electronically. A committee may change its filing frequency only once a year, and after giving notice of change in filing frequency to the Commission and receiving an approval notice, all future reports must follow the new filing frequency. 11 CFR 104.5(c).

### **Pre- and Post-Election Reports**

Please note that in 2012, party committees and PACs that file monthly reports must file a pre-general election report and a post-general election report in lieu of the reports otherwise due in November and December. Party committees and PACs that file quarterly reports also file:

- A pre-primary election report and a pre-general election report before any election in which the committee makes a contribution to or an expenditure on behalf of a candidate in that election, if not previously disclosed; and
- A post-general election report.

### **Where to File**

Committee treasurers must file campaign finance reports with the appropriate federal office, as discussed below. State filing requirements also apply to campaign finance reports filed by the principal campaign committees of candidates seeking office in Guam, Puerto Rico and the Northern Mariana Islands and to reports filed by PACs and party committees that support these candidates. 2 U.S.C. §439(a)(2)(B).

*House Candidate Committees.* Principal campaign committees of House candidates file with the FEC. 11 CFR 105.1.

*Senate Candidate Committees.* Principal campaign committees of Senate candidates file with the Secretary of the Senate. 11 CFR 105.2.

*Presidential Committees.* Principal campaign committees of Presidential candidates file with the FEC. 11 CFR 105.3.

*Candidate Committees with More Than One Authorized Committee.* If a campaign includes more than one authorized committee, the principal campaign committee files, with its own report, a consolidated report of receipts and disbursements (FEC Form 3Z) showing its own activity as well as the activity of all other authorized committees of the candidate. 11 CFR 104.3(f).

*PACs and Party Committees.* Generally, PACs and party committees file with the FEC. However, committees that support only Senate candidates file with the Secretary of the Senate, as do the national Senatorial campaign committees. 11 CFR 105.2 and 11 CFR 105.4.

*Joint Fundraising Committees.* Joint fundraising committees supporting only Senate candidates file with the Senate. All other joint fundraising committees file with the FEC. Please note that joint fundraising committees supporting only federal candidates file on Form 3 and follow the reporting schedule for authorized committees. 11 CFR 102.13(c). Joint fundraising committees supporting both federal candidates and other party or non-party political committees (such as PACs) file on Form 3X and follow the reporting schedule for unauthorized committees. 11 CFR 104.5(a) and (c).

### **Independent Expenditures**

Political committees and other entities that make independent expenditures at any time during the calendar year—up to and including the 20th day before an election (including a special election)—are required to disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more per election. This reporting requirement is in addition to the requirement to file 24-hour reports of independent expenditures each time disbursements for independent expenditures aggregate or exceed \$1,000 per election during the last 20 days—up to 24 hours—before an election (including a special election). Note that aggregations of independent expenditures must be calculated as of the first date on which a communication that constitutes an independent expenditure is publicly disseminated, and as of the date that any such communication with respect to the same election is subsequently publicly disseminated. 2 U.S.C. §§434(b), (d) and (g) and 11 CFR 100.19(d), 104.4(b), (c) and (f) and 109.10(c) and (d).

Political committees must use [FEC Form 3X, Schedule E](#), to file 48- and 24-hour reports. Persons and other entities that are not political committees must use [FEC Form 5](#).

Political committees must report independent expenditures that do not trigger the 48- or 24-hour reporting thresholds on their regularly scheduled campaign finance reports. These independent expenditure reports are not required when a party committee or PAC makes a contribution directly to a candidate.

Persons and other entities that are not political committees must disclose independent expenditures in a quarterly report filed on FEC Form 5 once the expenditures exceed \$250 in a calendar year in connection with an election. 11 CFR 104.4(b)(1) and 109.10(b). Form 5 filers are not required to file quarterly reports for periods in which they have not made any independent expenditures. However, they must file quarterly reports for periods in which they made expenditures aggregating over \$250 in a calendar year for a given election, regardless of whether or not they have already reported that activity in a 48- or 24-hour report.

For a chart of 2012 48- and 24-hour reporting periods for independent expenditures, consult the FEC website at [http://www.fec.gov/info/charts\\_ie\\_dates\\_2012.shtml](http://www.fec.gov/info/charts_ie_dates_2012.shtml).

All individuals, persons and committees, including Senate committees, must file their 24- and 48-hour reports and quarterly reports of independent expenditures with the Commission. 11 CFR 105.1 and 105.2. See also 11 CFR 104.4 and 109.10.

### **Committees Active in Special Elections**

Committees authorized by candidates running in any 2012 special election must file pre- and post-election reports in addition to the quarterly reports. 11 CFR 104.5(h). They are also required to comply with the 48-hour notice requirement for any contribution of \$1,000 or more per source (including loans) received shortly before an election. See 11 CFR 104.5(f).

PACs and party committees supporting candidates running in special elections may also have to file pre- and post-election reports unless they file on a monthly basis. 11 CFR 104.5(c)(3) and 104.5(h). All PACs, as well as individuals, corporations, labor organizations and all other persons, are subject to 48- and 24-hour reporting of independent expenditures made before an election. See 11 CFR 104.4(b) and (c) and 104.5(g).

When time permits, the Record will alert committees to special election reporting dates.

### **Electioneering Communications**

Additionally, individuals and other persons who make disbursements for "electioneering communications" that aggregate in excess of \$10,000 must file disclosure statements with the Commission within 24 hours of distribution of the communications to the public. See 11 CFR 100.29. A chart detailing the electioneering communication periods for 2012 Congressional and Presidential primary and runoff elections is available on the FEC website at [http://www.fec.gov/info/charts\\_ec\\_dates\\_2012.shtml](http://www.fec.gov/info/charts_ec_dates_2012.shtml).

### **Disclosure of Lobbyist Bundling Activity**

Campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with an election (including special elections) must simultaneously file [FEC Form 3L](#) if they receive two or more bundled contributions from any lobbyist/registrant or lobbyist/registrant PAC that aggregate in excess of the lobbyist bundling disclosure threshold during the election reporting period. 11 CFR 104.22(a)(5)(v).

The lobbyist bundling disclosure threshold for calendar year 2011 was \$16,200. This threshold amount may increase in 2012 based upon the annual cost of living adjustment (COLA). As soon as the adjusted threshold amount is available, the Commission will publish it in the Federal Register and post it on its website. 11 CFR 104.22(g) and 110.17(e) (2). For more information on these requirements, see the [March 2009 Record](#).

(Posted 01/06/12; By: Dorothy Yeager)

#### **FOOTNOTES:**

1 The regulation covers individuals and organizations required to file reports of contributions and/or expenditures with the Commission, including any person making an independent expenditure. 11 CFR 104.18(a). Disbursements for "electioneering communications" are not considered "expenditures" and thus do not count toward the \$50,000 threshold for mandatory electronic filing. See 11 CFR 104.18(a).

2 "Overnight mail" includes Priority or Express Mail having a delivery confirmation, or an overnight service with which the report is scheduled for next business day delivery and is recorded in the service's on-line tracking system.

#### **Resources:**

- [FEC Forms and Instructions](#)
- [FECFile Filing Software](#)
- [Educational Outreach and FEC Reporting Training](#)
- [Resources for Committee Treasurers](#)
- [2012 Special Elections](#)

## **Outreach: FEC to Host Miami Conference in February**



The Commission will hold a regional conference in Miami, Florida, on February 22-23, 2012. Commissioners and staff will conduct a variety of technical workshops on the federal campaign finance laws affecting federal candidates, parties and PACs. Workshops are designed for those seeking an introduction to the basic provisions of the law as well as for those more experienced in campaign finance law. To view the conference agenda or to register for the conference, please visit the conference website at <http://www.fec.gov/info/conferences/2012/miami.shtml>.

*Hotel Information.* The conference will be held at the Hilton Miami Downtown Hotel, located in the downtown performing arts district, and close to South Beach and many of the city's other top attractions. For hotel reservations, call 1-888/554-2114 and identify yourself as attending the Federal Election Commission conference. (Alternatively, click the link on the FEC's conference website.) Please wait to make hotel and air reservations until you have received confirmation of your conference registration from our contractor, Sylvester Management Corporation.

*Registration Information.* The registration fee is \$525 per attendee, which includes a \$25 nonrefundable transaction fee. A late charge of \$50 will be added for registrations received after 5 p.m. EST, January 27, 2012. Complete registration information is available online at <http://www.fec.gov/info/conferences/2012/miami.shtml>.

### **FEC Conference Questions**

Please direct all questions about conference registration and fees to Sylvester Management Corporation (Phone:1-800/246-7277; email: [Rosalyn@sylvestermanagement.com](mailto:Rosalyn@sylvestermanagement.com)). For other questions about the conference and workshops, call the FEC's Information Division at 1-800/424-9530, or send an email to [Conferences@fec.gov](mailto:Conferences@fec.gov).

*(Posted 12/8/11; By: Kathy Carothers)*

### **Resources:**

- [FEC Educational Outreach Opportunities](#)