



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 19, 1979

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-28

Robert M. Tobias, General Counsel
National Treasury Employees Union
1730 K Street, N.W., Suite 1101
Washington, D.C. 20006

Dear Mr. Tobias:

This responds to your letter of May 15, as supplemented by letter of June 21, 1979, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the receipt of a contribution by the Treasury Employees Political Action Committee ("TEPAC"), which is the separate segregated fund of the National Treasury Employees union ("NTEU").

Your opinion request states that a contribution in the amount of \$100 to \$200 has been offered to TEPAC from an unincorporated organization of Federal employees who are represented by NTEU. This organization is a "recreation association" and maintains vending machines in Federal facilities where members of the association are employed. Goods are purchased from the vending machines, primarily by other Federal employees, and the net profits derived from the machines are retained by the unincorporated recreation association. Your letter states that the proposed contribution is not the result of "any solicitation from NTEU or TEPAC, but rather was generated voluntarily."* Your letter further explains that the vending machines from which the contributed funds are derived do not contain any notice informing individuals who make purchases from the machines that the proceeds of their purchases may be used for political contributions.

You ask specifically whether under these circumstances TEPAC may accept the described contribution.

* As you know, 2 U.S.C. 441b(b)(4)(A)(ii) prohibits NTEU and TEPAC from soliciting contributions to TEPAC from any person other than members of NTEU and their families.

Under the Act, any person may make a political contribution subject to limitation and disclosure unless that person is specifically prohibited by the Act from doing so. National banks, corporations, and labor organizations are prohibited from making contributions to Political committees unless those contributions are made from a separate segregated fund. 2 U.S.C. 441b. Also, under 2 U.S.C. 441c, it is unlawful for any person under contract with the United States, or any department or agency thereof, to make a contribution to any political committee if payment for performance of the contract is to be made in whole or in part from funds appropriated by Congress. See 11 CFR 115.1(a). Since the recreation association is unincorporated it would not be prohibited by 2 U.S.C. 441b from making a contribution to TEPAC in the circumstances you have described. Furthermore, if the recreation association is not a government contractor, as defined in commission regulations, the prohibition of 2 U.S.C. 441c would not apply.

The contribution limits of 2 U.S.C. 441a apply to contributions made by any person. The term "person" is defined in 2 U.S.C. 431(h) to include an association. Thus, unless prohibited by other sections of the Act as discussed above, it would be permissible under the Act for TEPAC to accept the described unsolicited contribution. See Advisory Opinion 1978-51, copy enclosed.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Robert O. Tiernan
Chairman for the
Federal Election Commission