



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

December 13, 1991

CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1991-35

Carl G. Borden  
California Farm Bureau Federation  
Office of the General Counsel  
1601 Exposition Boulevard, FB3  
Sacramento, CA 95815

Dear Mr. Borden:

This responds to your letter of May 14, 1991, as supplemented by your letter dated October 17, 1991, requesting an advisory opinion on behalf of the California Farm Bureau Federation (the "CFBF") and the California Farm Bureau Federation Political Action Committee ("Farm PAC"), regarding the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the method the CFBF intends to use to pay the Farm PAC's administrative and fundraising costs.

You state that the CFBF is a nonprofit corporation representing the interests of farmers and ranchers throughout the state of California. CFBF sponsors Farm PAC, its separate segregated fund, which maintains both a Federal and non-Federal account. Currently CFBF provides Farm PAC's administrative services which you define as employee time, consulting fees, office space, printing and copying, postage, travel and supplies. You state that CFBF wishes to modify this procedure and have the CFBF pay only the expenses of the Federal account. You also state that CFBF would pay the fundraising costs of the Federal account.

Under the plan CFBF wishes to implement, the non-Federal account would pay a portion of the administrative expenses. This would be a set amount billed every month by CFBF to Farm PAC. Farm PAC would report the payment of that amount as an expenditure on its state campaign report. The balance of the administrative expenses for the non-Federal account would be reported as an in-kind contribution on the state report. The Federal portion would not be reported because CFBF would pay for it.<sup>1</sup>

You note that 11 CFR 106.6(b)(1)(i) and (ii) provides that a separate segregated fund must allocate its administrative and fundraising expenses only when the committee, rather than its connected organization pays for them. You ask whether the above procedure is permitted under the Act and regulations and, assuming such reimbursements are permitted, you further ask whether the result would follow that Farm PAC would not have to allocate its administrative and fundraising expenses.

Commission regulations allow a connected organization planning to support both Federal and local candidates the option of organizing one Federal account to conduct Federal election activity and a second separate account to engage in non-Federal activity. 11 CFR 102.5(a)(1)(i). The non-Federal account, if it refrains from Federal election activity, will not be required to register and file reports under the Act. See 11 CFR 102.1(c) and Advisory Opinion 1983-3. Separate segregated funds that make disbursements in connection with Federal and non-Federal elections shall allocate administrative expenses including rent, utilities, office supplies not attributable to a clearly identified candidate, if such expenses are not paid by the separate segregated fund's connected organization. 11 CFR 106.6(b)(1)(i). In addition, the direct costs of a fundraising program or event where Federal and non-Federal funds are collected must be allocated, if such expenses are not paid by the connected organization. 11 CFR 106.6(b)(1)(ii).

Neither the Act nor Commission regulations require a connected organization to pay the administrative expenses or fundraising expenses of its separate segregated fund's Federal account or non-Federal account. Therefore, the Commission concludes that CBBF's proposed procedure to pay only the administrative and fundraising expenses attributed to Farm PAC's Federal account, as distinguished from those attributed to its non-Federal account, is not prohibited by the Act or Commission regulations. Accordingly, because the Federal account of Farm PAC would not be used to defray its administrative and fundraising expenses, those expenses would not have to be allocated pursuant to Commission regulations. While Commission regulations require allocation by separate segregated funds which pay their own administrative and fundraising expenses, this obligation pertains only to funds that share these expenses between their Federal accounts and other accounts used for state or local election activities. Therefore, as long as the administrative and fundraising expenses of the Federal fund are paid by CBBF and are within the regulatory exceptions for the establishment, administrative, and solicitation costs, as set forth in 11 CFR 114.1(b), no allocation is required.

The Commission expresses no opinion as to the possible application of California state law to the described payments related to the non-Federal account since those issues, if any, are outside its jurisdiction.

This response constitutes an advisory opinion concerning the application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely,

(signed)

John Warren McGarry  
Chairman for the Federal Election Commission

Enclosure (AO 1983-3)

#### ENDNOTES

1/Your request states that the total amount of administrative expenses would be allocated by the same method as is used for Federal and non-Federal accounts, that is, the funds-expended ratio. According to the information that you have provided, Farm PAC's Federal activity is approximately 15%. The only portion that would be reimbursed would be the set amount which was established for the non-Federal account. You state that CFBF would cover the balance. While you do not explicitly state so, it is presumed that this formula is also used to calculate the fundraising expenses of the state account.