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2004 FEB -4 A 11: 52

February 4, 2004

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

Re: Draft Advisory Opinion 2003-37

Dear Commission Secretary:

Local Initiatives Support Corporation is writing to express our strong concern regarding the scope and implications of the General Counsel's draft Advisory Opinion 2003-37 prepared in response to a request by Americans for a Better Country ("ABC").

LISC is a nonprofit corporation under state law and exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. We are actively engaged in educating the public and advocating positions on legislative and policy issues related to our charitable mission of revitalizing distressed low-income communities, often referencing current elected federal officeholders who have supported or opposed those positions – activities that the Commission noted in its October 23, 2002 rules on "electioneering communications" are considered by the public to be "highly desirable and beneficial."

If the Commission adopts Advisory Opinion 2003-37 as proposed, the result may be that we and many of our community partners could no longer conduct those activities unless we and they raise and spend funds in accordance with the source and contribution limits of the Federal Election Campaign Act ("FECA"). Federal tax law, however, prohibits 501(c)(3) organizations from establishing or maintaining a separate segregated fund to engage in political activity. Furthermore, we and our partner organizations rely on a mix of large and small contributions from foundations, corporations and individuals. Consequently, this Opinion would effectively shut down the critical advocacy work of many nonprofit organizations.

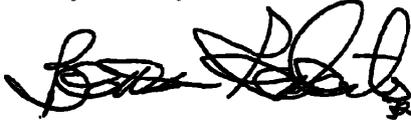
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Although this advisory opinion is given in response to a request from a political committee, many of the activities that the opinion would treat as expenditures under the Act seem strikingly similar to activities of 501(c)(3) and 501(c)(4) organizations that had not previously been treated as expenditures, including activities more appropriately characterized as lobbying or fundraising or nonpartisan voter activation. We fear that in its attempts to regulate these activities of political committees, the Commission announces its intent to limit the legitimate, nonpartisan activities by 501(c) organizations as well. We believe such action would be inappropriate.

We share the concerns expressed in comments submitted by a coalition of nonprofit organizations including the Alliance for Justice, Leadership Conference on Civil Rights, League of Conservation Voters, NAACP, NARAL Pro-Choice America, People for the American Way, Planned Parenthood Federation of America, and Sierra Club. We are particularly troubled by the suggested restrictions on voter registration efforts and fundraising communications, and the implied prohibition on contributions by foreign nationals to any nonprofit organizations engaged in voter registration, get-out-the-vote and other activities in connection with a federal, state, or local election for public office. These nonpartisan activities are vital to increasing civic participation by all citizens.

For all of these reasons, we strongly urge the Commission not to issue the draft opinion in its present form. Please feel free to contact me if you have questions or would like further information.

Respectfully submitted,



Benson F. Roberts

cc: Commissioner David M. Mason
Commissioner Danny L. McDonald
Commissioner Bradley A. Smith
Commissioner Scott E. Thomas
Commissioner Michael E. Toner
Commissioner Ellen L. Weintraub