

C. April Boling, CPA
7185 Navajo Road, Suite P
San Diego, CA 92119
(619) 713-6888
april@aprilboling.com

AOR 2010-24

Mr. Christopher Hughey
Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, DC 20463

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COUNSEL

September 15, 2010

Dear Mr. Hughey,

I hereby request an Advisory Opinion on behalf of the Republican Party of San Diego County (C00252551), a local party committee. The subject of the request is the proper reporting and payment related to recruitment, training and supervision of contractors performing voter registration services for the committee.

In May 2010, the Party hired a Voter Registration Coordinator (an employee) to recruit, train and supervise contractors hired by the committee to perform voter registration services. This employee spends 100% of her time engaged in this activity. This employee has not and will not be engaging in any other types of activities such as voter identification, GOTV activities or generic campaign activities. The sub-tasks and percentage of time spent on each has been estimated by the employee based upon an average month and is as follows:

Recruitment 20% - This includes posting of positions on job boards (e.g. Craig's List, college job boards), meeting with various clubs to encourage members to participate in the electoral process by registering voters, interviewing potential contractors and scheduling of orientation.

Orientations 20% - This includes both one-on-one and group meetings with potential contractors to communicate the program's requirements related to the contractor's responsibilities, general protocol as well as payment structure. This also includes training on such matters as eligibility requirements for voters, legal rights to solicit, and table set-up instructions.

Material Preparation 10% - This includes design and preparation of signage as well as in-field voter registration materials for the contractors. Specific events (see Events below) lend themselves to different sorts of signage.

Contractor Management 20% - This includes additional training upon request, dealing

with calls from business owners who seek to verify contractor status and program details, as well as actually completing vendor applications when requested by business owners or property managers.

Events 5% - This includes research of high-traffic events and providing notification to contractors as well as managing the number of contractors who access such events. This category also includes the actual set-up and tear-down of voter registration booths. It should be noted, however, that the employee does not register any voters herself as this would undermine the registration efforts of the contractors and cause morale issues.

Validation of completed registrations 20% - Schedules 72-hour turn in of cards, prepares per-contractor tally sheets, reviews cards for missing information or errors made by the voter, photocopies cards for validation, calls newly registered voters to welcome them to the Republican Party, inputs initial data into the tracking system to verify that the address exists (per the USPS). In addition, there is review of all cards for suspicious activity such as duplicate names, multiple people registering at one address, similar signatures on card batches turned in, etc. If suspicious activity is present, a report of such activity is provided to the Registrar of Voters with contact information of the circulator. The final validation step includes actually taking the cards to the Registrar and turning them in. That specific activity accounts for about three hours per week.

Calculation of Contractor Payments 5% - Complete data is entered into the registration tracking system by volunteers. This data is used by the employee to calculate the payment to be received from the California Republican Party and also to calculate the payment to be made to each contractor depending upon the number of registrations in targeted State Assembly and State Senate districts. Contractors pick up their checks at which time any cards for which the contractor has not been paid are discussed with the contractor.

11CFR 100.24(b)(1) defines FEA as "Voter registration activity during the period that begins on the date that is 120 calendar days before the date that a regularly scheduled Federal Election is held and ends on the date of the election: Section 100.24(a)(d) defines voter registration activity as "contacting individuals by telephone, in person, or by other individualized means to assist them in registering to vote." The recent revision to this section changed the definition to include encouraging or assisting potential voters in registering to vote.

While there is no question that payment to the contractors hired by the committee to perform voter registration activities are PEA during the 120 days prior to the election, we seek advice as to whether the trainer/supervisor's activities are also voter registration and therefore FEA during the 120 days prior to an election. This individual performs no activities that either encourage or assist potential voters in registering to vote.

The Voter Registration Coordinator is supervised by the Executive Director of the Republican Party of San Diego County. If it is determined that the Voter Registration Coordinator's activities are "voter registration", then would the activities of the Executive Director also be

considered voter registration during the time he is supervising the Voter Registration Coordinator? This characterization would be important when determining whether or not the Executive Director is spending more than 25% of his time on Federal Election Activity.

Taking the most conservative route, I am currently reporting the activities of this Voter Registration Coordinator as FEA pending receipt of your advice. If your advice is that these expenditures are not voter registration and therefore not FEA, I also seek advice on whether it would be possible to amend the reports (FEC-3X) beginning in May to reflect the advice and transfer the appropriate amount of non-federal funds to cover those allocated costs even though the 60-day post-payment window has passed.

The Republican Party of San Diego County intends to engage in this same activity in future election cycles. Therefore, in addition to our request for advice based on current activity and current regulations, we also ask whether the Commission's analysis would differ if based upon the new regulations passed in late August.

Thank you for your assistance.

Yours very truly,



C. April Boling, Treasurer
Republican Party of San Diego County.