

OFFICE OF
GENERAL COUNSEL

2019 APR 5 PM 1:20

The Arizona Libertarian Party
1000 N Beeline Hwy #139
Payson, AZ 85541
1-833-THE-AZLP (843-2957)

March 20, 2019

Federal Election Commission
Office of General Counsel
1050 First Street, NE
Washington, DC 20463

Subject: Advisory Opinion Requested

To Whom It May Concern:

This request for an Advisory Opinion is made at the suggestion of a representative from the FEC Information Division during a phone inquiry on March 12, 2019 and pursuant to 52 U.S.C. §30108.

The Request:

Can the Arizona Libertarian Party (AZLP), using federally permissible funds, cover the costs incurred by the Libertarian Party (LP) to implement the State CRM Project in Arizona without registering as an FEC State Party Committee?

Background:

1. The Libertarian Party (LP) is an FEC Registered National Party Committee.
2. The Arizona Libertarian Party (AZLP) is the LP state affiliate for Arizona. AZLP is not an FEC registered Committee and does not meet the minimum threshold requiring FEC registration.
3. The LP is offering a Customer Relationship Management System (CRM) called State CRM Project to its State and Local affiliates. Internal documentation indicates there is no charge for using the system.
4. The State CRM Project was undertaken in order to assist State and local affiliates in keeping costs down (both financial and volunteer labor) while taking advantage of CRM capabilities to further State and Local party goals. In the past LP National had provided CiviCrm to various State Party organizations and was then called upon to support the diverse implementations of CiviCRM. LP National realized that developing a universal version to serve the State and Local LP organizations was more useful and more economical in the long run. Additionally, many State and Local Party Organizations were implementing other commercially available or in house, custom developed CRM systems. This adds up to a lot of unnecessary overhead.
5. According to the LP web site, the AZLP (<https://my.lp.org/state-crm-project>)

The primary goal of the State CRM Project is to leverage economies of scale to reduce the burden on State Affiliates. Instead of being locked in basements, fighting technical issues, our activists can be focused on outreach to the public. In simple terms, it's a database where our state parties store critical information: contact information on members, current and potential supporters, donors, and candidates:

6. The LP incurs about \$2,000 in labor costs for each State affiliate it brings on board. According to the LP web site, the AZLP (<https://my.lp.org/state-crm-project>)

Each state costs about \$2,000 in labor to get fully onboarded to the program – preparing their existing data set(s), web and CRM configuration, importing data, and training.

7. According to the same website page, the LP is looking for assistance in covering the \$2,000 cost of bringing each state affiliate on board and is actively soliciting donations.

As we understand it, the LP only brings on another state when the funds are available. The AZLP is willing to cover the costs incurred by the LP to bring AZLP onboard. The AZLP has identifiable federally permissible funds to make the payment. Without this transaction, neither AZLP Contributions nor AZLP Expenditures would exceed the threshold requiring registration as an FEC Committee.

8. According to the same website page, the LP is also soliciting donations to cover the estimated recurring \$20,000 per year total operating cost. The prorated annual cost per affiliate is expected to be under the threshold requiring FEC registration, even when aggregated with other AZLP transactions. The AZLP is willing to cover its prorated share of these on-going future costs with federally permissible funds, as well.
9. Several years ago, AZLP determined that it needs a CRM system for ongoing state and local operations and made several attempts to implement a CRM. AZLP is currently using NationBuilder as its CRM system. AZLP pays NationBuilder \$2,000/yr. to use the system. Unfortunately, our Technology Committee finds NationBuilder to be deficient for our purposes and has actively sought an alternative. Our Technology Committee found and recommended State CRM Project instead. None of the payments made for NationBuilder were for the purpose of influencing an election for federal office. Since State CRM Project would directly replace NationBuilder, there is no reason to conclude that State CRM Project payments are for the purpose of influencing an election for federal office.
10. The AZLP previously attempted to build our own CRM system. AZLP volunteers developed and rolled out a partial prototype. Unfortunately, the volunteers were unable to continue the work due to other commitments and the system was never completed. None of the work done or expenses paid for this system were for the purpose of influencing an election for federal office. Since State CRM Project would be comparable to the unfinished custom system we envisioned, there is no reason to conclude that State CRM Project payments are for the purpose of influencing an election for federal office.

11. With the possible exception of this anticipated \$2,000 one-time transaction, the AZLP has no plans to make any expenditures or receive any contributions that in aggregate would require FEC registration. As required, AZLP continues to keep records sufficient to identify federally permissible funds in our account(s).

Questions Raised

1. Is the LP, as an FEC National Party Committee prohibited from receiving funds from AZLP, a non-FEC registered State Party Organization?

Both 11 CFR §300.10 and 11 CFR §102.6 seem to indicate the LP can receive unlimited funds from the AZLP as long as the funds are federally permissible. The AzLP has sufficient federally permissible funds to make the contemplated transaction. 11 CFR §102.6 also seems to indicate that such transfer by AZLP may trigger a requirement for AZLP to register as an FEC Committee.

11 CFR §300.10 General prohibitions on raising and spending non-Federal funds (52 U.S.C. 30125(a) and (c)).

a. Prohibitions. A national committee of a political party, including a national congressional campaign committee, must not:

1. Solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or any other thing of value that is not subject to the prohibitions, limitations and reporting requirements of the Act;
2. Spend any funds that are not subject to the prohibitions, limitations, and reporting requirements of the Act; ...

§ 102.6 Transfers of funds; collecting agents.

(a) *Transfers of funds; registration and reporting required* -

(1) *Who may make transfers under this section.*

(i) Transfers of funds may be made without limit on amount between affiliated committees whether or not they are political committees under 11 CFR 100.5.

(ii) Subject to the restrictions set forth at 11 CFR 300.10(a), 300.31 and 300.34(a) and (b), transfers of funds may be made without limit on amount between or among a national party committee, a State party committee and/or any subordinate party committee whether or not they are political committees under 11 CFR 100.5 and whether or not such committees are affiliated.

...

(iv) Transfers under paragraphs (a)(1) (i) through (iii) shall be made only from funds which are permissible under the Act. See 11 CFR parts 110, 114 and 115.

(2) *When registration and reporting required.* Except as provided in 11 CFR 102.6(b), organizations or committees making transfers under 11 CFR 102.6(a)(1) shall count such transfers against the reporting thresholds of the Act for determining whether an organization or committee is a political committee under 11 CFR 100.5

2. Will the contemplated transaction require AZLP, as the party organization making the transfer, to register as an FEC State Party Committee?

11 CFR § 100.5 seems to require AZLP to register as a State Party Committee if it receives Contributions aggregating in excess of \$1,000 or if it makes Expenditures in excess of \$1,000 during a calendar year. However, the terms Contributions and Expenditures are further specifically defined. To be considered a Contribution, the receipt must be for the purpose of influencing an election for federal office. To be considered an Expenditure, the disbursement must be for the purpose of influencing an election for federal office.

AZLP is not pursuing this transaction for the purpose of influencing an election for federal office. AZLP has been attempting to implement a suitable CRM system for State and Local election purposes for several years.

Furthermore, according to the LP website, the LP is not offering this system for the purpose of influencing a federal election.

Even if the market value of the State CRM Project exceeds the disbursement to the LP, the difference is not a Contribution to the AZLP because it is not made for the purpose of influencing an election to federal office.

The implementation of a CRM System is generally considered (in business, non-profits, and politics) to be an administrative expense supporting ongoing day to day operations. The FEC website at <https://www.fec.gov/help-candidates-and-committees/making-disbursements-political-party/administrative-expenses-party-committees/> seems to state that day-to-day costs of running the committee are neither contributions nor expenditures as long as the expenses are not directly attributable to a clearly identified candidate.

§ 100.5 Political committee (52 U.S.C. 30101(4), (5), and (6)).

Political committee means any group meeting one of the following conditions:

- (a) Except as provided in 11 CFR 100.5 (b), (c) and (d), any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 or which makes expenditures aggregating in excess of \$1,000 during a calendar year is a political committee.

ADDITIONAL POSSIBLY USEFUL INFORMATION PROVIDED BY FEC

<https://www.fec.gov/help-candidates-and-committees/making-disbursements-political-party/administrative-expenses-party-committees/>

Administrative expenses of party committees

Expenses for rent, personnel, overhead and other day-to-day costs of running the committee are not considered contributions or coordinated party expenditures as long as the expenses are not directly attributable to a clearly identified candidate. As explained, however, some of these expenses are allocable between federal and nonfederal accounts.

FEC Guidelines

1. According to FEC Guidelines found at <https://www.fec.gov/help-candidates-and-committees/making-disbursements-political-party/>:

An expenditure is a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value to influence a federal election.

"Disbursement" is a broader term that covers both expenditures and other kinds of payments (those not made to influence a federal election).

The AZLP is plans to make a disbursement to the LP for the purpose of rolling out the State CRM Project in Arizona in support of State and Local candidates. We view this as an administrative and/or overhead expense of running our day-to-day operation. This disbursement is not for the purpose of influencing an election for federal office.

2. According to FEC Guidelines found at <https://www.fec.gov/help-candidates-and-committees/taking-receipts-political-party/>:

Taking in receipts

Receipts are anything of value (money, goods, services or property) received by a political committee. Authorized committees take in all receipts for a candidate's campaign. Receipts include both contributions and other forms of support.

Summary

The AZLP intends to use the State CRM Project for State election purposes, party building and exempt activities. The LP developed the State CRM System to support State and Local affiliates and states publicly on its website that the money will be used to cover the costs of the State rollout. This purpose is not the purpose of influencing an election for a federal office.

Even in the event some state and/or local affiliates use the State CRM Project partially for Federal Election Purposes, and/or even if the LP uses the State CRM system, the overwhelming use of the State CRM Project is for State and Local party purposes and therefore, the one-time payment of \$2,000 to the LP by the AZLP for onboarding the AZLP should not result in a requirement for the AZLP to register as a State Party Committee.

We respectfully request confirmation that the contemplated one-time \$2,000 payment using federally permissible funds from AZLP to LP to cover the cost of on boarding the AZLP to the State CRM Project,

- a. will not trigger the requirement for the AZLP to register as an FEC State Party Committee.
- b. Can be accepted by the LP, whether AZLP is an FEC registered State Party Committee or not.

Please contact Jeff Daniels (AZLP Secretary) or Howard Blitz (AZLP Chairman) at 1-833-843-2957 or Secretary@AZLP.org, if you require any further information.

Regards,



Jeff Daniels,

Arizona Libertarian Party Secretary

From: [Jeff Daniels](#)
To: [Cheryl Hemsley](#)
Cc: [Joanna Waldstreicher](#); [Anthony Bell](#); asstreasurer@azlp.org; Treasurer@azlp.org
Subject: RE: Arizona Libertarian Party request for an advisory opinion
Date: Tuesday, June 18, 2019 2:32:09 AM

Hi Cheryl,

Sorry for the delay. Here's my answers to your questions.

1. I believe they lease the CRM but I'm not really sure. They do maintain the portion that we use.
2. The AZLP is providing the service free to affiliates. We would be making a donation to them to assist in the cost of the overall CRM.
3. A large portion of the data that we would be providing to the CRM would be Voter Data. The rest would be data we have gathered voluntarily from our membership body.
4. We would not be "required" to pay an annual fee. We would again, probably make a yearly donation to assist them in the CRM costs.
5. They would have access to the data but would not be able to use it without our permission to my knowledge. They have a privacy/Data sharing agreement.
6. Again, there is no actual "fee" to be onboarded to the CRM. We would simply like to make a donation to assist in their operating costs for it and would that "trip" the threshold to have to be registered FEC reporting.

If you have any further questions, Please let me know.

Thank You for Your Time.

Jeff Daniels

AZLP Secretary

From: Cheryl Hemsley <chemsley@fec.gov>
Sent: Wednesday, June 12, 2019 8:21 AM
To: Secretary@AZLP.org
Cc: [Joanna Waldstreicher <JWaldstreicher@fec.gov>](mailto:JWaldstreicher@fec.gov); [Anthony Bell <ABell@fec.gov>](mailto:ABell@fec.gov)
Subject: Arizona Libertarian Party request for an advisory opinion

Dear Mr. Daniels,

In furtherance of your letter received in this office on April 5, 2019, and our telephone conversation on April 19, regarding the Arizona Libertarian Party's ("AZLP") request for an advisory opinion, kindly confirm or correct the following information discussed during our phone call regarding the Customer Relationship Management System ("CRM") being offered by the National Libertarian Party:

1. The CRM system is owned and maintained by the national party.
2. The AZLP would provide the national party with \$2000 paying the cost to be "onboarded" onto the CRM.
3. The AZLP would fill the CRM database with its constituents as found in the official Arizona voter rolls.
4. The AZLP would be required to pay an annual fee to the national committee for the purpose

of CRM maintenance.

5. The national party would have use of AZLP's constituent data in the system.
6. AZLP's question is whether providing the \$2,000 onboarding cost to the national party would trip the registration threshold, thus requiring AZLP to become a registered, reporting political committee.

We look forward to hearing from you.

Best Regards,
Cheryl Hemsley
Attorney, Policy Division
Office of General Counsel
Federal Election Commission