



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 22, 2021

ADVISORY OPINION 2020-06

Honorable Veronica Escobar
Member of Congress
Veronica Escobar for Congress
P.O. Box 3961
El Paso, TX 79923

Dear Representative Escobar:

We are responding to the advisory opinion request you submitted on behalf of yourself and Veronica Escobar for Congress, your principal campaign committee, regarding the application of the Federal Election Campaign Act, 52 U.S.C. § 30101-45 (the “Act”), and Commission regulations to the proposed use of your committee’s campaign funds for expenses related to installing a residential security system at your home. The Commission concludes that the proposed use of campaign funds for wiring and lighting costs that are necessary for the operation of the residential security system as recommended by the House Sergeant of Arms is permissible under the Act and Commission regulations and would not constitute a prohibited conversion of campaign funds to personal use.

Background

The facts presented in this advisory opinion are based on your letter received on December 22, 2020.

You are a member of the U.S. House of Representatives from Texas’s 16th Congressional District. Since taking office, you have received numerous direct threats to your safety, which the Capitol Police have investigated. Advisory Opinion Request at AOR001. You have consulted with the Office of the House Sergeant at Arms about these threats, and they have recommended installation of a home security system, including cameras for a detached garage and surrounding your home. *Id.* The additional wiring and lighting would provide electricity to the cameras and enough light for them to pick up images, and therefore would be necessary for these recommended security measures to function properly. *Id.* You state that the additional

wiring and lighting are intended solely to support the effectiveness of the security system, and are not intended for the purpose of improving your home. *Id*

Question Presented

May Veronica Escobar for Congress use excess campaign funds to pay the costs of lighting and wiring required as part of a residential security system at your home?¹

Legal Analysis and Conclusion

Yes, Veronica Escobar for Congress may use campaign funds to pay for costs of wiring and lighting that are necessary for the operation of a residential security system at your home as recommended by the House Sergeant at Arms, without such payments constituting prohibited conversion to personal use of campaign funds.

The Act identifies six categories of permissible uses of contributions accepted by a federal candidate, two of which are “ordinary and necessary expenses incurred in connection with the duties of the individual as a holder of Federal office,” and “any other lawful purpose not prohibited by 52 U.S.C. § 30114(b).” 52 U.S.C. § 30114(a); *see also* 11 C.F.R. § 113.2(a)-(e).

Under the Act and Commission regulations, contributions accepted by a candidate may not be converted to “personal use” by any person. 52 U.S.C. § 30114(b)(1); 11 C.F.R. § 113.2(e). Conversion to personal use occurs when a contribution is used “to fulfill any commitment, obligation, or expense” of a federal officeholder “that would exist irrespective” of the officeholder’s duties. 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g).

The Act and Commission regulations provide a non-exhaustive list of items that would constitute conversion to personal use *per se*, none of which applies here. *See* 52 U.S.C. § 30114(b)(2)(A)-(I); 11 C.F.R. § 113.1(g)(1)(i)(A)-(J). For items not on this list, such as payments for residential security systems, the Commission determines on a case-by-case basis whether such expenses would fall within the definition of “personal use.” 11 C.F.R. § 113.1(g)(1)(ii). The Commission has long recognized that if a candidate “can reasonably show that the expenses at issue resulted from campaign or officeholder activities, the Commission will not consider the use to be personal use.” *Personal Use of Campaign Funds*, 60 Fed. Reg. 7862, 7867 (Feb. 9, 1995).

The Commission has previously concluded that payments for, or improvements to, a residential security system, under certain circumstances, do not constitute personal use under the Act and Commission regulations. In Advisory Opinion 2011-17 (Giffords), Advisory Opinion

¹ The advisory opinion request asks whether members of Congress may use campaign funds for the proposed residential security costs. Commission regulations provide that requests regarding the activities of third parties do not qualify as advisory opinion requests. 11 C.F.R. § 112.1(b). As such, the Commission is responding to Representative Escobar’s request only as it applies to her. Other federal officeholders may rely on it to the extent their factual circumstances are materially indistinguishable from those described here. *See* 11 C.F.R. § 112.5(a)(2).

2011-05 (Terry), and Advisory Opinion 2009-08 (Gallegly), members of Congress faced specific and ongoing threats to the safety of themselves and their families. The facts presented in those advisory opinions suggested that the threats were motivated by the requestors' public roles as federal officeholders, candidates, or both. In all three instances, the Capitol Police recommended specific security upgrades to the members' homes due to the continuing threats.

The Commission concluded in each instance that the threats would not have occurred had the members not been federal officeholders or candidates, and that the expenses for the proposed security upgrades would not have existed irrespective of their duties as federal officeholders or candidates. Therefore, the Commission concluded that the use of campaign funds to pay for the security upgrades recommended by the Capitol Police would not constitute a prohibited personal use of campaign contributions under the Act or Commission regulations. *See* Advisory Opinion 2011-17 (Giffords) at 3; Advisory Opinion 2011-05 (Terry) at 4; Advisory Opinion 2009-08 (Gallegly) at 4.

The Commission has also previously considered the implications of the heightened threat environment faced by members of Congress collectively, necessitating increased residential security measures even if an individual member has not received direct threats. In Advisory Opinion 2017-07 (Sergeant at Arms), the Commission considered information from the House Sergeant at Arms about the threats faced by members of Congress due to their status as federal officeholders, and the recommendation of the Capitol Police that members of Congress install or upgrade residential security systems to protect themselves and their families. In light of that information, the Commission concluded that certain costs of installing or upgrading home security systems would constitute ordinary and necessary expenses incurred in connection with members' duties as federal officeholders, and that therefore members of Congress may use campaign funds to pay for reasonable costs associated with home security systems. *See* Advisory Opinion 2017-07 (Sergeant at Arms) at 3. The Commission's conclusion in that advisory opinion was limited to the use of campaign funds for "non-structural security devices" and the Commission specifically authorized the use of campaign funds for the installation or upgrade of "cameras, sensors, distress devices, and similar non-structural security devices, as well as locks, in and around a Member's residence." *Id.*

As in the previous advisory opinions concerning federal officeholders who faced direct threats, you have also received direct threats since taking office as a Member of Congress, and the House Sergeant at Arms has recommended that you install specific security measures at your home in response. AOR001. Similar to the circumstances of the previous advisory opinions, your need for a residential security system arose due to your role as a federal officeholder, and the proposed wiring and lighting are "meant solely for supporting the effectiveness of the security system and not as an 'improvement'" to your home. *Id.*; *see* Advisory Opinion 2011-17 (Giffords) at 2; Advisory Opinion 2011-05 (Terry) at 2; Advisory Opinion 2009-08 (Gallegly) at 2. Therefore, the costs of installing the recommended security measures will not constitute a prohibited personal use of campaign funds.

Moreover, even in the absence of specific threats directed at you, you are currently subject to the heightened threat environment faced by members of Congress that was considered

by the Commission in Advisory Opinion 2017-07 (Sergeant at Arms). As such, the costs of installing a residential security system as recommended by the House Sergeant at Arms constitute ordinary and necessary expenses incurred in connection with your duties as a federal officeholder, and are a permissible use of campaign funds.

The specific recommendations of the Sergeant at Arms in your case require installing additional wiring and lighting around your home and detached garage. AOR001. While these particular costs may not, on their face, fall within the category of “non-structural security devices” authorized in Advisory Opinion 2017-07 (Sergeant at Arms), the recommended security cameras would not function properly without the additional wiring and lighting. As such, these costs constitute an integral part of an ordinary and necessary expense that may be paid with campaign funds under the Act. *Id.* Accordingly, Veronica Escobar for Congress may use campaign funds to pay those costs without such payment resulting in a prohibited conversion of campaign funds to personal use.

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 52 U.S.C. § 30108. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity. Any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which this advisory opinion is rendered may rely on this advisory opinion. *See* 52 U.S.C. § 30108(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be affected by subsequent developments in the law including, but not limited to, statutes, regulations, advisory opinions, and case law. Any advisory opinions cited herein are available on the Commission’s website.

On behalf of the Commission,



Shana M. Broussard
Chair