

 **FECConnect**
LIVE

Corporate PAC Operations Part 1

May 11, 2022
1:00pm Eastern

Before we begin...

Webinar Materials	Post-Webinar Survey
	

Campaign Guide for Corporations and Labor Organizations (“Guide”): www.fec.gov/help-candidates-and-committees/guides/?tab=corporations-and-labor-organizations

OBJECTIVES

Restricted Class	Solicitation Rules	Fundraising Methods
		

OBJECTIVES

- **Identify who the PAC may solicit for contributions**
- **Review fundraising notices required on all solicitations**
- **Evaluate popular solicitation techniques**

I. Introduction

Remember...	Most permissible corporate activity in connection with federal elections results from exceptions to the ban on corporate contributions
--------------------	--

- A. Prohibition on corporate/labor contributions ([11 CFR 114.2](#))**
Federal law bans contributions by corporations and labor organizations to influence federal elections (except to Super PACs and Hybrid PACs, covered in Part 2). Ban covers incorporated trade associations and other membership organizations.

- B. Exception: Separate Segregated Fund (SSF) ([11 CFR 114.5](#))**
Corporations (including trade associations and membership organizations) and labor organizations may use treasury funds to create and run a separate segregated fund (sometimes called an SSF or PAC) to support federal candidates.

PAC Solicitations

What is a solicitation?

Why does it matter?

NOVEMBER 8 Contribute to the XYZ Corporate PAC

The purpose of the contribution is for the benefit of political candidates and activities on a state and national level. The recommended contribution amount listed on these suggestions. Employees may choose to give more or less than stated. XYZ Corporation will not track or deliver employees according to their contributions. The contribution is voluntary, you have the right to refuse to contribute. There will be no retaliation if you choose not to contribute and you will not be at any advantage or disadvantage based on your decision.

Enclosed is my check for \$1,000
 Enclosed is my check for \$2,500
 Enclosed is my check for \$ _____

Name: _____
Address: _____
City/State/Zip: _____
Employee: _____
Occupation: _____

Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar year.
Contributions to the organization are not deductible for federal income tax purposes as charitable contributions.

II. What is a Solicitation?

<h3>What is a solicitation?</h3>	<ul style="list-style-type: none">Requesting contributionsExplaining how to contributePublicizing right to accept unsolicited contributionsEncouraging support for PAC
----------------------------------	---

- A. Solicitation = communication that contains:**
1. Straightforward request for contributions;
 2. Information on how to contribute;
 3. Publicizing PAC's right to accept unsolicited contributions; or
 4. Statements encouraging support for the PAC.
(For example, see [AO 1979-13](#).)

Example: Language from [AO 1979-13](#):

"I was glad to see that Raymond has so many employees who realize that the welfare of us all is tied very closely to government policies and attitudes toward business. RAYPAC is one way we can make the voice of business people and our industry heard in this country. I hope we continued [sic] to have such an enthusiastic group."

<p>Announcing PAC's existence</p> <p>Explaining applicable laws</p> <p>Providing statistical information</p> <p>Listing candidates supported</p>	<p>What is <u>not</u> a solicitation?</p>
--	--

B. Communication is NOT a solicitation if it:

1. Does not encourage support for the PAC.
2. Does not facilitate the making of contributions.
3. Merely announces existence of PAC and explains legal requirements that apply to a PAC.
4. Provides statistical information about the PAC's receipts and contributions.
5. Identifies candidates supported by the PAC (but does not suggest that supporting the PAC will help elect those candidates).
6. See AOs [1991-03](#), [1983-38](#) and [1982-65](#).

Example: Language from [AO 1982-65](#):

“The Union Carbide Corporation supports the operation of the Union Carbide Corporation Political Action Committee as authorized by, and in accordance with, federal law. Shareholders desiring additional information about the activities of the Committee may write to the Secretary, Union Carbide Corporation, Section D4, Old Ridgebury Road, Danbury, CT 06817.”

Why does it matter?

SSFs may only solicit restricted class

Solicitations must include certain notices

Specific deadlines to forward resulting contributions

- C. Importance of knowing when communication = PAC solicitation**
Must be able to recognize solicitation in order to avoid it reaching individuals outside restricted class for solicitation purposes and to ensure the solicitation complies with basic rules that apply to all PAC solicitations.

III. Basic Solicitation Rules

Basic Rules Apply

RULES



- Restricted class only
- Solicitation notices always
- Forward contributions and records on time

Restricted Class for Corporate SSF

Executive and Administrative Personnel	Stockholders	Families of both
		

- A. At any time: restricted class only
1. Who is in restricted class of a corporation's PAC?
(11 CFR [114.1\(c\)](#), [\(h\)](#) and [\(i\)](#); [114.5\(g\)](#))

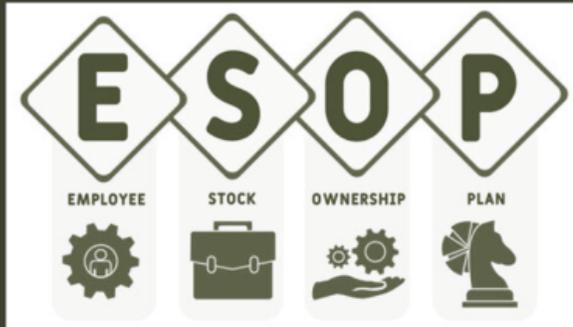
Executive and Administrative Personnel



Employees paid on a salary (rather than hourly) basis who have policymaking, managerial, professional or supervisory responsibilities

- a) **Executive and administrative personnel**
 - (1) Employees paid on salary (but **not** hourly) basis who have managerial, professional, policy-making or supervisory responsibilities.
 - Professionals, e.g., – includes Lawyers, Engineers, Doctors, Pilots and Nurses but no one represented by union
 - Insurance agents – NO unless they have supervisory or managerial responsibilities
 - See AOs [2012-02](#), [2011-25](#), [2010-04](#), [2004-32](#), [1999-20](#) and [1993-16](#)
 - (2) Members of the board of directors, if they are compensated via salary or stipend. AOs [2010-12](#), [2000-10](#) and [1985-35](#) (compare with [AO 1977-18](#)).

DOES YOUR COMPANY HAVE AN EMPLOYEE STOCK OWNERSHIP PLAN (ESOP)?



Often, employees in the ESOP qualify as stockholders and are included in the restricted class

Stockholders



Individuals with vested beneficial interest in stock; power to direct how stock is voted (if applicable); and right to receive dividends.

- b) Stockholders (including ESOP):** Individuals with:
- (1) Vested interest in stock;
 - (2) Power to vote stock;

- (3) Right to withdraw stock **without incurring suspension period**; and
- (4) Right to receive dividends.

See AO [1998-12](#) and AOs cited within.

Families



Immediate family members who share the same residence

- c) **Families of the above groups**
See AOs [2013-06](#) and [1980-102](#).

		By corporation	By labor organization	By incorporated membership organization*	By incorporated trade association
		At any time*	Executive and administrative personnel and families stockholders and families	Executive and administrative personnel and families	Executive and administrative personnel and families
		Members and families	Non-corporate members and families	With prior approval, corporate members' executive and administrative personnel, stockholders and families of both	

Campaign Guide for Corporations and Labor Organizations, p. 42.

Table: Who may be solicited: At any time - [Guide, p. 42](#)

More: www.fec.gov/help-candidates-and-committees/fundraising-for-ssf/who-may-be-solicited-ssf-contribution/

Corporation/PAC may **NOT** solicit:

- Foreign nationals
- General public
- Clients, vendors, etc.
- Other PACs

**Beyond the
Restricted Class**

2. Who is NOT solicitable?

- a) Foreign nationals;
- b) General public;
- c) Clients, vendors, etc., and their PACs;
- d) Employees who are neither executives nor stockholders; or
- e) Former employees (unless they are stockholders).

Twice a year SSFs may mail solicitations to homes of limited group not in restricted class

Must appoint custodian to preserve anonymity

Must offer union same opportunity

Twice Yearly Solicitations



B. Twice yearly solicitations ([11 CFR 114.6](#); [Guide, Appendix B, pp. 187-190](#))

1. Twice a year, a PAC may solicit:

- a) **Corporation:** Rank and file employees
- b) **Labor organization:** All non-union employees of corporations that employ union's members.

2. Must preserve anonymity of donors

- c) Must use custodial arrangement (usually law firm or bank) to preserve anonymity.
- d) Must mail solicitation to employee's home.

3. Application to labor organizations:

- a) If corporation wants to conduct a twice-yearly solicitation for its PAC, it must notify the union of its intention and provide similar opportunity.
- b) If other unions represent employees at that corporation, they share a limit of two solicitations of non-members per year.

More: www.fec.gov/help-candidates-and-committees/fundraising-for-ssf/twice-yearly-solicitations-expanded-class-ssf/

	By corporation	By labor organization	By incorporated membership organization*	By incorporated trade association
Twice yearly*	Non-executive and non-administrative personnel and families	Non-executive and non-administrative personnel and families In corporations that employ members of the labor organization, non-member employees, stockholders and families of both	Non-executive and non-administrative personnel and families	Association's non-executive and non-administrative personnel

Campaign Guide for Corporations and Labor Organizations, p. 42.

Twice Yearly Solicitations



Table: Who may be solicited: Twice yearly - [Guide, p. 42](#)

More: www.fec.gov/help-candidates-and-committees/fundraising-for-ssf/twice-yearly-solicitations-expanded-class-ssf/

OBJECTIVES

Restricted Class



Solicitation Rules



Fundraising Methods



Basic Rules Apply

RULES



Restricted class only

Solicitation notices always

Forward contributions and records on time

Solicitations Notices

Contributions must be voluntary

No threats

No dues or fees

Must include every time:

Political purpose of SSF

Right to refuse to contribute

Any guideline = suggestion

- C. **Voluntary contributions and solicitation notices ([11 CFR 114.5\(a\)](#))**
1. **Contributions must be voluntary**
 - a) No threat of physical force, job discrimination or financial reprisal.
 - b) No dues or fees.

2. **Required notices**

Every solicitation must state:

- a) Political purpose of PAC
- b) Solicitee’s right to refuse without reprisal
- c) Guideline on amount is merely suggestion; no minimum may be specified.

3. **Examples:**

See AOs [2006-17](#), [2003-06](#) and [1997-25](#), and MURs [5681](#) and [5337](#).

The image shows a screenshot of a "BERKELEY ELECTRIC COOPERATIVE, INC. VOLUNTARY EMPLOYEE DONATION FORM". On the left, a green circle contains the text "Example AO 2006-17" with three arrows pointing towards the form. The form itself has a header and several sections. The first section is "Option 1" with a line for a name, followed by a paragraph of text: "I, the undersigned, do hereby certify my desire to voluntarily donate to the organization listed below. The purpose of these organizations is for the benefit of political candidates and activities on a state and national level that support rural electric cooperatives. I authorize Berkeley Electric Cooperative, Inc. to deduct the following designated amounts per pay period from my paycheck. I understand that this authorization will remain in effect perpetually, unless and until rescinded by me in writing. I am also fully aware that should I elect not to participate I may do so without any concern of retaliation." Below this is a table titled "RECOMMENDED AMOUNTS PER PAY PERIOD" with columns for "HOURLY" and "SALARIED", and sub-columns for "Authorized Amount", "NON-SUPERVISOR", "SUPERVISOR", "NON-SUPERVISOR", "SUPERVISOR", and "STAFF". The table lists several categories with their respective amounts. Below the table is another paragraph: "The recommended contribution amounts listed above are merely suggestions. Employees may choose to give more or less than stated. BEC will not favor nor disfavor employees according to pledged donations." This is followed by "Option 2" with a line for a name and a line for an amount: "I am providing a one-time contribution in the amount of \$ _____ to be distributed as designated above." and "Option 3" with a line for a name: "I elect not to participate at this time."

	HOURLY		SALARIED			
	Authorized Amount	NON-SUPERVISOR	SUPERVISOR	NON-SUPERVISOR	SUPERVISOR	STAFF
AMOUNT PPD		\$3.00	\$5.00	\$7.00	\$7.00	\$9.00
ACRE (Action Committee for Rural Electrification)		0.96	0.96	0.96	0.96	3.85
ECBO (Electric Cooperatives Help Organization)		0.42	0.42	0.42	0.42	0.42
EMPL FUND (State Candidate Support)		0.66	1.47	2.23	2.23	1.88
BEC PAC (Federal Candidate Support)		0.96	2.15	3.39	3.39	2.85

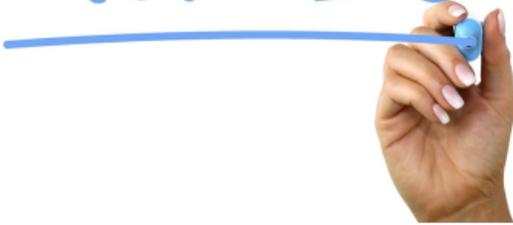
4. **Examples from [AO 2006-17](#):**

- **Statement of political purpose:**
“...for the benefit of political candidates and activities on a state and national level that support rural electric cooperatives.”
- **Statement of voluntary nature and suggested guideline:**
 See BEC proposed solicitation form (Exhibit 1). The form offers three options for contributing. It notes that the first option contains *“merely suggestions,”* and that employees may choose to give *“more or less than those stated.”* The form further states, *“BEC will not favor nor disfavor employees according to pledged donations.”* An additional statement reads, *“I am also fully aware that should I elect not to participate I may do so without any concern of retaliation.”*

Taken together, these statements comply with 11 CFR [114.5\(a\)\(2\)](#) and [\(a\)\(4\)](#).

Basic Rules Apply

RULES



Restricted class only

Solicitation notices always

Forward contributions and records on time

Collecting Agents

Collect contributions for SSF:

- Connected organization
- Affiliated local/state organization
- State PAC of connected organization or affiliate



- D. Collecting and forwarding contributions to PAC ([11 CFR 102.6\(b\)](#))**
Connected organization, affiliated organizations or state or local PAC of organization may act as “collecting agent” by collecting and forwarding PAC contributions under guidelines below:
- 1. Checks made payable to PAC**
Connected organization must forward checks payable to PAC directly to PAC.



Collecting Agents

May temporarily deposit funds, then forward to SSF:

- ≤ **\$50 within 30 days**
- > **\$50 within 10 days**

Along with necessary records

- 2. SSF contributions collected by collecting agent:**
 - a) May be temporarily deposited in:**
 - (1) Separate transmittal account
 - (2) Collecting agent’s account
 - (3) Nonfederal account (e.g., state PAC)
 - b) How to transmit funds**
Collecting agent may write one check or electronically transfer to PAC one transmission which represents all individual contributions collected within specific time period.
- 3. Time frames for forwarding contributions and records ([11 CFR 102.8\(b\)](#))**
 - a) Contributions of \$50 or less:** within 30 days
 - b) Contributions over \$50:** within 10 days
 - c) Recordkeeping:** Collecting agent retains records 3 years.

4. **PAC remains responsible:**
 - a) Reports original sources; date of receipt = date collecting agent receives contribution. (See [11 CFR 102.8\(b\)\(2\)](#).)
 - b) Ensures that collecting agent follows rules.
5. **Corporations acting as members of trade associations**
Corporate members may collect and forward contributions for trade association PAC. See [AO 2003-22](#).

OBJECTIVES

Restricted Class



Solicitation Rules



Fundraising Methods



IV. Solicitation Techniques

Solicitation Techniques



Payroll deduction



Prizes and entertainment



Communications

DOES YOUR COMPANY USE PAYROLL DEDUCTION FOR PAC CONTRIBUTIONS?



CODE	DESCRIPTION	HOURS	AMOUNT
81	REGULAR TIME	40	\$4,800.00
42	SOCIAL SECURITY		\$225.00
55	HEALTH INSURANCE		\$45.00
99	PAC CONTRIBUTION		\$50.00

Common method used by corporate PACs to solicit and collect contributions

Basic Rules Apply

RULES



Restricted class only

Solicitation notices always

Forward contributions and records on time

Payroll Deduction

Authorization required:

- No reverse checkoff
- Written, electronic or telephone-recorded
- Retain for 3 years after employee's last reported contribution



- A. Payroll deduction (11 CFR [102.6\(b\)](#) and [\(c\)](#), [102.8\(b\)](#) and [114.5\(a\)](#))
1. Basic rules apply:
 - a) Restricted class only
 - b) Use solicitation notices

- c) Forward contributions and records – connected organization is acting as the collecting agent here.
 - d) Date of receipt for reporting purposes = date deducted from paycheck. AOs [2000-11](#) and [1999-33](#).
2. **Authorization required**
- a) Employee gives payroll deduction authorization (PDA) for periodic deduction of PAC contributions from paycheck; may revoke any time.
 - b) Note that “written” may be electronic or telephone-recorded.
3. **No reverse checkoff**
Illegal to automatically deduct PAC contributions from paycheck, even if individual is allowed to request refund. [11 CFR 114.5\(a\)](#).
See [AO 2001-04 \(fn. 4\)](#)
4. **Electronic authorizations OK (AOs [2001-04](#), [1999-03](#) and [1997-09](#))**
- a) **Elements to include:**
 - Passwords
 - Email confirmations
 - Notices worked into solicitation
 - Ability to modify/revoke authorization; retention of authorization
 - b) **Formats approved via AOs:**
 - The use of a digital electronic signature to authorize payroll deductions for a corporate PAC. [AO 1999-03](#).
 - The use of a standard “click through” process, in which the contributor enters an ID number that is checked against a database, to authorize deductions for a corporate PAC. [AO 2001-04](#).
 - The use of telephone recorded conversations to obtain and maintain authorization for payroll deductions for an organization’s PAC. [AO 2013-12](#).
5. **Recordkeeping requirements**
- a) Retain PDA for three years from the date the committee last reports receiving a contribution from that employee (rather than three years from the date the employee signed the authorization). [11 CFR 104.14\(b\)](#).
 - b) **Note:** Signed PDA is not the only way to satisfy recordkeeping requirement. For suggested methods for how to keep PDA records, access the [Policy Statement on Recordkeeping Requirements for Payroll Deduction Authorizations](#).

Payroll Deduction

If corporate SSF uses . . .

Must allow union to use for its PAC, upon request

- Union must reimburse costs

May use for trade association PAC

- Must first grant prior approval



6. Labor organization use of corporation's payroll system
(11 CFR [114.5\(k\)](#))

- a) Corporation or affiliate that uses payroll system to collect PAC contributions must make system available upon request to labor organization with members employed by corporation (for union to collect PAC contributions from those employees).
- b) Labor organization must reimburse corporation for costs.

7. Corporate members of trade association
(11 CFR [114.8\(e\)\(4\)](#) and [\(5\)](#))

- a) FEC rules permit payroll deduction by corporate members for contributions to trade association PAC.
- b) If corporation allows trade association PAC to use its payroll deduction system, corporation shall permit use of payroll deduction by union representing its employees, upon request.

**Reporting Example #1:
Reporting Contributions Raised Through Fundraising Events and Payroll Deduction**

REPORTING EXAMPLE

Itemizing Contributions via Payroll Deduction & Fundraising Events





Kelly Clark
Regional Manager, Roxy Snowboard Company

Payroll Deduction for Roxy Snowboard Company PAC Kelly Clark			
Pay Day	Transmittal to PAC	Amount Deducted this Period	Total Deducted this Year
1/24/22	2/4/22	\$20.00	\$20.00
2/7/22	2/18/22	\$20.00	\$40.00
			\$60.00
			\$80.00
			\$100.00
			\$120.00
			\$140.00
			\$160.00
			\$180.00
			\$200.00
			\$220.00
			\$240.00



The Roxy Snowboard Company PAC has received authorization from Kelly Clark, a company Regional Manager, to deduct \$20 from their biweekly paycheck as a contribution to the PAC. The first deduction was taken out of Kelly's paycheck on January 24. The payroll department forwarded the money on February 4 to the PAC's treasurer, who had arranged for an electronic transfer into the PAC's account on the same day.

Planning ahead, on May 29, Kelly reached an aggregate total of \$200 exactly. On June 12, they will reach \$220. By June 26, Kelly will have an aggregate year-to-date total of \$240.

As a big supporter of the PAC, Kelly, in addition to their payroll deductions totaling \$240 as of June 26, also contributed \$150 by buying a silent auction prize at a PAC event on June 30.

Assume for this example that Roxy Snowboard Company PAC files its FEC reports on a monthly schedule.

1. How must the committee disclose the transaction(s)?

2. What information from the scenario do we need to disclose this correctly?

Reporting Example #1 – Answers

1. How must the committee disclose the transaction(s)?

Answer: Itemize them on Schedule A for the appropriate Line (11(a)(i) for individuals) once the contributions from an individual aggregate more than \$200 (including contributions received through payroll deduction) for the calendar year.

Kelly’s initial contribution in January does not require itemization as Kelly has not yet contributed over \$200 for the calendar year. Further, the contributions with an aggregate calendar year to date amount \leq \$200 must be included on Line 11(a)(ii) (*unitemized contributions from individuals*) of the appropriate reporting periods. However, on June 12, Kelly will reach \$220 in contributions for the calendar year. Since the PAC files monthly, the report covering June (due on July 20) would be the report on which they would need to begin itemizing Kelly’s contributions on Schedule A for Line 11(a)(i).

Here is an example of the payroll deduction itemization:

Payroll Deduction Contributions

July Monthly (M7) Report; FEC Form 3X: Schedule A, Line 11 (a)

SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF
			<input checked="" type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input type="checkbox"/> 11c
			<input type="checkbox"/> 13	<input type="checkbox"/> 14	<input type="checkbox"/> 15
			<input type="checkbox"/> 16	<input type="checkbox"/> 17	<input type="checkbox"/> 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full) Roxy Snowboard Company Political Action Committee					
Full Name of Individual (Last, First, Middle Initial) or Full Organization Name					
A. Clark, Kelly			Date of Receipt _____		
Mailing Address 401 East 67th Street					
City Mammoth Lakes		State CA		Zip Code 93546	
Date of Receipt _____					
Amount of Each Receipt this Period <div style="text-align: right; font-weight: bold; font-size: large;">\$40.00</div>					
<input type="checkbox"/> Memo Item					
<div style="text-align: right; font-weight: bold; font-size: large;">\$20.00 biweekly</div>					
Name of Employer (for Individual) Roxy Snowboard Company			Occupation (for Individual) Regional Manager		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General					
<input type="checkbox"/> Other (specify) ▼					
Aggregate Year-to-Date ▼ <div style="text-align: right; font-weight: bold; font-size: large;">240.00</div>					

Itemization of silent auction prize purchase and aggregation:

All of Kelly’s subsequent contributions during that calendar year will also require itemization on Schedule A. Thus, Kelly’s silent auction contribution via purchase of a \$150 fundraising item must also be itemized. Since Kelly was already over the \$200 itemization threshold for the calendar year, itemize the silent auction contribution on Schedule A for Line 11(a)(i) but separately from his payroll deductions. The aggregate year-to-date total for the June 30 contribution must include the payroll deduction contributions received previously in the calendar year.

Here is an example of the contribution made in the form of a silent auction purchase:

Silent Auction Contribution Check

July Monthly (M7) Report; FEC Form 3X: Schedule A, Line 11 (a)

SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one) <input checked="" type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 17
Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.			
NAME OF COMMITTEE (In Full) Roxy Snowboard Company Political Action Committee			
Full Name of Individual (Last, First, Middle Initial) or Full Organization Name		Date of Receipt	
A. Clark, Kelly		06 / 30 / 2022	
Mailing Address		Amount of Each Receipt this Period	
401 East 67th Street		150.00	
City	State	Zip Code	Memo Item
Mammoth Lakes	CA	93546	<input type="checkbox"/>
FEC ID number of contributing federal political committee.		Amount of Each Receipt this Period	
C		150.00	
Name of Employer (for Individual)		Occupation (for Individual)	
Roxy Snowboard Company		Regional Manager	
Receipt For:		Aggregate Year-to-Date	
<input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		390.00	

2. What information from the scenario do we need to disclose this correctly?

Answer:

- **Contributions that aggregate \$200 and less** need the amount of the contribution and the date that it was deducted from the individual’s paycheck. (For recordkeeping, need the individual’s name, address and payroll deduction authorization). See [11 CFR 104.8\(b\)](#) and AOs [2000-11](#) and [1999-33](#).
- **Contributions that aggregate more than \$200:** need name, address, occupation and employer information of contributor, total amount deducted during reporting period, frequency of deduction and amount per deduction.

Points to Remember:

- Itemize contributions (including payroll deductions) from an individual or other person/entity on Schedule A, Line 11(a)(i), once aggregate calendar year to date received exceeds \$200.
- **Required information in itemizing receipts:**
 - Full name and address of contributor or source
 - Occupation/employer – if contributor is an individual
 - Date of receipt
 - Amount
 - Aggregate year-to-date total of all receipts from the same source.
- Date reported is the date of receipt, not the date of deposit, or the date on the check.
- Date reported for payroll deduction contribution is the date that the contribution was deducted from the contributor’s paycheck. See [11 CFR 104.8\(b\)](#) and AOs [2000-11](#) and [1999-33](#). The “date of receipt” under FEC rules at [11 CFR 102.8](#) is the date that the collecting agent obtains possession of the funds (in other words, deducts the contribution).
- Separately itemize payroll deduction contributions from those raised using other methods.
- If collecting agent writes a check/transmits funds to PAC, do not report as transfer from collecting agent. Instead, report as contributions from original individual contributors.
- Payroll department, as the collecting agent, must forward money **within collecting agent timeframes**. The PAC treasurer would then have 10 days to deposit the contribution. The PAC treasurer will need to work closely with the payroll department in order to make these timeframes work for FEC reporting, given that date of deduction is the date used for reporting.
- For paper filers, instead of stating each date of receipt, type “payroll deduction.”
- FECFile users will need to itemize a date (recommended to use last day of reporting period) and enter “payroll deduction” in description field.
- Report the total amount deducted from paycheck during reporting period (regardless of when PAC receives funds) and indicate the amount that was deducted each pay period and the frequency of the deduction.

Solicitation Techniques



Payroll deduction



Prizes and entertainment



Communications

DOES YOUR COMPANY OFFER INCENTIVES TO POTENTIAL PAC CONTRIBUTORS?



SSFs often use raffle prizes, silent auctions, concerts or small gifts as part of solicitations

Connected organization may pay for prizes and entertainment to encourage PAC contributions

HOWEVER

Prizes/entertainment may not be too valuable relative to funds raised

B. Prizes and/or entertainment: the one-third rule ([11 CFR 114.5\(b\)\(2\)](#))

Corporation and its affiliates may provide prizes and entertainment to encourage PAC contributions (e.g., raffles if permitted by state law, silent auction, golf tournament).

The aggregate costs of prizes/entertainment may not be disproportionately valuable in comparison with contributions raised. Otherwise PAC must reimburse corporation for a portion of the costs.

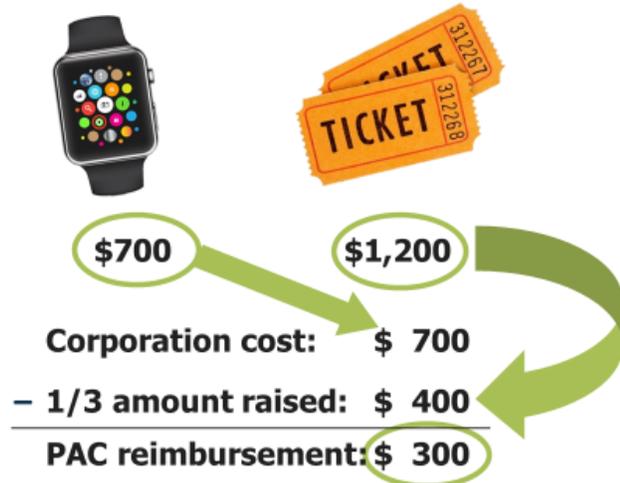
1. One-third rule

PAC reimburses corporation for that portion of the costs of prizes or entertainment donated by the corporation and its affiliates that exceed one-third of the amount raised in contributions.

- Cost of prize to organization is what is used. See AOs [2003-33](#) and [1995-17](#).
- Food and drink expenses do not count. See AOs [1999-31](#), [1995-17](#) and [1980-50](#).

Prizes and Entertainment

The 1/3 Rule



2. Example – reimbursement required

Corporation spends \$700 in treasury funds to purchase an smart watch as a raffle prize. Sales of raffle tickets raise \$1200 in PAC contributions. Since one-third of the amount raised (\$400) is less than the cost of the prize (\$700), then the PAC must reimburse the corporation for the \$300 difference.

The 1/3 Rule


\$700


\$2,100

Corporation cost:	\$ 700
- 1/3 amount raised:	\$ 700
<hr/>	
PAC reimbursement:	\$ 0

Basic Rules Apply

RULES



Restricted class only

Solicitation notices always

Forward contributions and
records on time

4. Basic rules apply:

- Restricted class only may be invited to participate.
- Remember to use solicitation notices.
- Forward money on time.

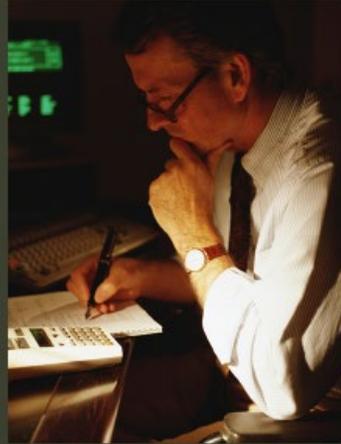
5. Ongoing events

For events that are ongoing (for example, a payroll deduction sign-up drive that lasts several months), the PAC must assign an ending date of event with which to determine the amount raised for purposes of the one-third rule. [AO 1999-31](#).

Reporting Example #2: Reimbursements

REPORTING EXAMPLE

Itemizing PAC Reimbursement to Connected Organization under 1/3 Rule



In our first one-third rule example, Roxy Snowboard Company spent \$700 of its treasury funds on a smart watch, but only raised \$1,200 in contributions for its PAC. As a result of not raising three times the cost of the prize, the PAC had to reimburse the organization for the \$300 difference between 1/3 of the amount raised (\$400) and the cost of the prize (\$700).

How is this reimbursement reported?

Reporting Example #2 – Answer

How is this reimbursement reported?

Answer: The reimbursement must be reported on Line 21(b) as an “Other Federal Operating Expense” and itemized on Schedule B for that Line once the aggregate payments by the PAC to the organization exceed \$200 per calendar year.

Reimbursement to Connected Organization

Post-General (30G) Report; FEC Form 3X: Schedule B, Line 21(b)

SCHEDULE B (FEC Form 3X) ITEMIZED DISBURSEMENTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF
			<input checked="" type="checkbox"/> 21b	<input type="checkbox"/> 22	<input type="checkbox"/> 23
			<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c
			<input type="checkbox"/> 26	<input type="checkbox"/> 27	<input type="checkbox"/> 30b
Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.					
NAME OF COMMITTEE (In Full)					
Roxy Snowboard Company Political Action Committee					
Full Name (Last, First, Middle Initial)					
A. Roxy Snowboard Company			Date of Disbursement		
Mailing Address			MM / DD / YYYY		
1700 Woodward Drive			10 / 20 / 2022		
City	State	Zip Code	FEC Identification Number		
Mammoth	CA	93526	C		
Purpose of Disbursement			Amount of Each Disbursement this Period		
Reimburse for Raffle Prizes (1/3 Rule)			300.00		
Candidate Name			Category/Type		
Office Sought:			Disbursement For:		
<input type="checkbox"/> House	<input type="checkbox"/> Senate	<input type="checkbox"/> President	<input type="checkbox"/> Primary	<input type="checkbox"/> General	
State: District:			<input type="checkbox"/> Other (specify) ▼		
			<input type="checkbox"/> Memo Item		

KEY 1/3 RULE CONSIDERATIONS



To avoid reimbursement,
raise 3X cost of prize or
entertainment

For ongoing events, assign
an end date

Instructions for Activity

- ✓ Read the scenarios
- ✓ Answer questions in the polls



Scenario #1:

Payroll Deduction and Fundraising Events by Corporation

You are the PAC director for your corporation. The VP for government affairs calls you into their office to discuss political activities. The VP explains that they want the corporation's PAC to raise more funds in the next cycle from its restricted class and has come up with an idea for offering incentives to encourage the corporation's executives to sign up for payroll deduction as well as encourage stockholders to make a one-time contribution.

"I understand from our PAC Treasurer," the VP continues, "that our average PAC donor contributes only \$2 a year. Can't we get them to increase that amount?" they ask. "What about giving away pens, mugs or gift cards to those executives who sign up for payroll deduction totaling \$25, \$50 or \$100 per year?"

The VP also suggests that, to make it easier, each pay period, a dollar automatically be deducted from each executive's wages. The executives could stop the deduction by providing written notice to the PAC treasurer.

Finally, the VP suggests holding brunches in key regions to raise both federal and state PAC funds from stockholders. A VIP at the brunch will make the case for why PAC contributions are important and contributions raised from these events will be collected at the event by a representative of the corporation's state PACs in that region. The state PACs will deposit the contributions, keep their share and transfer the federal PAC's contributions to the federal PAC treasurer within 30 days of receipt.

The VP asks you to find a way to legally put their suggestions into action.

QUESTIONS:

Answer these questions in the poll:

1. How do you feel about the idea to give small gifts in exchange for PAC contributions?

- Not permissible
- Permissible

2. What is the proper way to implement a payroll deduction plan for PAC contributions?

- To use a reverse check-off system and automatically deduct an amount from the individual's paycheck.
- To provide the individual with a payroll deduction authorization form, so they may make a voluntary contribution via payroll.

3. Does the VIP at the brunch need to include the requisite solicitation notices that inform attendees of the political purpose of the PAC and of their right to refuse to contribute without reprisal?

- Yes
- No, because you are raising money for the both the federal and state PAC funds from stockholders.

4. Do you need to apply the collecting agent rules to these programs?

- Yes
- No

Scenario #1 Answers:

1. How do you feel about the idea to give small gifts in exchange for PAC contributions?

- Not permissible
- Permissible - CORRECT ANSWER**

Answer: This is permissible under [11 CFR 114.5\(b\)\(2\)](#) as long as the items are not disproportionately valuable. See also AOs [1981-40](#) and [1981-33](#), which apply the one-third rule to small items.

2. What is the proper way to implement a payroll deduction plan for PAC contributions?

- To use a reverse check-off system and automatically deduct an amount from the individual's paycheck.
- To provide the individual with a payroll deduction authorization form, so they may make a voluntary contribution via payroll. - CORRECT ANSWER**

Answer: Reverse check-offs are prohibited. Instead, the contributions must be voluntary; the employee's authorization must first be requested and received (either electronically, in writing or recorded via telephone); and the solicitation must inform the employee of the political purpose of the PAC and of his right to refuse to contribute without reprisal. 11 CFR [114.5\(a\)\(1\)](#), [\(3\)](#) and [\(4\)](#). If a guideline is suggested (as the \$25, \$50 or \$100 guidelines in the scenario), the solicitation must inform the member that the guideline is merely a suggestion; that the individual is free to contribute more or less than the suggested amount; and that the amount of the contribution, or the refusal to contribute, will not benefit or disadvantage the solicitee. [11 CFR 114.5\(a\)\(2\)](#). Money collected through payroll deduction must be forwarded according to the collecting agent rules, and the record of the authorization must be kept from 3 years from the date of the last report of an employee's deduction. 11 CFR [102.6\(c\)\(4\)](#) and [\(6\)](#).

3. Does the VIP at the brunch need to include the requisite solicitation notices that inform attendees of the political purpose of the PAC and of their right to refuse to contribute without reprisal?

- Yes, because it's a solicitation - CORRECT ANSWER**
- No, because you are raising money for the both the federal and state PAC funds from stockholders.

Answer: The brunches would be considered a solicitation because the purpose is to encourage support for the federal (and state) PAC. [AO 1980-50](#). The speaker and the invitation both must include the requisite solicitation notices that inform the attendees of the political purpose of the PAC and of their right to refuse to contribute without reprisal. 11 CFR [114.5\(a\)\(3\)](#) and [\(4\)](#).

(Note, it is permissible to use a VIP as a speaker, even if he or she is not in the restricted class. [AO 2003-05](#).) Because both federal and state PAC contributions are being sought, however, the SSF must clarify how much is being solicited for the federal account and explain that those contributions are subject to federal limits and prohibitions. See [11 CFR 102.5\(a\)\(2\)](#).

Also, only those individuals who qualify as members of the restricted class (i.e., executive/administrative personnel of the organization and stockholders) may be invited. 11 CFR [114.1\(j\)](#) and [114.5\(g\)\(1\)](#).

4. Do you need to apply the collecting agent rules to these programs?

- Yes - CORRECT ANSWER
 No

Answer: When a connected organization administers a payroll deduction program, basically it means that the connected organization serves as the collecting agent and separates out the intended PAC contribution deduction from other deduction in order to transmit it to the SSF.

Similarly, in the case of the branches, it is permissible for the state PACs to deposit the contributions, separate out the federal contributions and transmit the proceeds, because the State PACs may act as collecting agents.

In both programs, the collecting agents must follow the rules at [11 CFR 102.6](#) (as discussed in the outline). This means that the proposed timeframe for transmitting the brunch proceeds must be altered for contributions exceeding \$50.

Collecting agents have to transfer the full amount of each contribution within 10 or 30 days depending on the size of the contribution. 11 CFR [102.8\(b\)\(1\)](#) and [\(2\)](#). Contributions in excess of \$50 must be forwarded within 10 days of receipt, while smaller contributions must be forwarded within 30 days.

When the collecting agents transfer funds collected for the federal PAC, they must also provide the PAC with records on contributor information. These records enable the PAC to file reports on contributions. Collecting agents must also retain all records of contribution deposits and transmittals for three years. The PAC will report the receipt of funds from collecting agent as contributions from the original contributors. Date of receipt is reported as the date the collecting agent received the contributions, or in the case of payroll deduction, the date it is deducted from the paycheck.

SCENARIO #1 – KEY POINTS

Incentives and Payroll Deduction

One-third rule is applied to small items

Reverse check-offs are prohibited

Meeting to “explain PAC” = solicitation

For payroll deduction and meetings, always remember:

- Solicitation notices AND
- Collecting agent rules

KEY POINTS:

- If offering prizes or entertainment as incentives, remember the one-third rule.
- Reverse check-offs are prohibited.
- Meetings or events to explain PAC and requests to sign up for payroll deduction are considered solicitations and subject to basic rules.
- Always use notices in all of your written and oral solicitations.
- Collecting agent rules apply:
 - Connected organization acts as a “collecting agent” when collecting SSF contributions via payroll deduction; timelines and recordkeeping requirements apply.
 - When holding event at which contributions are collected, connected organization, affiliate or affiliated PAC may act as collecting agent; timelines and recordkeeping apply.
 - Timely transfer of all funds AND records
 - Full amount of contribution must be transferred and counts towards contributor’s limit to PAC
 - If both federal and state funds are collected, make sure contributors are aware of how much is solicited for federal PAC.
 - SSF ultimately responsible for compliance and proper disclosure.

Solicitation Techniques



Payroll deduction



Prizes and entertainment



Communications

DO YOU USE AN INTERNET OR INTRANET SITE TO PROMOTE YOUR SSF?

Online PAC solicitations are popular, but require additional safeguards to ensure they don't reach beyond restricted class



What is a solicitation?

Requesting contributions

Explaining how to contribute

Publicizing right to accept unsolicited contributions

Encouraging support for PAC

C. Communications (AOs cited in outline)

If a communication is circulated beyond the restricted class, the organization may generally not include a solicitation. Thus, you must look at what your communication is going to say, and to which audience it is going.

1. What constitutes a solicitation

- Straightforward request for contributions
- Information on how to make a contribution
- Publicizing PAC's right to accept unsolicited contributions
- Statements encouraging support for the PAC – context is key
- See MURs [6100R \(2010\)](#) and [5681 \(2007\)](#) and AOs [1979-66](#) and [1979-13](#) for examples.

Example: Language from [AO 1979-13](#):

“I was glad to see that Raymond has so many employees who realize that the welfare of us all is tied very closely to government policies and attitudes toward business. RAYPAC is one way we can make the voice of business people and our industry heard in this country. I hope we continued [sic] to have such an enthusiastic group.”

<p>Announcing PAC's existence</p> <p>Explaining applicable laws</p> <p>Providing statistical information</p> <p>Listing candidates supported</p>	<p>What is <u>not</u> a solicitation?</p>
--	--

2. **Communication is NOT a solicitation if it:**
- Does not encourage support for the PAC.
 - Does not facilitate the making of contributions.
 - Merely announces existence of PAC and explains legal requirements that apply to a PAC.
 - Provides statistical information about the PAC's receipts and contributions.
 - Identifies candidates supported by the PAC (but does not suggest that supporting the PAC will help elect those candidates).
 - See AOs [1991-03](#), [1983-38](#) and [1982-65](#).

Solicitation Techniques

Online Guidelines

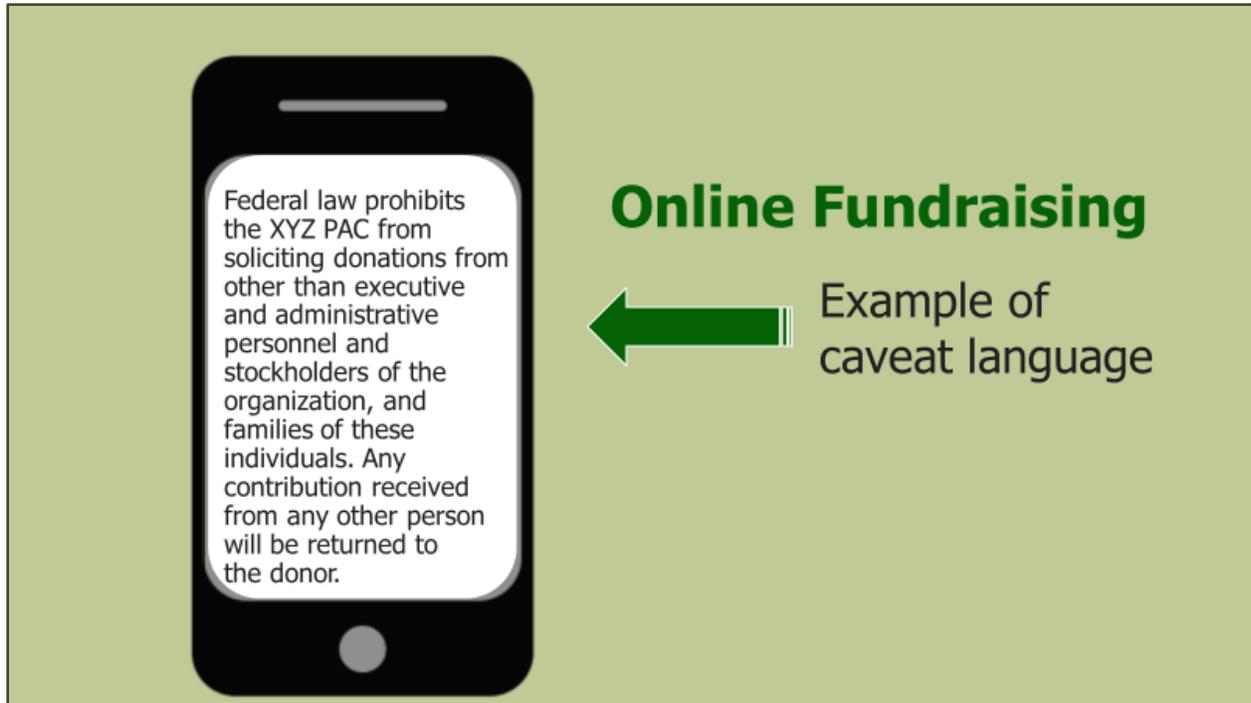
- Use password protected page for all solicitations
- Page to enter password includes caveat



3. Internet and email solicitations

a) Web pages (AOs [2006-03](#) and [2000-07](#))

- **Limit access to restricted class.**
 - Use password protection or otherwise only allow access to restricted class.
 - Intranet page could link to separate, password-protected page accessible only by restricted class.



- b) Caveats required**
The link page introducing PAC website must state that:
- Federal law prohibits PAC from soliciting outside restricted class; and
 - Contributions received from outside restricted class will be returned to donors.

Online Fundraising

Ensure contributions from permissible sources

May accept contributions via credit card, electronic check or online banking service

OK to maintain email list; keep updated to ensure restricted class only



- c) **Contributor screening and vetting**
PAC treasurer is responsible for ensuring that online contributions come from permissible sources. See [AO 2011-13](#) for suggested language to use as safeguard.
- d) **Collecting online contributions via credit cards / electronic checks / online banking services**
- (1) Online contributions may be made via credit card or electronic checks, or electronic authorization of payroll deduction. AOs [1999-36](#), [1999-09](#) and [1999-03](#).
 - (2) Date of contribution is date authorized by contributor. [AO 1995-09](#). (Note: For credit card contributions, date of receipt for reporting is the date contributor authorized the charge. See AOs above.)
 - (3) Check generated via online banking service acceptable with all required contributor information.
 - If complete information not available, committee must contact contributor
 - If drawn on joint account, must contact account holders using reattribution procedures to ascertain from whom contribution is intended. [AO 2007-17](#).

- e) **Email solicitations (AOs [2000-07](#) and [1995-33](#))**
- Organization could maintain email list serve (i.e., mailing list) to send PAC solicitations to restricted class. [AO 2000-07](#). (Be sure to keep this updated to ensure solicitations don't go outside restricted class.)
 - Email could be sent through secretaries to member of restricted class, provided that a cover note or some other mechanism is used to ensure solicitation is directed exclusively to restricted class. [AO 1995-33](#).

Basic Rules Apply

RULES

Restricted class only

Solicitation notices always

Forward contributions and records on time

4. **Basic rules apply**
- Restricted class only (as set out above)
 - Voluntary contributions/solicitation notice requirements
 - Forward contributions and records on time.

Instructions for Activity

- ✓ Read the scenarios
- ✓ Answer questions in the polls



Online Solicitations



Scenario #2:

ONLINE SOLICITATIONS FOR SSFs

As part of its government affairs operations, your organization updates two different websites. One is a website accessible to the general public; while the other is an intranet site for corporate employees only.

You would like to make information available about your PAC on your organization's two sites.

Public website:

Since your government affairs website is publicly available, you know you can't include a solicitation for the SSF on it. But you would like to make public a list of candidates your PAC has supported available. And in case that might inspire people to want to learn more about your PAC, you want to include a "click here for more information about the PAC" button.

On the page that comes up, you would include a description of your PAC's political purpose and a link to its FEC reports. You also would have a place for members of your restricted class to log in and make a donation. You'd like that to be labeled "Donate to the PAC here."

Intranet site:

You would like to add the "donate to PAC" button to the intranet website to make it easier for people to make PAC donations. Once people click the button, a pop-up screen will inform them of your responsibilities to collect contributor information and of the law's prohibited contributions.

On both sites, once logged in, the restricted class may sign up for payroll deduction or may make a one-time contribution using a credit card.

You need to ensure that both websites are fully compliant with FEC guidance.



Answer these questions in the poll:

1. OK to include the list of candidates on the public website?

Check yes or no.

- Yes
- No

2. OK to include the “click here for more information” button on the public website?

Check yes or no.

- Yes
- No

3. Which notice should not be included on the page that the restricted class will log into in order to make a donation on either site?

- Notices about the federal election law’s reporting requirement and contribution restrictions
- A notice about the political purpose of the PAC
- Notices informing donors that they may refuse to make a contribution or give more or less than the suggested amount.
- All of these notices should be included.

Scenario #2 Answers: Online Solicitations

1. OK to include the list of candidates on the public website?

Check yes or no.

Yes - CORRECT ANSWER

No

Answer: Yes, as long as you don't suggest that supporting the PAC would help the PAC make more contributions to the candidates.

2. OK to include the "click here for more information" button on the public website?

Check yes or no.

Yes - CORRECT ANSWER

No

Answer: Yes, as long as you modify the page that comes up. While linking to the FEC reports is fine, you must avoid any language on the log-in page that would constitute a solicitation, as it is accessible by the public. Also, you must include a caveat that you will return any contributions received from those outside the restricted class.

3. Which notice should not be included on the page that the restricted class will log into in order to make a donation on either site?

Notices about the federal election law's reporting requirement and contribution restrictions

A notice about the political purpose of the PAC

Notices informing donors that they may refuse to make a contribution or give more or less than the suggested amount.

All of these notices should be included. - CORRECT ANSWER

Answer: While the second and third boxes are required on any solicitation, notes about the requirements of the law are not technically "required." Nevertheless, the PAC is required to make "best efforts" in regard to reporting, and also must ensure that contributions made online come from permissible sources, so the notices mentioned in the first box are highly recommended.

Also, since they are including payroll deduction as an option, a notice informing contributors they may revoke it at any time must appear as well.

SCENARIO #2 – KEY POINTS

Online Solicitations

Use passwords to limit access to restricted class

Include caveat on password-entry page

State right to refuse to contribute and PAC's political purpose

Basic Rules Apply

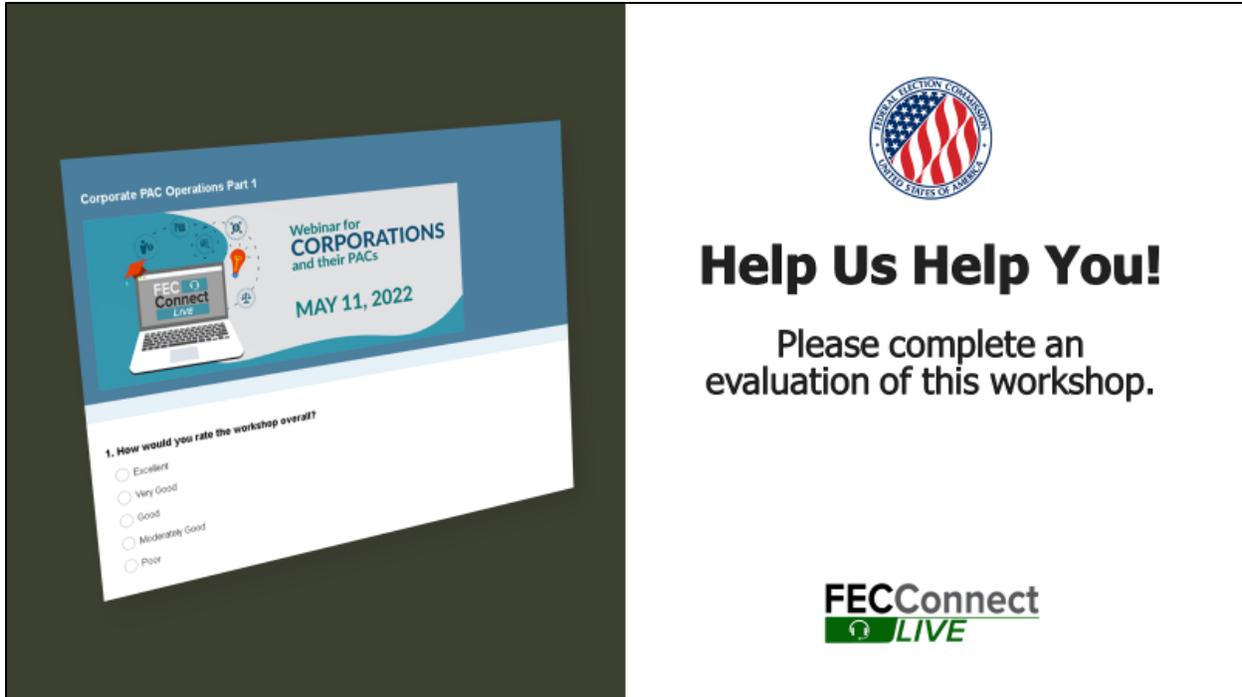
RULES



Restricted class only

Solicitation notices always

Forward contributions and records on time



Corporate PAC Operations Part 1

Webinar for
CORPORATIONS
and their PACs

MAY 11, 2022

1. How would you rate the workshop overall?

Excellent

Very Good

Good

Moderately Good

Poor



Help Us Help You!

Please complete an
evaluation of this workshop.

FECConnect
LIVE

Evaluation Link: <https://www.surveymonkey.com/r/GPV9QFG>