



FECLIVE
CONNECT

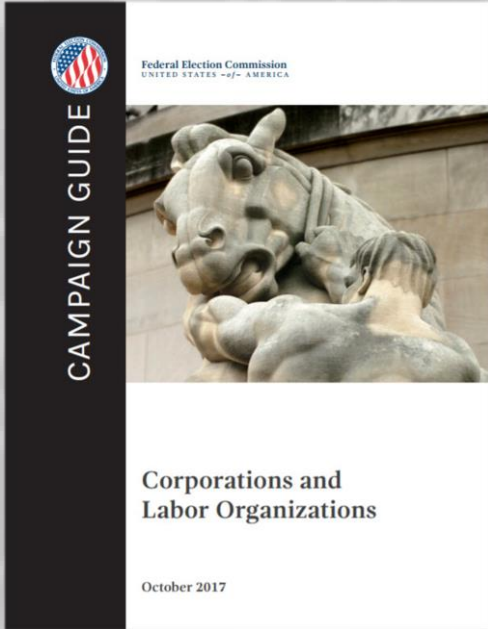
INTERACTIVE ONLINE TRAINING PROGRAM

Trade Association PAC Operations, Part 1

June 10, 2020

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Trade Association PAC Operations
Slide 1



Federal Election Commission
UNITED STATES --of-- AMERICA

CAMPAIGN GUIDE

Corporations and
Labor Organizations

October 2017

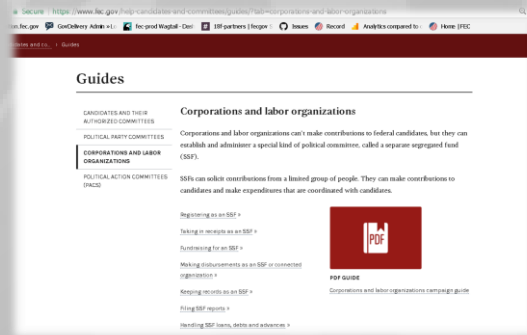
Helpful Resource:
2017 Edition of the
*Campaign Guide for
Corporations and
Labor Organizations*

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2019-20 Election Cycle

Trade Association PAC Operations
Slide 2

Email info@fec.gov to order a print copy or access online at <https://www.fec.gov/help-candidates-and-committees/guides/?tab=corporations-and-labor-organizations>

Online Guide: Help pages for SSFs and their connected organizations



<https://www.fec.gov/help-candidates-and-committees/guides/?tab=corporations-and-labor-organizations>

Access the help pages at <https://www.fec.gov/help-candidates-and-committees/guides/?tab=corporations-and-labor-organizations>

Objectives – Part 1

- Identify who may be solicited
- Specify fundraising guidelines for federal PAC
- Evaluate fundraising techniques

I. Introduction



Prohibition

- ▣ **Contributions from:**
 - **Corporations**
 - **Labor unions**
 - **Trade associations**
 - **Incorporated membership organizations**

PROHIBITED

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Trade Association PAC Operations
Slide 5

- 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, which we'll cover in Part 2).

That ban covers incorporated trade associations and other membership organizations.

Prohibition



Key Point:

Most permissible trade association activity at the federal level is a result of exceptions to the ban on corporate contributions.

Exception: Create and administer SSF



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Trade Association PAC Operations
Slide 6

Administering the SSF

- ▣ Trade association may use treasury funds to pay for administrative and fundraising costs of SSF
- ▣ Members of association (both corporate and noncorporate) may donate to administrative fund of association
- ▣ SSF does not report these payments.



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 7

- 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.
1. Association (and its members) may pay administrative/fundraising costs; not reportable.
 2. Association may use a separate “administrative account” (administered by the association and considered to be an account of the association) to deposit donations from members for PAC administrative and fundraising expenses. See AOs 1992-20, 1990-04 and 1982-61.

PAC Solicitations

What is a solicitation?



Why does it matter?



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 8

II. What is a Solicitation?

What is a Solicitation?

- ▣ **Straightforward request for contributions**
- ▣ **Information on how to contribute**
- ▣ **Publicizing PAC’s right to accept unsolicited contributions**
- ▣ **Statements encouraging support for PAC**

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2019-20 Election Cycle

Trade Association PAC Operations
Slide 9

- A. Solicitation = Communication that contains any one of these:**
1. Straightforward request for contributions; or
 2. Information on how to make a contribution; or
 3. Publicizing PAC’s right to accept unsolicited contributions; or
 4. Statements encouraging support for the PAC.

Example of “encouraging support”: 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.”

What is NOT a Solicitation?

- ▣ **Communications that:**
 - **Don't encourage support for PAC**
 - **Don't explain how to make contributions**
 - **Announce existence of PAC**
 - **Explain laws applying to PAC**
 - **Provide statistical info about PAC**
 - **List candidates supported w/o suggesting PAC contributions help elect those candidates**



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 10

- B. Communication is NOT a solicitation if it:**
1. Avoid encouraging 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 an annual report (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 contributions from a restricted class of individuals**
- ▣ **Solicitations must include certain notices**
- ▣ **Resulting contributions must be forwarded in a timely manner**



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 11

- 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

1. Restricted class only
2. Solicitation notices always
3. Forward contributions and records on time

Remember!

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Trade Association PAC Operations
Slide 12

- A. **Restricted class ONLY:**
Only the restricted class may be solicited at any time.

Did you know?

...Besides your non-corporate members, you can also solicit certain individuals who work for your association or your corporate members (with approval)?

Let's look at who exactly is in your pool of people that you can solicit contributions for your PAC from...

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Trade Association PAC Operations
Slide 13

Definition of Member

- ▣ Satisfies requirements for membership
AND
- ▣ Affirmatively accepts invitation to join
AND
 - Has significant financial attachment **OR**
 - Pays annual dues **OR**
 - Has significant organizational attachment



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 14

1. Definition of member (for trade association PACs) (11 CFR 114.1(e)(2))

An individual or company who:

- a) Satisfies requirements for membership in the trade association
- b) Affirmatively accepts organization's invitation to become member; and
- c) Meets one of these requirements:
 - **Has significant financial attachment to organization** (for example, owner of seat on commodities exchange who has paid thousands of dollars to join organization (AO 2008-21)), or
 - **Pays annual dues of any amount set by organization**, or
 - **Has significant organizational attachment to organization** that includes:
 - Affirmation of membership on annual basis (for example, meeting or responding to survey); and
 - Direct participatory rights in governance of organization (for example, the right to vote directly or indirectly for at least one individual on highest governing board; right to vote on policy questions; or right to approve organization's annual budget).
 - In AOs 2013-08 and 2003-13, student members who were subject to professional sanctions and were likely to become dues paying members in the future, were considered to have a significant organizational attachment.

Restricted Class for SSF Solicitations

- ▣ **Trade Association/PAC may solicit:**
 - Association executive/administrative staff
 - Individual and noncorporate members
 - With **prior approval** exec/admin staff of corporate members (certain partnerships/LLCs)
 - Families of the above groups

2. **Who is in the restricted class of a trade association PAC for solicitation purposes? (11 CFR 114.5(g)(1), 114.7(a) and 114.8(e))**
 - a) **Executive and administrative personnel**
 - (1) Employees paid on salary (but **not** hourly) basis who have managerial, professional, policy-making or supervisory 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.
 - See AOs 2010-12, 2000-10 and 1985-35 (compare with AO 1977-18).
 - b) **Noncorporate members** (including individuals and unincorporated businesses such as partnerships).
 - c) **With prior corporate approval, corporate members' restricted class** and their families.
 - Member partnerships and LLCs that are wholly owned by corporations may now authorize the trade association to solicit their executive/administrative personnel, following the prior approval rules. AO 2014-17.
 - d) **Families of the above groups**
See AOs 2013-06 and 1980-102.

Corporate Prior Approval

- ▣ **Provide written notice that:**
 - **Approval necessary before solicitation**
 - AND**
 - **Corporation may not authorize more than one trade association per year**
- ▣ **Approval given as**
“Jane Doe, for XYZ Corp.”



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 16

3. **Prior approval by corporate/partnership/LLC members of trade association (11 CFR 114.8(d) and (e))**
 - a) **Application**

Applies only to trade associations and their PACs and not to other types of connected organizations/PACs
 - b) **Requirements:**
 - Approval must be in writing and addressed to representative of member with whom association normally conducts activities.
 - Approval must state that:
 - Corporate/partnership/LLC approval is necessary before association or PAC conducts a solicitation.
 - Corporation/partnership/LLC may not authorize any other request by a different trade association to solicit its restricted class that calendar year.
 - Approval must be given as “[Signature], for [Name of Corporation].” AO 2000-22.

Example: “Jane Doe, for XYZ Corporation”

Corporate Prior Approval

- ▣ **Electronic approval permitted**
- ▣ **Multiyear approval permitted if separate approval is given for each year**
- ▣ **May include sample materials with request**



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 18

- Electronic signature of written approval OK. AO 2000-22.
- Request for approval placed on the association's "member-only" web page OK. AO 2000-10.
- Multiyear approval OK, but with a separate signature line for each year. AO 1984-61.
- Request for approval may contain a sample copy of the solicitation materials to be used. (11 CFR 114.8(d)(3)).
- Corporation may limit scope and frequency of solicitations of its restricted class.
- Corporation may withdraw approval at any time.

Beyond Restricted Class

- ▣ Trade Association/PAC may **NOT** solicit:
 - Foreign nationals (even if member)
 - PACs of corporate members
 - Executives of corporate members that have **NOT** signed prior approval
 - General public



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 18

4. **Who is NOT solicitable?**
 - a) Foreign nationals (even if members of association) (11 CFR 110.20(g));
 - b) Corporate members and their PACs;
 - c) Executives and stockholders of corporate (and certain partnership/LLC) members that **have not signed the prior approval request**; or
 - d) General public.

Did you know?

Your association may use the twice-yearly solicitation to reach employees of your association who are not in your restricted class.

Let's look at what is involved with a twice-yearly mailing...



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 70

Twice Yearly Solicitations

- ▣ **Twice a year association SSFs may solicit non-executive association employees**
- ▣ **Must preserve anonymity**
 - **Custodial arrangement**
 - **Mail solicitation to individual's home**
- ▣ **Must offer labor organization opportunity to do same**



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 71

- B. Twice yearly solicitations (11 CFR 114.6; See Appendix B in Guide)**
1. Twice a year, a trade association PAC may solicit rank and file (i.e., non-executive or non-administrative) association employees.
 2. Must use custodial arrangement to preserve anonymity.
 3. Must mail solicitation to employee's home.
 4. If any labor organization represents association employees, the association must offer the labor organization the opportunity to do a twice-yearly solicitation of association executives.

Restricted Class Chart

Who may be solicited

	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; Members and families	Executive and administrative personnel and families; Non-corporate members and families	Executive and administrative personnel and families; Non-corporate members and families; With prior approval, corporate members' executive and administrative personnel, stockholders and families of both
Twice yearly*	Non-executive and non-administrative personnel and families	Non-executive and non-administrative personnel and families; Incorporations 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



(See page 42 of *Campaign Guide for Corporations/Labor Organizations* or <https://www.fec.gov/help-candidates-and-committees/fundraising-for-ssf/solicitable-class-trade-association-ssf/>.)

Objectives – Part 1

- ▣ Identify who may be solicited
- ▣ Specify fundraising guidelines for federal PAC
- ▣ Evaluate fundraising techniques

Basic Rules Apply

1. Restricted class only
2. Solicitation notices always
3. Forward contributions and records on time

Remember!

Solicitation Notices for SSFs

- ▣ **Contributions must be voluntary:**
 - No threats
 - No dues or fees
- ▣ **Must provide notice every time:**
 - Political purpose of SSF
 - Right to refuse to contribute
 - 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:

- Political purpose of PAC;
- Solicitee's right to refuse without reprisal; and
- 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.

BERKELEY ELECTRIC COOPERATIVE, INC.
VOLUNTARY EMPLOYEE DONATION FORM

**Example
AO 2006-17**

Option 1 _____
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.

RECOMMENDED AMOUNTS PER PAY PERIOD

	<u>HOURLY</u>		<u>SALARIED</u>			
	<u>Authorized Amount</u>	<u>NON-SUPERVISOR</u>	<u>SUPERVISOR</u>	<u>NON-SUPERVISOR</u>	<u>SUPERVISOR</u>	<u>STAFF</u>
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
ECHO (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

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.

Option 2 _____
I am providing a one-time contribution in the amount of \$ _____ to be distributed as designated above.

Option 3 _____
I elect not to participate at this time.

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2019-20 Election Cycle

Trade Association PAC Operations
Slide 77

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.*” *Id.*

Taken together, these statements comply with the FEC rules on SSF solicitation notices.

Other Required Notices

- ▣ **Federal election purpose**
Used if also soliciting funds for state PAC; work into the political purpose statement for an SSF.
- ▣ **Best efforts notice**
“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.”
- ▣ **IRS notice**
See <https://www.irs.gov/charities-non-profits/solicitation-notice>



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 78

5. Other required notices

- **Statement of federal election purpose**
Required if also soliciting funds for state PAC; can be worked into the political purpose statement required for SSFs.
- **Best efforts notice**
Required for committee to say it has made best efforts to obtain, maintain and report contributor information. For details see <https://www.fec.gov/help-candidates-and-committees/keeping-ssf-records/recording-receipts-ssf/>.
- **IRS notice of non-tax-deductibility**
See <https://www.irs.gov/charities-non-profits/solicitation-notice>.

Basic Rules Apply

1. Restricted class only
2. Solicitation notices always
3. Forward contributions and records on time



Collection Rules

- ▣ PAC money may be collected by:
 - Connected organization (association)
 - Affiliated local/state association
 - State PAC of association or affiliated association
- ▣ Collecting agent rules apply

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. Direct payments to PAC

Connected organization must forward checks and electronic payments payable to PAC directly to PAC.

Collection Rules

- ▣ **Collecting agents:**
 - **Temporarily deposit funds**
 - **Forward funds in timely manner**
 - ▣ **≤ \$50 within 30 days**
 - ▣ **> \$50 within 10 days**
 - **Retain records of SSF \$**
- ▣ **PAC ultimately responsible**

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2. SSF contributions collected by collecting agent along with other types of payments:

Examples of when this might happen: Solicitation for both federal SSF and state PAC; payroll deduction, membership renewal

a) May be temporarily deposited in:

- (1) Separate transmittal account
- (2) Collecting agent's account
- (3) Nonfederal account (state PAC)

b) How to transmit funds

Collecting agent may write one check or make one electronic transfer to PAC representing all individual contributions collected within specific time period.

3. **Follow 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 of contributions.
 - b) Reports date of receipt = date collecting agent receives contribution. (See 11 CFR 102.8(b)(2).)
 - c) 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, following above guidelines. See AO 2003-22.

Objectives – Part 1

- ▣ Identify who may be solicited
- ▣ Specify fundraising guidelines for federal PAC
- ▣ Evaluate fundraising techniques


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Trade Association PAC Operations
Slide 13

IV. Solicitation Techniques

Solicitation Techniques

- ▣ Payroll deduction
- ▣ Prizes and entertainment
- ▣ Communications


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2019-20 Election Cycle

Trade Association PAC Operations
Slide 34

Did you know?

Your trade association may use payroll deduction to solicit and collect PAC contributions from its restricted class?

Payroll deduction is very commonly used by SSFs. Let's look at how the basic rules apply to this technique...

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2019-20 Election Cycle

Trade Association PAC Operations
Slide 35

Payroll Deduction

Basic rules apply:

1. **Restricted class only**
 - Association executives
 - Execs of corp. members (with prior approval)
2. **Solicitation notices always**
3. **Forward contributions and records on time**
(Date of receipt = Date deducted)



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 36

- A. **Payroll deduction (11 CFR 102.6(b) and (c), 102.8(b) and 114.5(a))**
1. **Basic rules apply**
 - **Restricted class only:** May only be offered to association executives and executives of corporate members that have granted prior approval.
 - **Use solicitation notices**
 - **Forward contributions and records on time:** Connected organization is acting as the collecting agent here and collecting agent rules apply.
 - Date of receipt for reporting purposes = date deducted from paycheck. AOs 2000-11 and 1999-33.

Payroll Deduction

▣ Authorization required:

- No reverse checkoff; must be able to revoke
- Written, electronic or telephone-recorded
- Retain for 3 years after last reported contribution from employee



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 17

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).
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, see Commission Policy Statement online at https://www.fec.gov/resources/cms-content/documents/fedreg_notice_2006-11_EO13892.pdf

Payroll Deduction

- **Corporate members may use payroll deduction for trade association's PAC**
 - **Must first grant prior approval**
- **Corporate members must allow labor organization to use payroll deduction for its PAC, upon request**
 - **Labor organization must reimburse any costs**



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 38

6. **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.
 - c) **Application to corporations owned by individual members**
AO 2012-15: Corporations owned by individual members of a trade association may provide payroll deduction to enable member-employees to contribute to the association's SSF. The membership organization must pay the member-owned corporations in advance for their services.

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

Reporting Example

Itemizing Contributions via Payroll Deduction & Fundraising Events

- **How does the committee disclose the transaction?**
- **What information do we need to disclose this correctly?**

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Roxy Snowboards has received authorization from Kelly Clark, a company executive, to deduct \$20 from her biweekly paycheck as a contribution to a trade association PAC, the Halfpipe Snowboard Association PAC. (Assume that Roxy Snowboards is a corporate member of the trade association and has granted prior approval to the trade association 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 Halfpipe Snowboard Association 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 will reach an aggregate total of \$200 exactly. On June 12, she will reach \$220. By June 26, she will have an aggregate year-to-date total of \$240.

As a big supporter of the PAC, Kelly, in addition to her 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 the Halfpipe Snowboard Association 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 these contributions 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, she 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:

Disclose Contribution to SSF via Payroll Deduction on July Monthly (M7) Report

FEC Form 3X: Schedule A, Line 11(a)

SCHEDULE A (FEC Form 3X)		Use separate schedule(s) for each category of the Detailed Summary Page		FOR LINE NUMBER: (check only one)		PAGE OF	
ITEMIZED RECEIPTS				<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) Halfpipe Snowboard Association PAC							
Full Name of Individual (Last, First, Middle Initial) or Full Organization Name A. Clark, Kelly							
Mailing Address 401 East 67th Street				Date of Receipt Payroll Deduction			
City Mammoth Lakes		State CA	Zip Code 93546			Amount of Each Receipt this Period 40.00	
FEC ID number of contributing federal political committee. C				Memo Item <input type="checkbox"/> \$20.00 biweekly			
Name of Employer (for Individual) Roxy Snowboards		Occupation (for Individual) Design Director		Aggregate Year-to-Date 240.00			
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼							

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2019-20 Election Cycle

Trade Association PAC Operations
Slide 42

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 she 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 her 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:

Disclose Contribution to SSF on July Monthly (M7) Report

FEC Form 3X: Schedule A, Line 11(a)

SCHEDULE A (FEC Form 3X)		Use separate schedule(s) for each category of the Detailed Summary Page		FOR LINE NUMBER: (check only one)		PAGE OF	
ITEMIZED RECEIPTS				<input checked="" type="checkbox"/> 11a		<input type="checkbox"/> 12	
				<input type="checkbox"/> 11b		<input type="checkbox"/> 16	
				<input type="checkbox"/> 11c		<input type="checkbox"/> 17	
				<input type="checkbox"/> 13		<input type="checkbox"/> 15	
				<input type="checkbox"/> 14			

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)
Halfpipe Snowboard Association PAC

Full Name of Individual (Last, First, Middle Initial) or Full Organization Name
A. Clark, Kelly

Mailing Address
401 East 67th Street

City
Mammoth Lakes State
CA Zip Code
93546

FEC ID number of contributing federal political committee.
C

Name of Employer (for Individual)
Roxy Snowboards Occupation (for Individual)
Design Director

Receipt For:
 Primary General
 Other (specify) ▼

Aggregate Year-to-Date
390.00

Date of Receipt
06 / 30 / 2020

Amount of Each Receipt this Period
150.00

Memo Item

FECConnect LIVE 2019-20 Election Cycle Trade Association PAC Operations Slide 44

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

Answer:

- **Contributions that aggregate \$200 and under:** 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:** The name, address, occupation and employer information of contributor, total amount deducted during reporting period, frequency of deduction and amount per deduction.

Key Points to Remember

- ❑ **Itemize individual contributions >\$200/year**
- ❑ **Report date of receipt**
- ❑ **Payroll deduction:**
 - **Date of receipt=date deducted from paycheck**
 - **Paper filers list “payroll deduction” in lieu of dates; E-Filers use last day of reporting period, enter “payroll deduction” in description field**
 - **Report total amount deducted during reporting period, regardless of when PAC receives funds**

Points to Remember

- Itemize contributions (including payroll deduction contributions) 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 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 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. 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



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 47

Does your association...

Offer incentives, such as raffle prizes, silent auctions, concerts or small gifts, to get the interest of potential PAC contributors?

Prizes and entertainment can be used to raise funds for your federal SSF, subject to state gaming laws. Let's apply the basic rules...



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 48

Prizes/Entertainment

- ▣ Association and its members may pay for prizes and entertainment to encourage SSF contributions **BUT...**
 - Prizes/entertainment may not be too valuable relative to funds raised



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 43

B. Prizes and/or entertainment: The one-third rule (11 CFR 114.5(b)(2))

- Association and its members may provide prizes and entertainment to encourage PAC contributions.
- Examples: Raffles (if permitted by state and tax laws), silent auctions, concerts, golf tournaments.
- The aggregate costs of prizes/entertainment may not be disproportionately valuable in comparison with contributions raised. Otherwise PAC must reimburse association for a portion of the costs.

1. One-third rule

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

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

One-Third Rule



- 2. Example – Reimbursement required**
Association spends \$700 in treasury funds to purchase 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 association for the \$300 difference.

One-Third Rule



\$700



\$2,100

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



3. **Example – No reimbursement required**
On the other hand, if the PAC raises \$2,100 in contributions, then one-third of that amount (\$700) is equal to what the association spent on the prize, so no reimbursement is necessary.

Member-Provided Assistance



- ▣ **Member donations of prizes/entertainment OK**
 - Count as donations to association for exempt fundraising (NOT as contributions to PAC)

- ▣ **One-third rule applies**
 - Include prizes/entertainment donated by members in one-third rule calculation of association costs

4. **Member-provided assistance**
 - a) **Permissible (AOs 1995-17 and 1989-18)**
 - (1) Association may solicit and accept donations of money, goods or services from its members (both corporate and non-corporate) to defray administrative and fundraising expenses of PAC, including prizes.
 - (2) Donations are not contributions as long as donor qualifies as association member under FEC regulations.
 - b) **Application of one-third rule**
 - (1) Include prizes/entertainment donated by members in one-third rule calculation.
 - (2) Any required reimbursement goes to association (who may distribute it to member if it chooses).

Basic Rules Apply

1. Restricted class only
2. Solicitation notices always
3. Forward contributions and records on time

Remember!

For ongoing events, assign end date



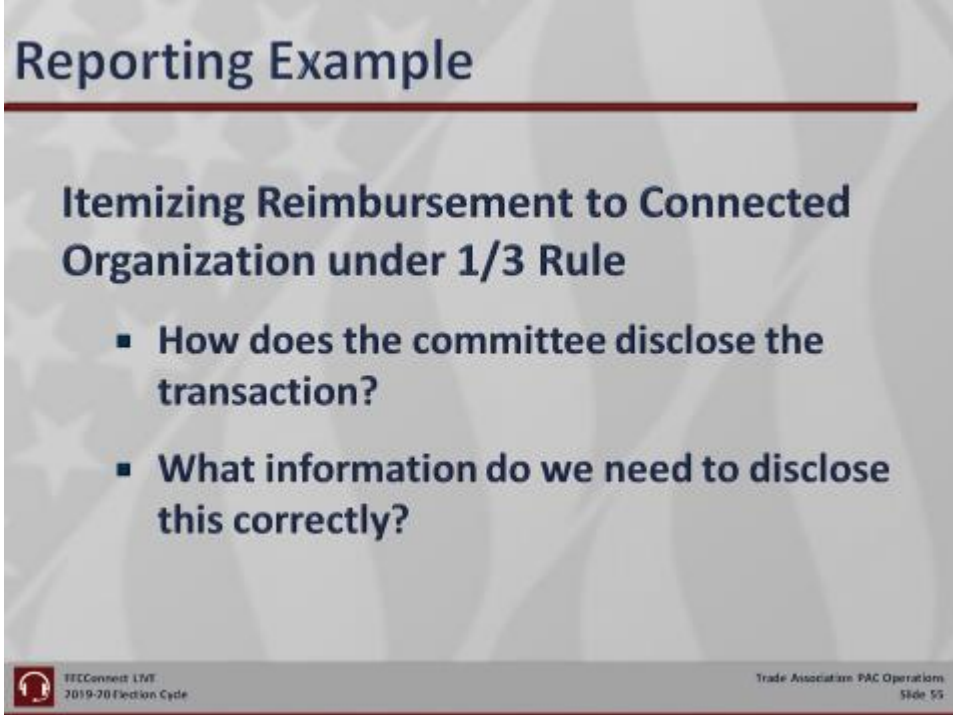
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2019-20 Election Cycle

Trade Association PAC Operations
Slide 53

5. **Basic rules apply:**
 - a) Restricted class only may be invited to participate.
 - b) Remember to use solicitation notices.
 - c) Forward money on time.
6. **Ongoing events**

For events that are ongoing (e.g., 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 Under 1/3 Rule



Reporting Example

Itemizing Reimbursement to Connected Organization under 1/3 Rule

- How does the committee disclose the transaction?
- What information do we need to disclose this correctly?

FECCConnect LIVE 2019-20 Election Cycle Trade Association PAC Operations Slide 55

In our first one-third rule example, the association spent \$700 of its treasury funds on a raffle prize, but only raised \$1,200 in contributions for its PAC. So, 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.

**Disclose 1/3 Rule Reimbursement on
30 Day Post-General 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"/> 26
				<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c	<input type="checkbox"/> 27 <input type="checkbox"/> 29 <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) Halfpipe Snowboard Association PAC							
Full Name (Last, First, Middle Initial)				Date of Disbursement			
A. Halfpipe Snowboard Association				10 / 20 / 2020			
Mailing Address 1700 Woodward Drive				FEC Identification Number			
City Mammoth Lakes		State CA	Zip Code 93546		C		
Purpose of Disbursement Reimbursement for Raffle Prize (1/3 Rule)				Category/Type	Amount of Each Disbursement this Period		
Candidate Name					300.00		
Office Sought:		House		Disbursement For:			
		Senate		<input type="checkbox"/> Primary		<input type="checkbox"/> General	
		President		<input type="checkbox"/> Other (specify) ▼			
State:		District:		<input type="checkbox"/> Memo Item			

Prizes/Entertainment



Key Point:
To avoid reimbursement, raise

3X

cost of prize or entertainment


FECCConnect LIVE 2019-20 Election Cycle Trade Association PAC Operations Slide 58

Scenario #1:

Scenario #1 ? Instructions for Activity

PAGE 43

- ✓ Review the scenario
- ✓ Answer poll questions



FECCConnect LIVE 2019-20 Election Cycle Trade Association PAC Operations Slide 60

Payroll Deduction and Fundraising Events by Trade Association

You are the PAC director for the Halfpipe Snowboard Association. The VP for government affairs calls you into his office to discuss political activities. He explains that he wants the trade association'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 association's executives to sign up for payroll deduction as well as encourage members 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?" he asks. "What about giving away pens, mugs or gift cards to those who sign up for payroll deduction totaling \$25, \$50 or \$100 per year?"

The VP also suggested 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, he suggests holding brunches in key regions to raise federal and PAC funds from members.

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

QUESTIONS:

- 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 members.

Scenario #1 Answers:

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

- Not permissible
 Permissible

Answer: This is permissible under the one-third rule (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, as long as they can revoke it at any time.
 To provide the individual with a payroll deduction authorization form, so they may make a voluntary contribution via payroll, as long as they can revoke it at any time.

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 and revoke at any time. 11 CFR 114.5(a)(1), (3) and (4).

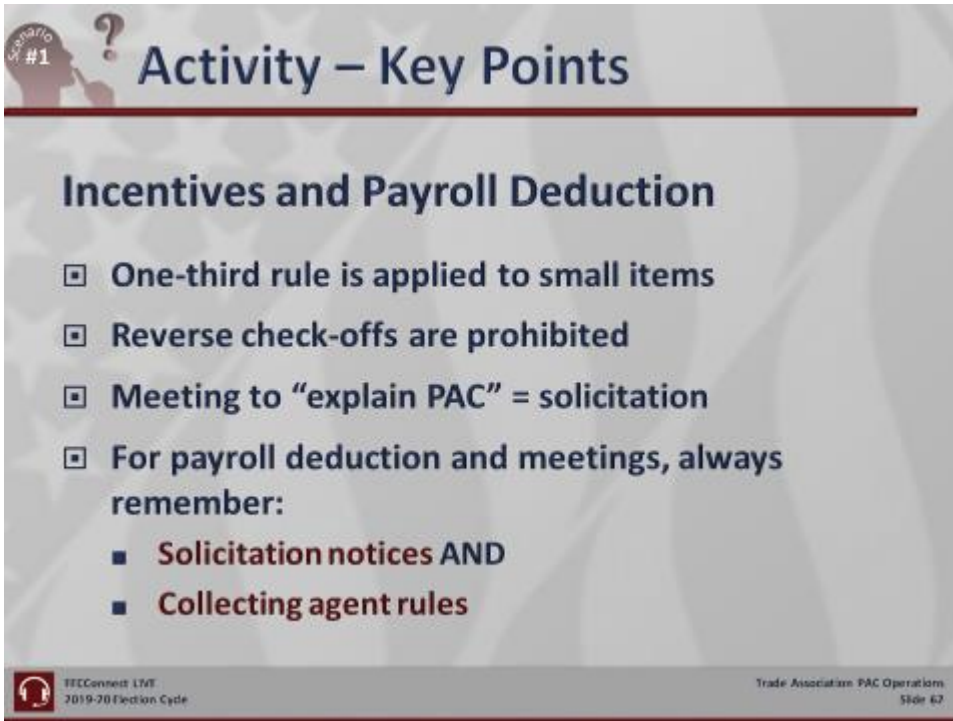
If a guideline is suggested (as the \$25, \$50 or \$100 guidelines in the scenario), the solicitation must inform the solicitee that the guideline is merely a suggestion; that the individual is free to contribute more or less than the suggested amount; and that the amount of the contribution, or the refusal to contribute, will not benefit or disadvantage the solicitee. 11 CFR 114.5(a)(2). Also note that contributions to the SSF 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 required 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 both the federal and state PAC funds from members.

Answer: Yes. 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 (including that the part of the contribution going to the federal PAC is for influencing federal elections) and of their right to refuse to contribute without reprisal. 11 CFR 114.5(a)(3) and (4). See 11 CFR 102.5(a)(2). (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.).



The slide is titled "Activity – Key Points" and features a "Scenario #1" icon with a question mark. The main heading is "Incentives and Payroll Deduction". Below this, there are four bullet points, each preceded by a square icon. The first three are: "One-third rule is applied to small items", "Reverse check-offs are prohibited", and "Meeting to 'explain PAC' = solicitation". The fourth bullet point is "For payroll deduction and meetings, always remember:", followed by two sub-bullets: "Solicitation notices AND" and "Collecting agent rules". At the bottom left, there is a logo for "FECCONNECT LIVE 2019-20 Election Cycle". At the bottom right, it says "Trade Association PAC Operations Slide 62".

KEY POINTS:

- If offering prizes/entertainment as incentives, always apply 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 solicitation rules, including:
 - Only solicit restricted class.
 - Always use notices in all of your written and oral solicitations.
 - Forward money and records on time.
- Collecting agent rules apply to all types of fundraising events:
 - 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



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 63

Did you know?

Your association may do certain SSF-related communications online, but...

If the communication includes a solicitation, basic rules apply, along with some additional caveats.

First step: Determine if communication is a solicitation.



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 64

What is a Solicitation?

Does the message contain any of the following?

- Straightforward request for contributions
- Information on how to contribute
- Publicizing PAC's right to accept unsolicited contributions
- Statements encouraging support for PAC

If YES: It's a solicitation, so the audience is limited to the restricted class.



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 65

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. **If it's a solicitation: Limit to restricted class**
 - a) Straightforward request for contributions
 - b) Information on how to make a contribution
 - c) Publicizing PAC's right to accept unsolicited contributions
 - d) Statements encouraging support for the PAC – context is key
 - e) 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."

What is NOT a Solicitation?

OK for any audience

▣ Communications that:

- Don't encourage support for PAC
- Don't explain how to make contributions
- Announce existence of PAC
- Explain laws applying to PAC
- Provide statistical info about PAC
- List candidates supported w/o suggesting PAC contributions help elect those candidates



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 66

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

Online Fundraising

Guidelines:

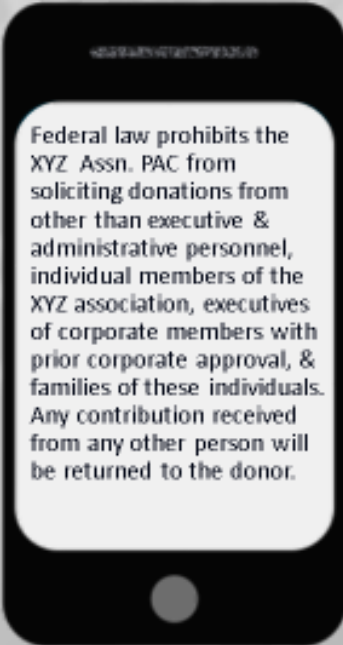
1. Restricted class only:

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



3. **Internet and email solicitations (AOs 2006-03 and 2000-07)**
 - a) **Limit access to restricted class.**
 - Any intranet site, website or email containing a solicitation for the SSF must only be accessible by the restricted class.
 - AOs require password protection.

Online Fundraising



Federal law prohibits the XYZ Assn. PAC from soliciting donations from other than executive & administrative personnel, individual members of the XYZ association, executives of corporate members with prior corporate approval, & families of these individuals. Any contribution received from any other person will be returned to the donor.

Example of
required caveat
language



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2019-20 Election Cycle

Trade Association PAC Operations
Slide 68

b) Caveats required

The page where members will enter their passwords to enter the PAC website or intranet site 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

Guidelines:

- ☑ 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)**
- (1) Organization could maintain email list (i.e., mailing list) to send PAC solicitations to restricted class.
AO 2000-07.
 - (2) 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.

Internet, Intranet and Email

Basic rules apply:

1. Restricted class only
2. Solicitation notices always
3. Forward contributions and records on time

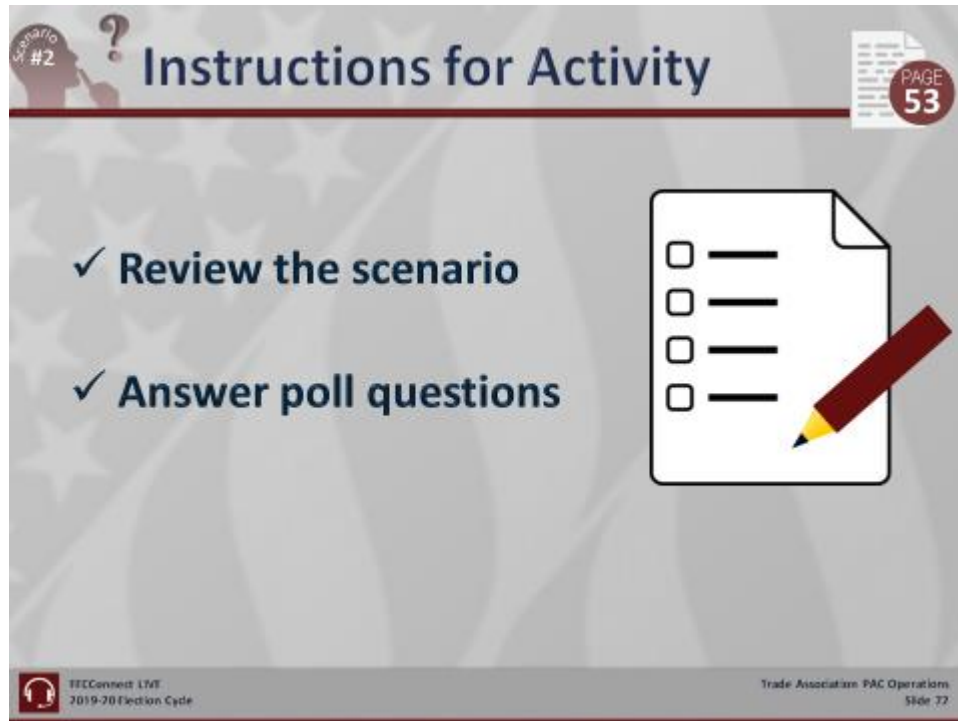


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2019-20 Election Cycle

Trade Association PAC Operations
Slide 70

4. **Basic rules apply**
 - a) Restricted class only (using passwords if online).
 - b) Voluntary contributions/solicitation notices included.
 - c) Forward contributions and records on time.

Scenario #2:



ONLINE SOLICITATIONS FOR SSFs

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

You would like to make information available about your PAC available on your association'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 your PAC, you want to include a "Learn more 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 also 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 “Learn more about the PAC” 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, plus some more.

Scenario Answers: Online Solicitations

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

Check yes or no.

- Yes
 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 "Learn more about the PAC" button on the public website?

Check yes or no.


- Yes
 No

Answer: Yes, as long as you modify the page that comes up. While linking to the FEC reports is fine, the page also contains the place where members will log-in to make a donation. Thus, you must avoid any language on the log-in page that would constitute a solicitation (such as "Donate to the PAC," 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?

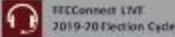
- Notices about the federal election law's reporting requirement and contribution restrictions
- A notice about the political purpose of the PAC
- Notices informing donors that they may refuse to make a contribution or give more or less than the suggested amount.
- All of these notices should be included,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

Answer: While B and C are required on any solicitation, A is 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 choice A 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.

 **Activity – Key Points**

Online Solicitations

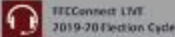
- ▣ **Always limit page to restricted class; use passwords**
- ▣ **Always include caveat on password-entry page:**
“Federal law prohibits the (Name of Political Action Committee) from soliciting donations from other than executive and administrative personnel, members, executives of corporate members who have given prior approval, and the families of such individuals. Any contribution received from any other person will be returned to the donor.”
- ▣ **Always state right to refuse to contribute and political purpose**
 - *“You have the right to refuse to contribute to (name of PAC) without fear of reprisal.”*
 - *“The purpose of (name of PAC) is for the benefit of political candidates and activities on a state and national level that support (connected organization).”*

 Trade Association PAC Operations
Slide 74

Takeaway: Basic Rules Always Apply

For all fundraising methods your SSF uses:

- 1. Restricted class only**
- 2. Solicitation notices always**
- 3. Forward contributions and records on time**

 Trade Association PAC Operations
Slide 75

Workshop Evaluation

Help Us Help You!
**Please complete an evaluation
of this workshop.**

Link provided in Q&A pod

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2019-20 Election Cycle

Trade Association PAC Operations
Slide 76

The slide features a background of faint stars and stripes. The text is centered and uses a mix of serif and sans-serif fonts. A large white arrow with a black outline points to the right, containing the text 'Link provided in Q&A pod'. The bottom of the slide has a dark red border with white text and a small icon of a person with a speech bubble.

Evaluation link: <https://www.surveymonkey.com/r/BRCJCD2>