

FEDERAL ELECTION COMMISSION

Instructions for Report of Communication Costs By Corporations and Membership Organizations (FEC FORM 7)

52 U.S.C. § 30118 allows “communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject,” including the express advocacy of the election or defeat of any Federal candidate. Further, 52 U.S.C. § 30101(9)(B)(iii) requires that the costs of such communications be reported to the Federal Election Commission under certain circumstances. This section states in pertinent part:

“...the costs incurred by a membership organization (including a labor organization) or by a corporation directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if those costs exceed \$2,000 per election, be reported to the Commission.”

For the purpose of interpreting these provisions of law, the Commission’s regulations provide the following definitions:

(i) “Labor organization” means an organization of any kind (any local, national, or international union, or any local or State central body of a federation of unions is each considered a separate labor organization for purposes of this section) or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

(ii) “Stockholder” means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(iii) “Executive or administrative personnel” means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policy-making, managerial, professional or supervisory responsibilities.

(iv) “Members” means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative or corporation without capital stock and in the case of the labor organization, persons who are currently satisfying the requirements for membership in a local, national or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(v) “Election” means two separate processes in a calendar year, to each of which the \$2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office, wherever and whenever held; the second process is comprised of all general elections for Federal office, wherever and whenever held. The term “election” also includes each special election held to fill a vacancy in a Federal office or each run-off election.

(vi) “Corporation” means any separately incorporated entity, whether or not affiliated.

WHO MUST FILE

Every membership organization (including a labor organization) or corporation which makes disbursements for communications pursuant to 11 CFR

100.8(b)(4) and 114.3 of the Commission’s regulations shall report to the Federal Election Commission, 1050 First Street, N.E., Washington, D.C. 20463 (reports shipped via FedEx, UPS or DHL should use the ZIP code 20002) on FEC FORM 7 such costs which are directly attributable to any communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the election or defeat of a clearly identified candidate), if such costs exceed \$2,000 for any election.

WHAT MUST BE REPORTED

Each report filed under 11 CFR 104.6 of the Commission’s regulations must include, for each communication:

- (1) The type of communication (such as direct mail, telephone or telegram);
- (2) The class or category communicated with (Executive/Administrative Personnel, Stockholders, Members);
- (3) The date(s) of the communication;
- (4) Whether the communication was in support of, or in opposition to, a particular candidate;
- (5) The name of the candidate, the office sought (and the district and state of the office, if applicable), and whether the communication was for the primary or general election; and
- (6) The cost of the communication.

Generally, the total cost of a communication which advocates the election or defeat of more than one candidate should be allocated to and reported for each candidate in equal proportions. If, however, one or more candidates are emphasized, the cost should be allocated and reported to reflect the benefit reasonably expected to be derived by each candidate.

WHEN TO REPORT

Organizations required to report under 11 CFR 104.6(a) of the Commission's regulations must file such reports during a calendar year in which a regularly scheduled general election is held. Such reports must be filed quarterly and, with respect to any general election, a 12 Day Pre-General Election Report must also be filed. The organization is required to file reports beginning with the first reporting period during which the aggregate cost for such communications exceeds \$2,000 per election as defined in 11 CFR 104.6(a)(1) of the Commission's regulations, and for each period thereafter in which the organization makes additional disbursements in connection with the same election.

— Quarterly reports must be filed no later than April 15, July 15, October 15 and January 31 of the following calendar year. Each such report must disclose all transactions from the last report filed through the last day of the calendar quarter.

— A 12 Day Pre-General Election Report must be filed no later than the 12th day before the general election and must include all transactions from the closing date of the last report filed through the 20th day before the election. A 12 Day Pre-General Election Report sent by certified or registered mail must be mailed no later than the 15th day before the election.

A document is timely filed upon delivery to the Federal Election Commission by the close of the prescribed filing date or upon deposit as registered or certified mail in an established U.S. Post Office postmarked no later than midnight of the day the report is due, except that the 12 Day Pre-General Election Report so mailed must be postmarked no later than midnight of the 15th day before the date of the election. Reports sent by first class mail must be received by the Federal Election Commission by the close of business of the prescribed filing date to be timely filed.