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labor organization's facilities for individual volunteer activities in connection with a Federal election are required to reimburse the labor organization within a commercially reasonable time for the normal and usual rental charge, as defined in 11 CFR 100.7(a)(1)(iii)(B), for the use of such facilities.

(c) *Use of corporate or labor organization facilities to produce materials.* Any person who uses the facilities of a corporation or labor organization to produce materials in connection with a Federal election is required to reimburse the corporation or labor organization within a commercially reasonable time for the normal and usual charge for producing such materials in the commercial market.

(d) *Use or rental of corporate or labor organization facilities by other persons.* Persons, other than those specifically mentioned in paragraphs (a) and (b) of this section, who make any use of corporate or labor organization facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a Federal election are required to reimburse the corporation or labor organization within a commercially reasonable time in the amount of the normal and usual rental charge, as defined in 11 CFR 100.7(a)(1)(iii)(B), for the use of the facilities.

(e) *Use of airplanes and other means of transportation.* (1) A candidate, candidate's agent, or person traveling on behalf of a candidate who uses an airplane which is owned or leased by a corporation or labor organization other than a corporation or labor organization licensed to offer commercial services for travel in connection with a Federal election must, in advance, reimburse the corporation or labor organization—

(i) In the case of travel to a city served by regularly scheduled commercial service, the first class air fare;

(ii) In the case of travel to a city not served by a regularly scheduled commercial service, the usual charter rate.

(2) A candidate, candidate's agent, or person traveling on behalf of a candidate who uses other means of transportation owned or leased by a corporation or labor organization must reimburse, within a commercially reasonable time, the corporation or labor organization at the normal and usual rental charge.

[41 FR 35955, Aug. 25, 1976, as amended at 45 FR 21210, Apr. 1, 1980]

§ 114.10 Nonprofit corporations exempt from the prohibition on independent expenditures.

(a) *Scope.* This section describes those nonprofit corporations that qualify for an exemption from the prohibition on independent expenditures contained in 11 CFR 114.2. It sets out the procedures for demonstrating qualified nonprofit corporation status, for reporting independent expenditures, and for disclosing the potential use of donations for political purposes.

(b) *Definitions.* For the purposes of this section—

(1) *The promotion of political ideas* includes issue advocacy, election influencing activity, and research, training or educational activity that is expressly tied to the organization's political goals.

(2) A corporation's *express purpose* includes:

(i) The corporation's purpose as stated in its charter, articles of incorporation, or bylaws, except that a statement such as ''any lawful purpose,'' ''any lawful activity,'' or other comparable statement will not preclude a finding under paragraph (c) of this section that the corporation's only express purpose is the promotion of political ideas;

(ii) The corporation's purpose as publicly stated by the corporation or its agents; and

(iii) Purposes evidenced by activities in which the corporation actually engages.

(3)(i) The term *business activities* includes but is not limited to:

(A) Any provision of goods or services that results in income to the corporation; and

(B) Advertising or promotional activity which results in income to the corporation, other than in the form of membership dues or donations.

(ii) The term *business activities* does not include fundraising activities that are expressly described as requests for

donations that may be used for political purposes, such as supporting or opposing candidates.

(4) The term *shareholder* has the same meaning as the term *stockholder,* as defined in 11 CFR 114.1(h).

(c) *Qualified nonprofit corporations.* For the purposes of this section, a qualified nonprofit corporation is a corporation that has all the characteristics set forth in paragraphs (c)(1) through (c)(5) of this section:

(1) Its only express purpose is the promotion of political ideas, as defined in paragraph (b)(1) of this section;

(2) It cannot engage in business activities;

(3) It has:

(i) No shareholders or other persons, other than employees and creditors with no ownership interest, affiliated in any way that could allow them to make a claim on the organization's assets or earnings; and

(ii) No persons who are offered or who receive any benefit that is a disincentive for them to disassociate themselves with the corporation on the basis of the corporation's position on a political issue. Such benefits include but are not limited to:

(A) Credit cards, insurance policies or savings plans; and

(B) Training, education, or business information, other than that which is necessary to enable recipients to engage in the promotion of the group's political ideas.

(4) It:

(i) Was not established by a business corporation or labor organization;

(ii) Does not directly or indirectly accept donations of anything of value from business corporations, or labor organizations; and

(iii) If unable, for good cause, to demonstrate through accounting records that paragraph (c)(4)(ii) of this section is satisfied, has a written policy against accepting donations from business corporations or labor organizations; and

(5) It is described in 26 U.S.C. 501(c)(4).

(d) *Permitted corporate independent expenditures.* (1) A qualified nonprofit corporation may make independent expenditures, as defined in 11 CFR part 109, without violating the prohibitions against corporate expenditures contained in 11 CFR part 114.

(2) Except as provided in paragraph (d)(1) of this section, qualified nonprofit corporations remain subject to the requirements and limitations of 11 CFR part 114, including those provisions prohibiting corporate contributions, whether monetary or in-kind.

(e) *Qualified nonprofit corporations; reporting requirements*—(1) *Procedures for demonstrating qualified nonprofit corporation status.* If a corporation makes independent expenditures under paragraph (d)(1) of this section that aggregate in excess of $250 in a calendar year, the corporation shall certify, in accordance with paragraph (e)(1)(ii) of this section, that it is eligible for an exemption from the prohibitions against corporate expenditures contained in 11 CFR part 114.

(i) This certification is due no later than the due date of the first independent expenditure report required under paragraph (e)(2). However, the corporation is not required to submit this certification prior to making independent expenditures.

(ii) This certification may be made either as part of filing FEC Form 5 (independent expenditure form) or by submitting a letter in lieu of the form. The letter shall contain the name and address of the corporation and the signature and printed name of the individual filing the qualifying statement. The letter shall also certify that the corporation has the characteristics set forth in paragraphs (c)(1) through (c)(5) of this section.

(2) *Reporting independent expenditures.* Qualified nonprofit corporations that make independent expenditures aggregating in excess of $250 in a calendar year shall file reports as required by 11 CFR 109.2.

(f) *Solicitation; disclosure of use of contributions for political purposes.* Whenever a qualified nonprofit corporation solicits donations, the solicitation shall inform potential donors that their donations may be used for political purposes, such as supporting or opposing candidates.

(g) *Non-authorization notice.* Qualified nonprofit corporations making independent expenditures under this section shall comply with the requirements of 11 CFR 110.11.

[60 FR 35305, July 6, 1995]

§ 114.11 Employee participation plans.

(a) A corporation may establish and administer an employee participation plan (i.e. a *trustee plan*) which is a political giving program in which a corporation pays the cost of establishing and administering separate bank accounts for any employee who wishes to participate. The cost of administering and establishing includes the payment of costs for a payroll deduction or check-off plan and the cost of maintaining the separate bank accounts.

(1) The employees must exercise complete control and discretion over the disbursement of the monies in their accounts.

(2) The trustee, bank, or other administrator shall not provide the corporation or its separate segregated fund any report of the source or recipient of any contribution(s) or donation(s) into or out of any account or of the amount any employee has in an account.

(3) The trustee, bank, or other administrator may provide the corporation or its separate segregated fund with a periodic report limited to information about the total number of employees in the program, the total number of funds in all the accounts combined, and the total amount of contributions made to all candidates and committees combined.

(4) No stockholder, director, or employee of the corporation or its separate segregated fund may exert pressure of any kind to induce participation in the program.

(5) No stockholder, director, or employee of the corporation or its separate segregated fund may exercise any direction or control, either oral or written, over contributions by participants in the program to any candidate, group of candidates, political party, or other person.

(b) An employee participation plan must be made available to all employees including members of a labor organization who are employees of the corporation. Communications about participation in the plan may be conducted by either the corporation or the labor organization or both.

(c) A labor organization may establish and administer an employee participation plan subject to the above provisions, except that the cost shall be borne by the labor organization.

(d) The method used to transmit employee or member contributions to the candidate or political committee may not in any manner identify the corporation or labor organization which established the employee participiption plan.

[41 FR 35955, Aug. 25, 1976]

§ 114.12 Incorporation of political committees; payment of fringe benefits.

(a) An organization may incorporate and not be subject to the provisions of this part if the organization incorporates for liability purposes only, and if the organization is a political committee as defined in 11 CFR 100.5. Notwithstanding the corporate status of the political committee, the treasurer of an incorporated political committee remains personally responsible for carrying out their respective duties under the Act.

(b) [Reserved]

(c)(1) A corporation of labor organization may not pay the employer's share of the cost of fringe benefits, such as health and life insurance and retirement, for employees or members on leave-without-pay to participate in political campaigns of Federal candidates. The separate segregated fund of a corporation or a labor organization may pay the employer's share of fringe benefits, and such payment would be a contribution in-kind to the candidate. An employee or member may, out of unreimbursed personal funds, assure the continuity of his or her fringe benefits during absence from work for political campaigning, and such payment would not be a contribution in-kind.

(2) Service credit for periods of leave-without-pay is not considered compensation for purposes of this section if the employer normally gives identical treatment to employees placed on