

candidate, or voting by the general public;

(2) Does not take a position on any candidate's or officeholder's character, qualifications, or fitness for office; and

(3) Either:

(i) Focuses on a legislative, executive or judicial matter or issue; and

(A) Urges a candidate to take a particular position or action with respect to the matter or issue, or

(B) Urges the public to adopt a particular position and to contact the candidate with respect to the matter or issue; or

(ii) Proposes a commercial transaction, such as purchase of a book, video, or other product or service, or such as attendance (for a fee) at a film exhibition or other event.

(c) *Rules of interpretation.* If an electioneering communication does not qualify for the safe harbor in paragraph (b) of this section, the Commission will consider whether the communication includes any indicia of express advocacy and whether the communication has an interpretation other than as an appeal to vote for or against a clearly identified Federal candidate in order to determine whether, on balance, the communication is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified Federal candidate.

(1) A communication includes indicia of express advocacy if it:

(i) Mentions any election, candidacy, political party, opposing candidate, or voting by the general public; or

(ii) Takes a position on any candidate's or officeholder's character, qualifications, or fitness for office.

(2) Content that would support a determination that a communication has an interpretation other than as an appeal to vote for or against a clearly identified Federal candidate includes content that:

(i) Focuses on a public policy issue and either urges a candidate to take a position on the issue or urges the public to contact the candidate about the issue; or

(ii) Proposes a commercial transaction, such as purchase of a book, video or other product or service, or such as attendance (for a fee) at a film exhibition or other event; or

(iii) Includes a call to action or other appeal that interpreted in conjunction with the rest of the communication urges an action other than voting for or against or contributing to a clearly identified Federal candidate or political party.

(3) In interpreting a communication under paragraph (a) of this section, any doubt will be resolved in favor of permitting the communication.

(d) *Information permissibly considered.* In evaluating an electioneering communication under this section, the Commission may consider only the communication itself and basic background information that may be necessary to put the communication in context and which can be established with minimal, if any, discovery. Such information may include, for example, whether a named individual is a candidate for office or whether a communication describes a public policy issue.

(e) *Examples of communications.* A list of examples derived from prior Commission or judicial actions of communications that have been determined to be permissible and of communications that have been determined not to be permissible under paragraph (a) of this section is available on the Commission's Web site, <http://www.fec.gov>.

(f) *Reporting requirement.* Corporations and labor organizations that make electioneering communications under paragraph (a) of this section aggregating in excess of \$10,000 in a calendar year shall file statements as required by 11 CFR 104.20.

[72 FR 72914, Dec. 26, 2007]

## PART 115—FEDERAL CONTRACTORS

Sec.

115.1 Definitions.

115.2 Prohibition.

115.3 Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock.

115.4 Partnerships.

115.5 Individuals and sole proprietors.

115.6 Employee contributions or expenditures.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2) U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16,

## Federal Election Commission

## § 115.4

amended by secs. 208 (a) and (c)(10), and 209 (a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

SOURCE: 41 FR 35963, Aug. 25, 1976, unless otherwise noted.

### § 115.1 Definitions.

(a) A *Federal contractor* means a person, as defined in 11 CFR 100.10 who—

(1) Enters into any contract with the United States or any department or agency thereof either for—

(i) The rendition of personal services; or

(ii) Furnishing any material, supplies, or equipment; or

(iii) Selling any land or buildings;

(2) If the payment for the performance of the contract or payment for the material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress.

(b) The period during which a person is prohibited from making a contribution or expenditure is the time between the earlier of the commencement of negotiations or when the requests for proposals are sent out, and the later of—

(1) The completion of performance under; or

(2) The termination of negotiations for the contract or furnishing of material, supplies, equipment, land, or buildings, or the rendition of personal services.

(c) For purposes of this part, a contract includes

(1) A sole source, negotiated, or advertised procurement conducted by the United States or any of its agencies;

(2) A written (except as otherwise authorized) contract, between any person and the United States or any of its departments or agencies, for the furnishing of personal property, real property, or personal services; and

(3) Any modification of a contract.

(d) The basic contractual relationship must be with the United States or any department or agency thereof. A person who contracts with a State or local jurisdiction or entity other than the United States or any department or agency thereof is not subject to this part, even if the State or local jurisdiction or entity is funded in whole or in

part from funds appropriated by the Congress. The third party beneficiary of a Federal contract is not subject to the prohibitions of this part.

(e) The term labor organization has the meaning given it by § 114.1(a).

[41 FR 35963, Aug. 25, 1976, as amended at 45 FR 21210, Apr. 1, 1980]

### § 115.2 Prohibition.

(a) It shall be unlawful for a Federal contractor, as defined in § 115.1(a), to make, either directly or indirectly, any contribution or expenditure of money or other thing of value, or to promise expressly or impliedly to make any such contribution or expenditure to any political party, committee, or candidate for Federal office or to any person for any political purpose or use. This prohibition does not apply to contributions or expenditures in connection with State or local elections.

(b) This prohibition runs for the time period set forth in § 115.1(b).

(c) It shall be unlawful for any person knowingly to solicit any such contribution from a Federal contractor.

### § 115.3 Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock.

(a) Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock to which this part applies may expend treasury monies to establish, administer, and solicit contributions to any separate segregated fund subject to the provisions of part 114. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under part 114 applies to a corporation, labor organization, or separate segregated fund to which this part applies.

(b) The question of whether a professional organization is a corporation is determined by the law of the State in which the professional organization exists.

### § 115.4 Partnerships.

(a) The assets of a partnership which is a Federal contractor may not be used to make contributions or expenditures in connection with Federal elections.

## § 115.5

(b) Individual partners may make contributions or expenditures in their own names from their personal assets.

(c) Nothing in this part prohibits an employee of a partnership which is a Federal contractor from making contributions or expenditures from his or her personal assets.

### § 115.5 Individuals and sole proprietors.

Individuals or sole proprietors who are Federal contractors are prohibited from making contributions or expenditures from their business, personal, or other funds under their dominion or control. The spouse of an individual or sole proprietor who is a Federal contractor is not prohibited from making a personal contribution or expenditure in his or her name.

### § 115.6 Employee contributions or expenditures.

Nothing in this part shall prohibit the stockholders, officers, or employees of a corporation, the employees, officers, or members of an unincorporated association, cooperative, membership organization, labor organization, or other group or organization which is a Federal contractor from making contributions or expenditures from their personal assets.

## PART 116—DEBTS OWED BY CANDIDATES AND POLITICAL COMMITTEES

Sec.

116.1 Definitions.

116.2 Debts owed by terminating committees, ongoing committees, and authorized committees.

116.3 Extensions of credit by commercial vendors.

116.4 Forgiveness or settlement of debts owed to commercial vendors.

116.5 Advances by committee staff and other individuals.

116.6 Salary payments owed to employees.

116.7 Debt settlement plans filed by terminating committees; Commission review.

116.8 Creditor forgiveness of debts owed by ongoing committees; Commission review.

116.9 Creditors that cannot be found or that are out of business.

116.10 Disputed debts.

116.11 Restriction on an authorized committee's repayment of personal loans exceed-

## 11 CFR Ch. I (1–1–12 Edition)

ing \$250,000 made by the candidate to the authorized committee.

116.12 Repayment of candidate loans of \$250,000 or less.

AUTHORITY: 2 U.S.C. 433(d), 434(b)(8), 438(a)(8), 441a, 441b, and 451.

SOURCE: 55 FR 26386, June 27, 1990, unless otherwise noted.

### § 116.1 Definitions.

(a) *Terminating committee.* For purposes of this part, *terminating committee* means any political committee that is winding down its political activities in preparation for filing a termination report, and that would be able to terminate under 11 CFR 102.3 except that it has outstanding debts or obligations. A political committee will be considered to be winding down its political activities if it has ceased to make or accept contributions and expenditures, other than contributions accepted for debt retirement purposes and expenditures representing payments of debts or obligations previously incurred or payments for the costs associated with the termination of political activity, such as the costs of complying with the post election requirements of the Act, if applicable, and other necessary administrative costs associated with winding down a campaign or winding down committee activities, including office space rental, staff salaries and office supplies.

(b) *Ongoing committee.* For purposes of this part, *ongoing committee* means any political committee that has not terminated and does not qualify as a terminating committee.

(c) *Commercial vendor.* For purposes of this part, *commercial vendor* means any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services.

(d) *Disputed debt.* For purposes of this part, *disputed debt* means an actual or potential debt or obligation owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee.