

PAC Compliance: End-of-Cycle PAC Audits and Other Recommended Housekeeping

January 2023

Now that the 2022 election is in the books, it is the perfect opportunity for corporation and association PACs to take stock of the previous election cycle and also to prepare for the upcoming year and new election cycle. Below are four suggestions on useful activities to undertake: a financial audit of the PAC, a process audit, an evaluation of the restricted class, and training.

Financial Audit of the PAC

We recommend that each PAC have a financial audit at least once per election cycle. Such an audit can be performed by internal audit staff or outside auditors. Either way, the focus should be on having a disinterested person looking at the books and records and ensuring that all monies have been accounted for and that the PAC is on solid financial footing.

Many PACs have received additional useful information by using an auditor well-versed in FEC rules, auditing the books against FEC reports as well as for misappropriation, etc. In any event, the results of a financial audit allow a PAC to refine its internal processes and lines of authority over the PAC funds. The results importantly also provide additional reassurance to the core PAC constituencies – senior corporate management, the relevant corporate or association board committee, the PAC board, and the PAC contributors themselves.

Process Audit of the PAC

Authors

Carol A. Laham
Partner
202.719.7301
claham@wiley.law
Hannah J. Miller
Associate
202.719.3573
hmiller@wiley.law

Practice Areas

Election Law & Government Ethics

In addition to a financial audit of the PAC, it is also useful for the PAC to undertake a legal process audit. This audit involves the review of the PAC bylaws, solicitation materials, communications, and processes for compliance with applicable FEC rules, state laws, tax laws, etc. Such a process audit also can assist a PAC in benchmarking its activities and processes with those of other similarly situated PACs. Although such process audits are backward-looking, they greatly improve the PAC's compliance and performance going forward into the 2023-24 cycle and beyond.

Evaluation of the Restricted Class

The end of an election cycle is the perfect time to evaluate the PAC's solicitation process – not only to ensure that all those being solicited are in the restricted class, but also to decide whether the class of solicitees should be expanded or contracted, to determine whether the messaging should be differentiated between different types of solicitees, and to make any additional changes to the PAC's solicitation materials. This particular new election cycle, given that it culminates in a Presidential election, may affect solicitation materials and approaches in ways that have not been useful in the past.

Training

The beginning of a new election cycle and a new calendar year both present corporations and trade associations with an opportunity to focus on training – especially as Congress and the state legislatures convene for new sessions. Proper training encompasses three areas of political involvement: campaign finance, pay-to-play, lobbying and ethics (including gift rules). Training doesn't have to be dry and boring – a mere recitation of the rules – but can be an interactive and interesting process that informs the employees and lets them know about their employer's commitment to proper behavior. Knowledge about the applicable law is the first defense against problems down the road, particularly when gift-rule certifications are required such as on the federal LDA form LD-203.