

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

August 26, 1977

Mr. R. E. Hilton, Attorney
United States Steel Corporation
600 Grant Street
Pittsburgh, Pennsylvania 15230

A 77-08-046

Dear Mr. Hilton:

This letter is in response to your inquiry of August 5, 1977, concerning the filing requirements of the Political Reform Act to which the USS Employees Good Government Fund will be subject if it is decided to utilize the Fund to support candidates for state and local office in California.

Your questions are answered in the order posed:

1. Your reasoning and conclusion are correct with regard to when the Fund would become a committee under California Government Code Section 82013(a). Once the Fund had contributed \$500 or more in a calendar year to California candidates, then it would have in effect received \$500 in contributions attributable to California activity and would be a Section 82013(a) committee.
2. For the purposes of calculating cumulative amounts, the period covered by the Fund's initial statement would commence on the date of the first contribution to a California state or local candidate during the calendar year in which it qualified as a committee.
3. As you know, the Political Reform Act requires the disclosure of certain information regarding anyone from whom contributions totaling \$50 or more has been received. We, therefore, are unable to make an exception for corporate PACs, such as the USS Employees Good Government Fund, which primarily support federal candidates and thereby whose records are maintained on a calendar-year basis to facilitate compliance with the Federal Act. In the case of the Fund whose support of California candidates, you anticipate, would be limited to November elections, this means that the Fund's accumulations must aggregate from its first reportable transaction in California through the closing date of its first post-election statement. Thereafter, the Fund's accumulation would begin anew and continue until its subsequent post-election statement. In order to determine those contributors to the Fund, if any, who must be itemized, you would project the percentage of the Fund's receipts which would be contributed to California candidates and apply this percentage to each donor's contribution to the Fund. Any person whose prorata share of contributions to California

(30)

candidates amounted to \$50 or more must be itemized. In the case of a committee which supports candidates on a nationwide basis it seems unlikely that any individual's share would meet the \$50 threshold.

4. In determining the amount of in-kind contributions from U. S. Steel to the Fund attributable to California elections in the form of administrative support, we suggest that you calculate the prorata share of administrative costs based on the amount of the Fund's receipts contributed to California candidates. It is permissible to list all recipients of the Fund's contributions or to list the California recipients only, whichever you prefer. Likewise, you may either report the entire value of U. S. Steel's administrative services rendered to the Fund or just the portion relative to California elections. We would urge, however, for the sake of clarity and consistency, that you report the receipts and expenditures in the same manner, regardless of whether you choose the allocated or full disclosure method.

I hope this advice is helpful. If you have further questions, please contact our staff.

Sincerely,



Nan Emmerson
Special Compliance Representative

NE:jg

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LAW DEPARTMENT

600 GRANT STREET
PITTSBURGH, PENNSYLVANIA 15230
CABLE: USSCO/LAW PCHPA

August 5, 1977

Michael J. Baker, Esq.
Legal Division
Fair Political Practices Commission
P. O. Box 807
Sacramento, California 95804

Dear Mr. Baker:

United States Steel Corporation established in 1975, pursuant to the Federal Election Campaign Act of 1971, as amended (the "Federal Act"), a separate segregated fund named the USS Employees Good Government Fund (the "Fund"). Contributions to the Fund may not be "earmarked." The Fund has been utilized primarily to support candidates for Federal office; however, consideration is now being given to utilizing the Fund to support candidates for state and local office in California. In this connection, I would like to raise for your consideration several points.

1. When would the Fund become a "committee"? It is clear that once the Fund comes within any of the definitions of "committee" in Government Code Section 82013 then it must satisfy the reporting requirements of Sections 84200 et seq. However, since there is a substantial balance of funds in the Fund at any given time, it is a bit unclear how the definition of Section 82103(a) would be applied. Until the Fund is utilized in connection with California elections, it cannot be said to have received any "contributions" as that term is used in Section 82103(a). On the other hand, once it has been so utilized, all of the balance of funds on hand might be considered "contributions." A sensible approach, it seems to me, would be to conclude that, until a total of \$500 or more in a calendar year is spent from the Fund in connection with California elections, the Fund would not be considered to have received \$500 or more in contributions and, hence, it would not be a committee as defined in Section 82103(a). Upon expending \$500 or more in a calendar year in connection with California elections, the Fund would become a "committee."

2. When would the first "cumulative" period commence? Another problem arises out of the definition of "cumulative amount" in Government Code Section 82018. Is it correct that the period utilized to calculate the cumulative amount for purposes of filing the first series of reports following registration of the Fund would commence with the date of the first expenditure from the Fund in connection with California elections made during the calendar year in which the Fund was so registered? Or would such period commence with the date the Fund becomes a "committee"?

Michael J. Baker, Esq.
August 5, 1977
Page -2-



3. Might the Fund, if limited to support in connection with November elections, aggregate on a calendar-year basis? Yet another concern is that the periods during which contributions and expenditures are aggregated begin with the closing date of the last previously-filed post election report. Currently this information is stored electronically and the aggregating is done on a calendar-year basis (as is required by the Federal Act). Is it permissible for the post election report following each November election to be filed with a closing date of the following December 31st if the Fund is not utilized in connection with California elections for the period between that election and the following January 1? Of course, during that period the Fund will be receiving contributions. If such were allowed, and the Fund was utilized only in connection with November elections, the periods for aggregating would always commence with January 1 of the current year.

4. May administrative costs of the Fund be allocated if other contributions are not? With respect to the information to be reported, I note Mr. Kenneth Finney's letter of September 15, 1976 to Mr. Thomas I. McKnew, Jr. of the Atcheson, Topeka & Santa Fe Railway Company. Mr. Finney concludes therein that Civic Trust 80 need report only that portion of contributions to it as are allocated to California. The method of allocation suggested was based on the ratio of total contributions received to expenditures made in connection with California elections. This ratio, of course, constantly changes as expenditures are made and contributions received. During a period utilized to calculate a "cumulative amount" the ratio may change from, say, 10% to 20%. Would an individual who contributed \$400 at the start of that period have to be identified as a contributor of \$50 or more? If post election reports can be filed through December 31, it may be easier for the Fund to fully report contributions and expenditures without any allocation to California. Would this be permitted? If contributions and expenditures are fully reported without any allocation to California, may the costs of administering the Fund and the value of services provided to the Fund by U. S. Steel nevertheless be allocated in the manner outlined in Mr. Finney's letter to Mr. McKnew?

Very truly yours,

A handwritten signature in dark ink, appearing to read "R. E. Hilton".

R. E. Hilton
Attorney

REH:blw