



California Fair Political Practices Commission

November 8, 1994

Laura Magnani
Criminal Justice Program Coordinator
American Friends Service Committee
1611 Telegraph Avenue, Ste. 1501
San Francisco, CA 94612

Re: Your Request for Informal
Assistance
Our File No. I-94-302

Dear Ms. Magnani:

You have requested advice concerning the campaign provisions of the Political Reform Act (the "Act").^{1/} Because your questions are general in nature, we are treating your letter as a request for informal assistance pursuant to Regulation 18329(c).^{2/}

QUESTIONS

You have asked how the American Friends Service Committee ("AFSC") should report receipts and expenditures in connection with its activities opposing Proposition 184 on the November 8, 1994 General Election ballot. Specifically, you have asked how to disclose the receipt of contributions and the making of expenditures in connection with six radio advertisements, only one of which focused on the subject matter involved in Proposition 184. In addition, you have asked about disclosure of payments by AFSC in connection with the campaign, including payments for staff support and costs of reproducing informational literature.

CONCLUSIONS

AFSC must disclose all contributions received and expenditures made directly in connection with its activities in opposition to Proposition 184. With regard to the six radio advertisements, because only one of the advertisements dealt with

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

the subject matter involved in Proposition 184, it is permissible to disclose only one-sixth of the contributions received and expenditures made in connection with the advertisements. Therefore, one-sixth of each contributor's donation must be counted for purposes of determining if \$100 or more has been received from a single contributor.

Donations from individual contributors totaling \$100 or more in a calendar year must be itemized on the recipient committee campaign statements. Donations from individual contributors totaling less than \$100 should be reported in a lump sum.

AFSC's payments for staff support, including expenses, must be disclosed if a staff member spends more than 10 percent of his or her compensated time in a calendar month engaged in activities to oppose Proposition 184. Reproduction costs for materials which contain both political and non-political information may be pro rated. In addition, costs incurred in connection with publication of a regularly published newsletter may be excluded as described in the following Analysis.

FACTS

The American Friends Service Committee has been operating a number of programs in Northern California for 50 years, including a criminal justice program primarily involving public education. You indicated during our telephone conversation on October 27, 1994, that AFSC is a multi-issue organization funded by individual donations. During 1994, AFSC initiated a radio campaign made up of six advertisements to educate the public about alternatives to the present prison system. One of the six ads focuses on the concept of "Three Strikes and You're Out," although it does not mention Proposition 184 by number or tell listeners how to vote. In addition, AFSC has produced some literature and members of AFSC's staff have spent time making speeches opposing the measure.

As of mid-September, AFSC had not solicited or received money specifically with regard to Proposition 184. However, donations were solicited for the six radio advertisements. During our telephone conversation, you indicated that between \$15,000 and \$17,000 was raised for the radio campaign, including one contribution of \$10,000. In addition, you stated that during October, contributions were received specifically in connection with AFSC's opposition to Proposition 184.

AFSC has registered and filed campaign disclosure reports as a sponsored committee primarily formed to oppose Proposition 184.

ANALYSIS

The Act requires disclosure of contributions received and expenditures made by entities or organizations that receive contributions totaling \$1,000 or more in a calendar year for the purpose of influencing the voters for or against the qualification

or passage of state and local ballot measures. (Sections 82013(a) and 82015; Regulation 18215.)

When an organization receives contributions and makes expenditures in connection with both political and non-political issues, it should disclose only that portion of receipts and expenditures which are attributable to its political activities. There are no precise rules for allocating receipts and expenditures. However, any allocation method used must be reasonable and be made in good faith. (Olson Advice Letter, No. A-87-318; Ferenbach Advice Letter, No. A-90-105.) With regard to the radio campaign, the one-sixth allocation discussed above would be a reasonable method of allocating receipts and expenditures. The full amount of contributions received and expenditures made directly in connection with the measure must be disclosed.

You indicated that AFSC staff members have also engaged in activities to oppose Proposition 184. Regulation 18423 provides:

(a) The payment of salary, reimbursement for personal expenses, or other compensation by an employer to an employee who spends more than 10% of his compensated time in any one month rendering services for political purposes is a contribution, as defined in Government Code Section 82015 and 2 Cal. Adm. Code Section 18215, or an expenditure, as defined in Government Code Section 82025 and 2 Cal. Adm. Code Section 18225, by the employer if:

(1) The employee renders services at the request or direction of the employer;

* * *

(b) Personal services are rendered for political purposes if they are carried on for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of one or more candidates, or the qualification or passage of any measure, and include but are not limited to:

(1) Personal services received by or made at the behest of a candidate or committee by an employee; and

(2) Hours spent developing or distributing communications that expressly advocate the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure.

(c) The amount of the contribution or expenditure reportable pursuant to this regulation is the pro-rata portion of the gross salary, reimbursement for personal expenses or compensation attributable to the time spent on political activity....

Therefore, if any employee of AFSC spends more than 10 percent of his or her compensated time engaged in the activities described in Regulation 18423, his or her salary and expenses attributable to the campaign must be disclosed as a non-monetary contribution from AFSC on the recipient committee campaign statement.

With regard to production of materials, any costs which are directly attributable to the campaign must be disclosed. When costs are incurred for materials which contain both political and non-political information, a reasonable allocation method may be used. These costs should also be disclosed as non-monetary contributions from AFSC to the recipient committee. However, certain costs in connection with regularly published newsletters are exempt from disclosure. Regulation 18225 provides:

...(4) Notwithstanding the provisions of this subsection, the term expenditure does not include costs incurred for communications which expressly advocate the nomination, election or defeat of a clearly identified candidate or candidates or the qualification, passage or defeat of a clearly identified measure or measures by:

* * *

(C) A regularly published newsletter or regularly published periodical...whose circulation is limited to an organization's members, employees, shareholders, other affiliated individuals and those who request or purchase the publication. This paragraph applies only to the costs regularly incurred in publishing and distributing the newsletter or periodical. If additional costs are incurred because the newsletter or periodical is issued on other than its regular schedule, expanded in circulation, or substantially altered in style, size or format, the additional costs are expenditures.

If you have questions concerning this letter, please do not hesitate to contact me at (916) 322-5662.

Sincerely,



Carla Wardlow
Division Chief
Technical Assistance Division