

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

May 23, 1997

Sheryl Z. White, President
Statecraft, Inc.
8618 Nottingham Place
LaJolla, California 93037-2126

Re: Your Request for Informal Assistance
Our File No. I-97-222

Dear Ms. White:

This is in response to your request for advice regarding the provisions of the Political Reform Act (the "Act").¹ Since you are seeking advice on behalf of several unidentified clients, your letter is considered a request for informal assistance.²

QUESTION

May an elected officer use funds in his or her officeholder account to purchase software to be used to generate the disclosure statements required to be filed by the Act?

CONCLUSION

Yes. Since the Act requires officeholders to disclose expenditures from, and contributions to, the officeholder account, an expenditure to purchase computer software to accomplish that mandated task would be an acceptable use of officeholder funds.

FACTS

Statecraft, Inc., is one of many software vendors which sells software programs to enable candidates and officeholders to produce computer-generated campaign disclosure forms. Several

¹Government Code sections 81000-91004. Commission regulations appear at title 2, sections 18109-18995, of the California Code of Regulations.

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

of your clients have asked you to request advice inquiring if it is permissible to use funds in an officeholder account to pay for such software programs.

ANALYSIS

The Act requires candidates and officeholders to file campaign disclosure statements at specified times during their campaign, as well as during their tenure in office. Section 84100, et seq. These statements disclose contributions received and expenditures made by a candidate or officeholder, and depending on the financial sophistication of the candidate or officeholder, can be quite complex. Statecraft, Inc., has developed computer generated campaign forms to be used by candidates and officeholders to ease their disclosure obligations.

In addition, Proposition 208, a campaign financial reform initiative on the November 1996 general ballot, contains disclosure obligations. Section 85313 allows an elected officer to establish an officeholder account and requires the elected officer to disclose all expenditures from, and contributions to, the officeholder account. Specifically, Section 85313 provides:

“(a) Each elected officer may be permitted to establish one segregated officeholder expense fund for expenses related to assisting, serving, or communicating with constituents, or with carrying out the official duties of the elected officer, provided aggregate contributions to such a fund do not exceed ten thousand dollars (\$10,000) within any calendar year and that the expenditures are not made in connection with any campaign for elective office or ballot measure.

* * *

(d) All expenditures from, and contributions to, an officeholder account are subject to the campaign disclosure and reporting requirements of this title.”

Section 85313(a) and (d).

Accordingly, expenditures from an officeholder account formed pursuant to Section 85313 must be used for expenses related to assisting, serving or communicating with constituents, or carrying out the official duties of the elected officer.

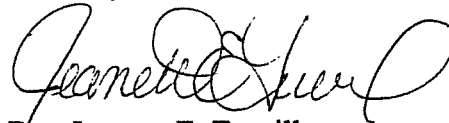
The Commission has not adopted regulations interpreting Section 85313. Until that time, we will provide advice on a case-by-case basis. In response to your request, since Section 85313 specifically requires officeholders to disclose expenditures from, and contributions to, the officeholder account, it would appear logical that payments from such an account to purchase computer software to accomplish that mandated task, would be an acceptable use of officeholder funds. Such an expenditure is related to the official duties of an elected official.

As noted earlier, expenditures from an officeholder account may not be made in connection with any campaign for elective office or ballot measure. An officeholder would not be permitted to expend funds from the officeholder account to purchase software to prepare disclosure statements for use during his or her campaign.

I hope this answers your question sufficiently. If you have any questions, or need to discuss this further, please feel free to call me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



By: Jeanette E. Turvill
Political Reform Consultant
Technical Assistance Division

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