STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

September 11, 2026

Stephen J. Kaufman
Kaufman Legal Group
445 S. Figueroa Street, Suite 2400
Los Angeles, CA 90071

Re: Your Request for Advice
Our File No. A-26-098

Dear Mr. Kaufman:

This letter responds to your request for advice on behalf of Yes on 40 – Billionaire Tax Now – No on 41 & 42, Sponsored by Service Employees International Union – United Healthcare Workers West (the "Committee") regarding the campaign finance provisions of the Political Reform Act (the "Act").[1]

Please note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Does Section 85320 prohibit the Committee from contracting with a foreign entity (the "Vendor") to produce political communications in support of a state ballot measure, where the foreign entity may incur initial production expenses?

CONCLUSION

No, Section 85320 does not prohibit the Committee from contracting with the Vendor to produce political communications in support of a state ballot measure even if the Vendor incurs initial production expenses as any payments made by the Vendor to fulfill the terms of the contract with the Committee would not be considered expenditures under the Act. We caution

[1] The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

that the Committee is prohibited from accepting a contribution from the Vendor, including accepting goods or services from the Vendor at no charge or at a discount, or failing to satisfy one of the requirements of Regulation 18530.7(b) regarding an extension of credit provided by the Vendor, as discussed below.

FACTS AS PRESENTED BY REQUESTER

The Committee is primarily formed to support Proposition 40 and oppose Propositions 41 & 42 in the upcoming November 3, 2026 general election. The Committee would like to hire the Vendor to produce communications including video and graphic content to support its campaign. The Vendor is a foreign entity, incorporated in France, and all employees of the Vendor are French citizens. The proposed contract for services specifies that the Committee retains sole and exclusive authority over all decision-making about the ads' content and the Committee's election activity. However, the Vendor may incur initial production expenses that will be reimbursed by the Committee in the regular course of business upon payment of the Vendor's invoices.

ANALYSIS

Section 85320(a) provides, in part, that a foreign government, foreign principal, or foreign national shall not make, directly or through any other person, a contribution, expenditure, or independent expenditure in connection with the qualification or support of, or opposition to, any state ballot measure. The Act defines "foreign principal" to include a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country. (Section 85320(c)(2)(C).)

Based on the facts provided, the Vendor the Committee wishes to contract with is a foreign principal pursuant to Section 85320(c)(2)(C). As the Vendor is working directly with the Committee, it is not making independent expenditures. Thus, we must determine whether the Vendor is making a prohibited expenditure for, or a contribution to, the Committee under the circumstances you have presented.

Under the Act, "expenditure" means a payment,[2] a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. (Section 82025(a).) A payment is made for political purposes if it is for the purpose of influencing or attempting to influence the action of the voters for or against the qualification or passage of any measure. (Section 82025(b)(1).)

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[2] Under the Act, "payment" means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible. (Section 82044.)

As stated, the Committee wishes to contract with the Vendor to produce communications to support its campaign and the Vendor will be reimbursed for any expenses incurred and will be paid for their services by the Committee. Additionally, you state the proposed contract for services specifies that the Committee retains sole and exclusive authority over all decision-making about the ads' content and the Committee's election activity. The relationship described appears to be that of a routine vendor, hired under contract to perform specific services for the Committee. Thus, any payments made by the Vendor, including payments for initial production costs, is for the purpose of fulfilling the terms of the contract it has with the Committee. As such, the payments made by the Vendor will not be made for political purposes. Therefore, any payments made by the Vendor to fulfill the terms of the contract with the Committee would not be considered expenditures under the Act. We note the Committee will be required to disclose any accrued expenses or payments made by the Vendor on relevant campaign statements pursuant to the Act.

As noted above, Section 85320 prohibits the Committee from accepting a contribution[3] from the Vendor, a foreign principal, and prohibits the Vendor from making a contribution to the Committee. Regulation 18215 defines "contribution" to include any goods or services received by a committee at no charge or at a discount from the fair market value, unless the discount is given in the regular course of business to members of the public. (Regulation 18215(b)(3).) Thus, to avoid receiving a prohibited contribution from the Vendor, the Committee must pay the Vendor fair market value for its goods and services, unless a discount is given in the regular course of business to members of the public.

Additionally, Regulation 18530.7(a) provides, in part, that an extension of credit which consists of a receipt of goods or services pursuant to an agreement between the provider of the goods or services and a committee, and where payment is not made until a later date, is a contribution to the committee. However, an extension of credit is not a contribution to the committee if either of the following requirements are met:

(1) Payment is made on or before the earlier of the following dates: (A) 45 days after the date of the invoice; or (B) 45 days from the date the goods or services are delivered; or (C) For services ongoing in nature, 45 days after the date of the invoice, where services are billed no less frequently than on a three-month billing cycle. (Regulation 18530.7(b)(1)(A)-(C).)

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[3] The Act defines "contribution" to mean a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received or if it is clear from the surrounding circumstances that the payment is not made for a political purpose. (Section 82015(a).)

(2) All of the following are met: (A) The credit arrangement is recorded in a written instrument; (B) It is a regular business of the provider of goods or services to provide similar goods or services; (C) The provider provides the goods and services in the ordinary course of business and on the same terms and conditions offered to customers generally; (D) The provider of goods or services enters into the agreement with the intent that the committee be required to pay in accordance with terms of the agreement and does not have actual knowledge that the committee would not be able to pay in accordance with those terms; and € The provider of goods or services makes reasonable efforts to collect the full amount of the payment owed within four months of the date that the payment for the goods or services is due under the terms of the agreement. (Regulation 18530.7(b)(2)(A)-(E).)

Thus, to avoid receiving a prohibited contribution from the Vendor based on an extension of credit from the Vendor, the Committee must satisfy one of the requirements of Regulation 18530.7(b), as outlined above.

If you have other questions on this matter, please contact me at Jrinehart@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

JennaRinehart

By: Jenna C. Rinehart
Senior Counsel, Legal Division

JR:aja