



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 581

December 14, 2022

ISSUE

Whether a political committee may accept political contributions through a web portal shared with an incorporated association that established and administers the political committee. (AOR-671.)

SUMMARY

Yes. A political committee may accept political contributions that have been processed by a web portal shared with an incorporated association, provided the general-purpose committee complies with applicable recordkeeping and reporting provisions

FACTS

The requestor (the “Parent Organization”) is an incorporated trade association that administers several other legal entities, including a general-purpose political committee. The Parent Organization and related entities receive payments through their respective websites.

The Parent Organization would like to have credit card payments flow to a single primary bank account through a single credit card web portal. The primary account where payments would initially be deposited would be owned by the Parent Organization. Payments for an entity other than the Parent Organization, such as contributions to the political committee, would then be transferred out of the primary account to the other entity’s account.

This means if the Parent Organization receives contributions to the political committee by credit card, the transaction would be processed by the Parent Organization’s single credit card web portal and deposited in the primary account. The Parent Organization would then transfer the cash to the political committee’s bank account on a monthly basis. The Parent Organization states it will keep records necessary for the political committee to comply with its reporting obligations. The Parent Organization’s payment processing system will allow it to identify which payments belong to each of its related entities, including the political committee.

The requestor asks if such a proposal is permissible under title 15 of the Election Code.

ANALYSIS

We believe the requestor's proposal would comply with Texas law, provided the general-purpose committee complies with the recordkeeping and reporting provisions of title 15 of the Election Code and commission rules.

The legal question raised is whether the requestor's proposal would involve a prohibited corporate contribution to the political committee. A corporation is permitted to finance the costs of establishing and administering a general-purpose committee, as well as the costs of soliciting contributions to the committee from the stockholders, employees, or members of the incorporated entity. Tex. Elec. Code §§ 253.094, 253.100; see also Tex. Ethics Comm'n Op. Nos. 163, 132 (1993). Consistent with past advisory opinions, we believe the use of the Parent Organization to process contributions to the general-purpose committee is a permissible administrative expense.¹

In Ethics Advisory Opinion No. 181 (1994), the Commission dealt with a lower-tech version of the same question.. In EAO 181, a corporation asked whether it may accept a single check with a portion earmarked by the contributor to the corporation and another portion earmarked to the corporation's political committee. The corporation would deposit the check in its corporate account and then write a check to the political committee for the amount the contributor earmarked for the committee. *Id.* We held "the fact that the contributions would flow through the incorporated association's general account before being deposited in the general-purpose committee's account would not violate the prohibition on corporate political activity." *Id.* The corporation was allowed to act as a conduit for its political committee provided it kept adequate records so the political committee could accurately report the contribution. *Id.*; see also Tex. Ethics Adv. Op. No. 108 (1992) (holding a political contribution does not become a prohibited corporate contribution just because a corporation acted as an intermediary in disbursing the funds to their ultimate recipient).

Here, the facts are essentially the same as EAO 181—only the technology has changed. Instead of using checks, the transfer of funds would occur electronically. The procedure suggested would not violate section 253.094 of the Election Code if the corporate Parent Organization's only role is to act as a conduit for contributions to the political committee. The Parent Organization must also provide to the political committee records sufficient for the political committee to properly disclose the contributions. See Tex. Elec. Code §§ 253.001(a) (prohibiting contributions in the name of another); 254.001 (prescribing record keeping requirements), 254.031 (prescribing general reporting requirements), and 254.151 (prescribing additional reporting requirements).

¹ We assume the political contributions that are the subject of this request are from the Parent Organization's "solicitable class" or were not made in response to a solicitation funded by the Parent Organization.