



# TEXAS ETHICS COMMISSION



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## ETHICS ADVISORY OPINION NO. 604

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*March 20, 2024*

### ISSUE

Whether the purchase of a storage trailer is a normal overhead, administrative, or operating cost of a political party such that contributions from a corporation may be accepted and used for its purchase. (*AOR-700*).

### SUMMARY

The political party may use contributions from corporations to purchase a storage trailer because the trailer is a normal overhead cost.

### FACTS

The requestor represents a county political party. She asks whether a county political party may accept contributions from a corporation to purchase a storage trailer that will be used to store “campaign and other political party items.”

### ANALYSIS

The law allows a political party to accept corporate or labor contributions<sup>1</sup> for limited purposes. Tex. Elec. Code § 253.104. A political party may use contributions from a corporation only to: “(1) defray normal overhead and administrative or operating costs incurred by the party; or (2) administer a primary election or convention held by the party.” *Id.* § 257.002(a).

The phrase “normal overhead and administrative or operating costs” covers “items such as expenditures for office space, utilities, and other usual costs of operating an organization.” Tex. Ethics Op. No. 272 (1995).

“Overhead” is not defined in statute but is generally known to mean “business expenses (such as rent, insurance, or heating) not chargeable to a particular part of the work or product.” Merriam-Webster.com Dictionary, “Overhead.” Merriam-Webster, <https://www.merriam-webster.com/dictionary/overhead>. Accessed 20 Feb. 2024.

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<sup>1</sup> The requestor asked about the permissibility of a political party accepting contributions from a corporation. For that reason we will refer only to corporate contributions. However, the restrictions applicable to a political party’s acceptance and use of corporate contributions applies equally to contributions from a labor organization.

In Advisory Opinion No. 176, the TEC opined that purchasing a permanent party headquarters is a normal overhead expense for which corporate contributions may be used. Tex. Ethics Comm'n Op. No. 176 (1993). However, costs associated with the printing and distribution of brochures soliciting donations to and membership in the party is not a "normal overhead and administrative or operating cost." Tex. Ethics Comm'n Op. No. 272 (1995). The key distinction is whether the expense is attributable to general ongoing operational costs as opposed to spending more directly attributable to expenditures advocating in connection with an election. *See id.*

A permanent storage trailer to hold the various items owned by a political party is akin to a party's headquarters. The use of a storage space for the various items a political party accumulates fits squarely within the definition of "overhead" in that it is not directly attributable to a single activity of the party. This is true regardless of whether the party chooses to lease temporary storage space or purchase a trailer or some other more permanent storage solution. Therefore, the party may use contributions from corporations to purchase a storage trailer.

We note certain conditions apply to the timing and manner of a political party's acceptance of corporate contributions. Corporate contributions must be maintained in a separate account. *Id.* § 257.002(b). The party must file reports of contributions to and expenditures from this separate account as if the party chairman were the campaign treasurer of a political committee and as if the contributions or expenditures were political contributions or expenditures. *Id.* § 257.003. The party may not accept corporate contributions or use corporate contributions during the period beginning on the 60th day before the date of the general election for state and county officers and continuing through the day of the election. *Id.* § 257.004(a).

The political party may use contributions from corporations to purchase a storage trailer used for general storage of the party's items provided they abide by the provisions generally applicable to the acceptance of corporate money by a political party.