

November 9, 2020

Washington Public Disclosure Commission
Attention: Sean Flynn
PO Box 40908
Olympia WA 98504-0908

Sent by email to pdcc@pdcc.wa.gov

Re: Proposed WAC 390-16-330 and 390-16-335; prohibited financing, decision-making involvement by foreign nationals and related certifications

Thank you for the opportunity to provide comment on the proposed permanent rules. This past election was the first where we had to include adherence to the new statute and emergency rules and we hope that our hands-on experience, as well as that of other campaigns, will be useful in your deliberations.

Online contributions

The rules should make it clear that the certification can be provided online via the campaign's website, provided that each of the items noted in proposed WAC 390-16-335 is completed and a copy is retained by the campaign.

Multiple contributions by the same donor

We recognize that a donor entity could potentially fund one donation entirely with US-source financing and then a future contribution with financing that includes the funds of foreign nationals. However, for donors who wanted to make multiple contributions to the campaign, it meant that they had to prepare the certification each and every time and that added to their administrative burden and to ours. This issue likely impacts political committees more than political candidates because of the differences in campaign contribution limits, however, it could conceivably impact both candidates and committees.

We'd propose to have an alternative certification available whereby the donor not only affirms that the initial contribution complies with the rules regarding foreign nationals, but also agrees that this affirmation will apply to all future contributions during the current campaign cycle.

In-Kind Contributions

This was the area that caused the most compliance difficulty and donor confusion for us. We may not have even become aware of the in-kind contribution until sometime near the deadline of the C-4 filing. That caused additional compliance work to be sure to obtain, in addition to the documentation already required for the C-4 filing, the necessary signed certification either by the due date of the C-4 or within 10 business days of the in-kind expenditure (the latter of which had likely already lapsed). With the tight-turns of some of the C-4 filing deadlines, that becomes increasingly difficult to comply with.

Although it did not apply in the case of the campaign that we were working on, it does occur to us that if the certification was not received timely, the campaign is required to refund or return the contribution to the donor. That also places a burden on the campaign to then have to provide funds for an

expenditure that they otherwise would not have planned for and for that matter, may not have the funds to do so.

Possible solutions:

- Provide a de minimis threshold for cumulative contributions to the campaign before the certification is required for in-kind contributions.
- Allow for an alternative certification process whereby a donor can sign the affirmation for the entire campaign cycle (i.e. such as that suggested above for multiple contributions by the same donor).

Additional suggestion for cash and in-kind contributions:

Consider the implementation of a PDC-administered database, whereby donor entities could register with the PDC, affirming that they will not accept financing or decision-making input from foreign nationals for the entire campaign cycle. Campaign treasurers could then rely upon that database and be assured of compliance. There are many business organizations, labor unions and others which contribute to multiple campaigns and this would simplify the compliance for both donors and campaigns.

We thank you for your consideration of these suggestions. If you have any questions, please contact us.

Respectfully submitted,



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