



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**AGENDA DOCUMENT NO. 22-20-B**  
**AGENDA ITEM**  
**For meeting of June 8, 2022**

June 1, 2022

**MEMORANDUM**

TO: The Commission

FROM: Lisa J. Stevenson *NFS for LJS*  
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Subject: Draft AO 2022-03 (Democracy Engine) – Draft B

Attached is a proposed draft of the subject advisory opinion.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 12:00 pm (Eastern Time) on June 7, 2022.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <https://www.fec.gov/legal-resources/advisory-opinions-process/>.

Attachment

1 ADVISORY OPINION 2022-03  
2  
3 Carol A. Laham, Esq.  
4 Andrew G. Woodson, Esq.  
5 Wiley Rein LLP  
6 2050 M St. NW  
7 Washington, DC 20036

**DRAFT B**

8 Dear Ms. Laham and Mr. Woodson:

9 We are responding to your advisory opinion request on behalf of Democracy  
10 Engine, LLC (“Democracy Engine” or “requestor”) concerning the application of the  
11 Federal Election Campaign Act, 52 U.S.C. §§ 30101-45 (the “Act”), and Commission  
12 regulations to Democracy Engine’s proposal to sell a customized page on the Democracy  
13 Engine web platform to corporations or their separate segregated funds (“SSFs”).  
14 Members of a corporation’s restricted class and the general public who visit the  
15 customized page would be able to make contributions through the Democracy Engine  
16 platform to those candidates and political committees selected by Democracy Engine’s  
17 client to be featured on the page. Democracy Engine further proposes to provide a  
18 corporation or SSF purchasing its service with real-time data about the names and states  
19 of residence of individuals who make contributions on Democracy Engine’s platform  
20 after visiting the customized page, as well as the amounts and ultimate recipients of those  
21 contributions.

22 The Commission concludes, under the circumstances proposed, that a corporate  
23 client of Democracy Engine may use a customized page on the Democracy Engine  
24 platform to solicit members of its restricted class to contribute to candidates or political  
25 committees – and need not operate through an SSF to do so – because Democracy  
26 Engine, not its client, would provide the method of transmitting the contributions as a

1 service to individual contributors. For the same reason, a corporation or its SSF may use  
2 a customized page to solicit members of the general public to contribute to candidates or  
3 political committees. The Commission further concludes that Democracy Engine may  
4 provide its clients with real-time data about contributions that result from these  
5 solicitations because the proposed activity is not covered by the Act’s sale or use  
6 prohibition. Finally, a customized page on the Democracy Engine platform available to  
7 the general public must include the disclaimers required by 11 C.F.R. § 110.11 because  
8 the page would be a public communication by the corporation or SSF soliciting  
9 contributions to candidates or political committees.

10 ***Background***

11 The facts presented in this advisory opinion are based on your letter dated April 1,  
12 2022.

13 Democracy Engine is a for-profit limited liability company that offers web-based  
14 payment services to assist individuals to make contributions to political committees in the  
15 ordinary course of Democracy Engine’s business. Advisory Opinion Request (“AOR”) at  
16 AOR001.<sup>1</sup> Democracy Engine now proposes to sell a new service to corporations and  
17 corporate SSFs. Democracy Engine proposes to charge a corporation or a corporate SSF  
18 a fee to create a customized page on the Democracy Engine platform. AOR002-3.<sup>2</sup>

19 Democracy Engine’s corporate or corporate SSF client would use the customized page to

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<sup>1</sup> For tax purposes, Democracy Engine has elected treatment as a partnership, and its partners are all natural persons who are U.S. citizens. AOR001.

<sup>2</sup> This fee is intended to cover the costs of Democracy Engine’s services to the corporation or corporate SSF and provide Democracy Engine with “a commercially reasonable profit.” AOR003.

1 solicit members of the corporation’s restricted class or the general public to make  
2 contributions to candidates and political committees selected by that client. AOR002-3,  
3 7. Democracy Engine would enable members of the restricted class or general public  
4 visiting the customized page to make contributions to its clients’ selected candidates or  
5 political committees, deducting “a commercially reasonable convenience fee” before  
6 forwarding the individual’s contribution to the ultimate recipient candidate or political  
7 committee. AOR003-5. Democracy Engine would then provide its client with real-time  
8 data about resulting contributions. AOR006-7.<sup>3</sup>

9         The request provides an example of how the customized page would appear to  
10 individuals who visit it. AOR002. This sample page states: “Support our candidates!  
11 These candidates are great on our issues!” and provides prospective contributors with  
12 various contribution amount options, including the option to fill in the contributor’s own  
13 preferred contribution amount. AOR002. Individuals could not make contributions to  
14 any candidate or political committee beyond those selected by Democracy Engine’s  
15 corporate or SSF client and listed on the customized page. AOR003. Democracy Engine  
16 would retain a copyright in the content included on the customized page, and only  
17 Democracy Engine could change the code and conduct technical work to ensure the  
18 function of the page. AOR002-3.

19         To direct members of the restricted class to the customized page, a corporation  
20 would “email a link to this site to its restricted class, along with a request that individuals  
21 consider supporting one or more candidates or committees identified on the site.”

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<sup>3</sup> In some instances, a corporation or corporate SSF may use the customized page to solicit members of the restricted class to make contributions to the corporation’s own SSF. AOR003.

1 AOR003. Those communications would “include the appropriate disclaimers concerning  
2 voluntariness.” AOR003. Similarly, for solicitations to the general public, a corporation  
3 or corporate SSF would disseminate communications to the public directing them to the  
4 customized page and would “determine the content of . . . any solicitations.” AOR007.  
5 Democracy Engine “expects that communications to the general public will be made  
6 independent of any campaign, and that the costs associated with such communications  
7 will be treated as independent expenditures by the corporation or its [SSF] and reported  
8 accordingly, and further that any solicitations will include the appropriate disclaimers  
9 identified by the Commission in Advisory Opinion 2011-14 (Utah Bankers  
10 Association).” AOR007.

11 An individual who clicks on the link in a corporation’s or SSF’s solicitation email  
12 would be taken to the customized page. AOR003, 7. If that individual chooses to make a  
13 contribution to one of the featured candidates or political committees on the customized  
14 page, the individual would be informed that by clicking the “donate” button, the  
15 individual confirms that he or she is a U.S. citizen or permanent resident, the contribution  
16 is from the individual’s own funds, the individual is not a federal contractor, and the  
17 individual is at least 18 years old. AOR004. In addition, the individual contributor  
18 would be required to provide his or her name, address, email address, employer,  
19 occupation, and credit card, debit card, or electronic check information. AOR005.  
20 Democracy Engine currently collects this information as part of its processing services to  
21 ensure that the ultimate recipient committees are provided “the data they need under the

1 law” to file reports with the Commission and for Democracy Engine’s own accounting  
2 purposes. AOR007.<sup>4</sup>

3 An individual contributor would also be required to agree to Democracy Engine’s  
4 terms of service and privacy policy, which would be provided as links on the contribution  
5 page. AOR004. “[T]he Privacy Policy explains that an individual’s information may be  
6 shared not only with the recipient of an individual’s contribution, but also with those  
7 entities that utilize Democracy Engine’s Services and incorporate Democracy-Engine  
8 hosted websites into their communications.” AOR004.

9 Democracy Engine would deposit funds received from an individual contributor  
10 into a Democracy Engine account separate from its operating funds and transfer the funds  
11 to the recipient political committee within 10 days of receipt, after deducting its  
12 convenience fee. AOR005. At the time of the funds transfer, Democracy Engine would  
13 provide the recipient committee with the information necessary to properly report the  
14 contribution to the Commission. AOR005. Democracy Engine may enter into a limited  
15 agreement with the recipient committee to effectuate the electronic transfer of funds but  
16 otherwise would not enter into any agreement with a recipient political committee.  
17 AOR006.

18 Democracy Engine plans to provide its corporate and corporate SSF clients with  
19 real-time data about contributions that result from solicitations on the customized page.

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<sup>4</sup> The request states that “[t]he platform incorporates safeguards to help ensure that individuals do not contribute more than the applicable monetary limit for a particular committee. Ultimately, however, compliance with the FEC’s contribution limits is up to the candidate and committees who will receive and report the contributions.” AOR003.

1 AOR006-7. Democracy Engine’s software allows its clients to obtain this information  
2 without using reports filed with the Commission. AOR006.

3 The request provides a sample display showing the information that would be  
4 provided to Democracy Engine’s clients. AOR006-7. This display includes the  
5 contributor’s name and state of residence, the date and amount of the individual’s  
6 contribution, and the name of the candidate or committee receiving the contribution.

7 AOR006-7. Democracy Engine would not place any limits on the use of this information  
8 by its clients, stating in the request that “corporations own the data and can use it as  
9 permitted by law and as subject to their . . . privacy policies.” AOR007.<sup>5</sup>

#### 10 ***Questions Presented***

11 1. *May a corporation use Democracy Engine’s platform to communicate*  
12 *with its restricted class about contributing to candidates and committees, and then*  
13 *receive real-time data about any contributions made using the platform, without*  
14 *undertaking such activity through its corporate SSF?*

15 2. *May a corporation or its SSF use Democracy Engine’s platform to*  
16 *communicate to the general public about contributing to candidates and committees –*  
17 *excluding the corporation’s own PAC and any other SSF – and then receive real-time*  
18 *data about any contributions made using the platform?*

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<sup>5</sup> See also Democracy Engine’s Privacy Policy at <https://democracyengine.com/privacy-policy/> (last visited Apr. 25, 2022) (stating “many third-party providers and sites link to or display our web pages and/or online forms (including via Application Program Interfaces or APIs) from their or their customers’ or members’ online properties (‘Sponsors’). We also provide reports to these Sponsors, which can include all of the information described above. Each Sponsor’s use of this information is governed by its own privacy policy.”).

1 ***Legal Analysis***

2 1. *May a corporation use Democracy Engine’s platform to communicate*  
3 *with its restricted class about contributing to candidates and committees, and then*  
4 *receive real-time data about any contributions made using the platform, without*  
5 *undertaking such activity through its corporate SSF?*

6 Yes, a corporate client of Democracy Engine may use a customized page on the  
7 Democracy Engine platform to solicit members of its restricted class to make  
8 contributions to candidates and political committees – and need not conduct the activity  
9 through its SSF – because: (1) a corporation is permitted under the Act and Commission  
10 regulations to solicit its restricted class to make contributions to candidates or political  
11 committees, (2) Democracy Engine, not its corporate client, would provide the method of  
12 transmitting the contributions as a service to individual contributors in the ordinary  
13 course of its payment processing business, and (3) the proposed activity is not covered by  
14 the Act’s prohibition on the sale or use of contributor data. The requestor’s proposal,  
15 therefore, would comply with the Act and Commission regulations.

16 **A. Express Advocacy and Corporate Facilitation**

17 “Corporations . . . may make communications on any subject, including  
18 communications containing express advocacy, to their restricted class.” 11 C.F.R.  
19 § 114.3(a)(1); *see also Citizens United v. FEC*, 558 U.S. 310, 365 (2010) (striking Act’s  
20 restrictions on corporate independent expenditures and use of general treasury funds for  
21 express advocacy); Advisory Opinion 2011-04 (American Israel PAC) at 3 (membership  
22 organization may communicate with its members on any subject including express  
23 advocacy). To that end, corporations “may solicit or suggest that [a member of the



1 restricted class] make a contribution to a particular candidate so long as the corporation  
2 limits its activity to communication only and does not actually facilitate the making of the  
3 member’s contribution to the candidate nor act as a conduit.” Advisory Opinion 1996-21  
4 (Business Council of Alabama) at 3; *see also* Advisory Opinion 2000-03 (American  
5 Society of Anesthesiologists) at 3 (corporation may “suggest that members of the  
6 restricted class contribute to [a] candidate” but cannot collect contributions or “provide  
7 materials for the purpose of transmitting or delivering contributions”).

8         The Commission’s regulations prohibit corporations and “representatives acting  
9 as agents of corporations” from “facilitating the making of contributions to candidates  
10 and political committees,” except for contributions to the corporation’s own SSF.  
11 11 C.F.R. § 114.2(f)(1); *see* Advisory Opinion 2021-07 at 8 (PAC Management Services)  
12 (summarizing the corporate facilitation prohibition and concluding that services provided  
13 by commercial contribution processor to individual contributors would not result in  
14 facilitation). The regulation defines facilitation as “using corporate . . . resources or  
15 facilities to engage in fundraising activities in connection with any federal election.”  
16 11 C.F.R. § 114.2(f)(1); *see also* Advisory Opinion 2018-02 (Alabama Academy of  
17 Radiology) at 13 (“Using corporate resources to engage in fundraising activities in  
18 connection with a federal election would constitute facilitating the making of  
19 contributions to a political committee . . . unless the corporations receive advance  
20 payment for the fair market value of such services”).

21         The regulation further provides a non-exhaustive list of activities that do and do  
22 not constitute corporate facilitation. 11 C.F.R. § 114.2(f)(2)-(5). For example, a  
23 corporation engages in prohibited corporate facilitation if it engages in certain

1 “fundraising” activities without receiving advance payment for the fair market value of  
2 its services, including if corporate officials or employees “order[] or direct[] subordinates  
3 or support staff . . . to plan, organize, or carry out the fundraising project as part of their  
4 work responsibilities using corporate . . . resources” or if the corporation uses “a  
5 corporate . . . list of customers, clients or other vendors or others who are not in the  
6 restricted class to solicit contributions.” 11 C.F.R. § 114.2(f)(2)(i)(A), (C). Additional  
7 examples of corporate facilitation include: (1) “[p]roviding materials” to be used to  
8 transmit or deliver contributions “such as stamps, envelopes addressed to a candidate or  
9 political committee,” or “other similar items which would assist in transmitting or  
10 delivering contributions, but not including providing the address of the candidate or  
11 political committee,” and (2) “[u]sing coercion . . . to urge any individual to make a  
12 contribution or engage in fundraising activities on behalf of a candidate or political  
13 committee.” 11 C.F.R. § 114.2(f)(2)(ii), (iv). Examples of activities that do not  
14 constitute corporate facilitation include “[s]oliciting contributions to be sent directly to  
15 candidates if the solicitation is directed to the restricted class.” 11 C.F.R.  
16 § 114.2(f)(4)(ii).

17 The Commission’s regulation further clarifies that a corporation does not facilitate  
18 the making of a contribution if it “provides goods or services in the ordinary course of its  
19 business as a commercial vendor” to a candidate or political committee “at the usual and  
20 normal charge.” 11 C.F.R. § 114.2(f)(1); *see also* 11 C.F.R. § 116.1(c) (defining  
21 commercial vendor). Similarly, the Commission has explained that a vendor does not  
22 violate the corporate facilitation regulation by processing contributions from individuals  
23 to political committees in the ordinary course of its business where the vendor does not

1 provide any service to the recipient political committees. Advisory Opinion 2021-07  
2 (PAC Management Services) at 8; *see also* Advisory Opinion 2011-06 (Democracy  
3 Engine *et al.*) (approving proposal by Democracy Engine to collect and forward  
4 contributions from individuals to political committees, after deducting a convenience fee  
5 as payment for its services, in the ordinary course of Democracy Engine’s donation-  
6 processing business).

7 Here, Democracy Engine proposes that its corporate client would use a  
8 customized page on the Democracy Engine platform to solicit members of the client’s  
9 restricted class to make contributions to candidates or political committees. The  
10 proposed activity involves the type of corporate expenditure that is expressly permitted  
11 by the Commission’s regulation at 11 C.F.R. § 114.3(a)(1) and is therefore permitted.<sup>6</sup>

12 Democracy Engine would separately provide contribution payment processing  
13 services to individual contributors who visit the customized page. This additional service  
14 provided by Democracy Engine does not convert the permissible activity of its corporate  
15 clients into prohibited corporate facilitation. Democracy Engine, not its corporate client,  
16 would provide the method of transmitting contributions through its web-based payment  
17 processing platform and would receive and forward all contributions made by

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<sup>6</sup> The request focuses on the use of Democracy Engine’s platform by its corporate and corporate SSF clients. The request does not provide detailed information about communications from Democracy Engine’s corporate and corporate SSF clients that would direct members of the restricted class or the general public to the customized page on the Democracy Engine platform, including how those communications would be conducted. The request states that Democracy Engine will not determine the content of or disseminate such communications. AOR007. Given that Democracy Engine would not be involved in these communications, the Commission does not address the application of the Act and Commission regulations to these third-party activities in this advisory opinion. A corporate client of Democracy Engine may submit an advisory opinion request if it has questions about the application of the Act and Commission regulations to such communications.

1 individuals. AOR001, 5. These individual contributors, not a corporation or corporate  
2 SSF, would pay for Democracy Engine’s payment processing services through a  
3 “commercially reasonable convenience fee” deducted by Democracy Engine before  
4 forwarding the contribution to the recipient candidate or political committee. AOR005.  
5 Such web payment processing services are already provided by Democracy Engine in the  
6 ordinary course of its business. AOR001. This aspect of requestor’s proposal is  
7 consistent with previous proposals by vendors providing contribution processing services  
8 to individuals, including a previous proposal from Democracy Engine itself. *See, e.g.*,  
9 Advisory Opinion 2021-07 (PAC Management Services) at 8; Advisory Opinion 2011-06  
10 (Democracy Engine). Accordingly, the proposal is permissible under the Act and  
11 Commission regulations.

12 **B. Sale or Use of Contributor Data**

13 A key component of the service that Democracy Engine proposes to sell its clients  
14 is the provision of “real-time data about the amount and recipients of contributions made”  
15 by individuals who make contributions on the Democracy Engine platform after visiting  
16 the client’s customized page, as well as the name and state of residence of each  
17 contributor. AOR006-7. Democracy Engine would make this data available to its clients  
18 so that its clients may obtain the data without using reports filed with the Commission.  
19 AOR006. This raises the issue of whether the proposed activity is barred by the Act’s  
20 prohibition on the sale or use of data from Commission reports. The Commission  
21 concludes that the sale or use prohibition does not apply to the proposed activity because  
22 the data provided by Democracy Engine would not be copied from Commission reports

1 or statements but would instead be obtained from Democracy Engine’s own records of  
2 contributions processed on its platform.<sup>7</sup>

3         The Act requires the Commission to post “reports and statements filed with it”  
4 within 48 hours after receipt. 52 U.S.C. § 30111(a)(4). The Act further provides that  
5 “any information copied from such reports or statements may not be sold or used by any  
6 person for the purpose of soliciting contributions or for commercial purposes, other than  
7 using the name and address of any political committee to solicit contributions from such  
8 committee.” *Id.* Similarly, the Commission’s regulation provides that “[a]ny information  
9 copied, or otherwise obtained, from any report or statement, or any copy, reproduction, or  
10 publication thereof, filed under the Act, shall not be sold or used by any person for the  
11 purpose of soliciting contributions or for any commercial purpose,” except that the name  
12 and address of a political committee may be used to solicit contributions from the  
13 committee. 11 C.F.R. § 104.15(a). The Commission has determined that a political  
14 committee’s use of the names of its own contributors is not within the sale or use  
15 prohibition where the contributor names were not obtained from Commission reports but  
16 compiled by the committee “on the basis of its own information.” Advisory Opinion  
17 1977-66 (Title Industry PAC) at 2; *see also* Advisory Opinion 1991-16 (Feigenbaum) at  
18 3 (sale or use prohibition “would not prohibit a political committee from selling or  
19 renting its own contributor list for use by someone else to solicit contributions” but “does  
20 prohibit the use of any list to solicit contributions which is copied or otherwise obtained  
21 from disclosure reports filed under the Act”).

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<sup>7</sup> The Commission expresses no view on whether requestor’s proposal is consistent with any law not administered by the Commission, including federal and state privacy laws.

1           While Democracy Engine is not a political committee, a similar analysis applies  
2 here. The data that Democracy Engine would sell to its clients would not include “any  
3 information copied from” reports or statements filed with the Commission, *see*  
4 52 U.S.C. § 30111(a)(4), but instead would be gathered from Democracy Engine’s own  
5 records of contributions processed on its platform. Because the data would not be copied  
6 from Commission reports or statements, the Commission concludes that the data’s sale or  
7 use is outside of the Act’s sale or use prohibition, and therefore the proposed activity is  
8 permissible.

9           2.       *May a corporation or its SSF use Democracy Engine’s platform to*  
10 *communicate to the general public about contributing to candidates and committees –*  
11 *excluding the corporation’s own PAC and any other SSF – and then receive real-time*  
12 *data about any contributions made using the platform?*

13           Under the circumstances presented here, a corporation or its SSF may use a  
14 customized page on the Democracy Engine platform to solicit members of the general  
15 public to make contributions to candidates and political committees because a  
16 corporation or a corporate SSF is permitted under the Act and Commission regulations to  
17 solicit the general public to make contributions to candidates or political committees, and  
18 Democracy Engine, not its client, would provide the method of transmitting the  
19 contributions as a service to individual contributors in the ordinary course of its payment  
20 processing business.<sup>8</sup> The requestor’s proposal, therefore, would comply with the Act  
21 and Commission regulations. However, a client’s customized page on the Democracy

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<sup>8</sup> As discussed in response to question one, the proposed activity is not covered by the Act’s prohibition on the sale or use of contributor data.

1 Engine platform must include the disclaimers required by 11 C.F.R. § 110.11 because the  
2 customized page would be a public communication by the corporation or SSF soliciting  
3 contributions to candidates or political committees.

4 **A. Express Advocacy and Corporate Facilitation**

5 A corporation may make independent expenditures and endorse candidates in  
6 communications directed to the general public. *See Citizens United*, 558 U.S. at 365  
7 (striking Act’s restrictions on corporate independent expenditures and use of general  
8 treasury funds for express advocacy); 11 C.F.R. §§ 114.4(c)(1), (6), 114.10(a). However,  
9 as explained in depth above, a corporation may not facilitate the making of a contribution  
10 to a candidate or political committee. 11 C.F.R. § 114.2(f).

11 Similarly, under Commission regulations, a corporate SSF may communicate  
12 with the general public, including communications that solicit contributions to a  
13 candidate or political committee, if the communications are made using only voluntary  
14 contributions and do not solicit contributions to any SSF. 11 C.F.R. § 114.5(i). Beyond  
15 the general definition of corporate facilitation in the Commission’s regulation, the  
16 regulation lists additional activities that are not prohibited facilitation when conducted by  
17 an SSF. These additional activities that are not facilitation include “soliciting  
18 contributions to a candidate or political committee.” 11 C.F.R. § 114.2(f)(3)(i).

19 Provided that Democracy Engine’s corporate clients not conducting activity  
20 through an SSF act independently from the ultimate recipient candidates and political  
21 committees, the proposed activity involves the type of corporate expenditure that the  
22 Supreme Court recognized as constitutionally protected in *Citizens United*, 558 U.S. at  
23 365, and the activity is expressly permitted under Commission regulations. 11 C.F.R.

1 §§ 114.4(c)(1), (6), 114.10(a). If this activity is conducted by a corporate SSF client, the  
2 activity further falls under the exclusion from the definition of facilitation in the  
3 Commission’s regulation for solicitations by SSFs of contributions to candidates or  
4 political committees. 11 C.F.R. § 114.2(f)(3)(i).<sup>9</sup> Accordingly, the requestor’s proposal  
5 is permissible under the Act and Commission regulations.<sup>10</sup>

6 **B. Disclaimers**

7 A client’s customized page on the Democracy Engine platform available to the  
8 general public must include the disclaimers required by 11 C.F.R. § 110.11 because the  
9 customized page would be a public communication by the corporation or SSF soliciting  
10 contributions to candidates or political committees.<sup>11</sup> The request states that Democracy  
11 Engine expects that its clients will include disclaimers in their solicitations directing  
12 members of the public to the customized page, but there are no disclaimers on the sample  
13 page display provided in the advisory opinion request, and the request makes no mention  
14 of any such disclaimers on the customized page. AOR002, 7.

15 Under the Commission’s regulation, “all public communications . . . by any  
16 person that solicit any contribution” must include disclaimers. 11 C.F.R. § 110.11(a)(3).  
17 A public communication is “a communication by means of any broadcast, cable, or

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<sup>9</sup> A corporate SSF may make coordinated communications, but such coordinated communications are in-kind contributions subject to limitations and reporting by both the recipient political committee and the SSF. 11 C.F.R. §§ 109.21, 114.2(f)(3)(i).

<sup>10</sup> As discussed in response to question one, Democracy Engine’s proposal to separately provide payment processing services to individual contributors who visit the customized page does not change the nature of its client’s activity.

<sup>11</sup> Disclaimers under 11 C.F.R. § 110.11 are not required if access to the webpage is limited to members of a corporation’s restricted class because that regulation does not apply when an SSF or its connected organization “makes a communication” to the restricted class. 11 C.F.R. § 110.11(f)(2).



1 satellite communication, newspaper, magazine, outdoor advertising facility, mass  
2 mailing, or telephone bank to the general public, or any other form of *general public*  
3 *political advertising*.” 11 C.F.R. § 100.26 (emphasis added). The term general public  
4 political advertising excludes communications over the Internet, except for  
5 “communications placed for a fee on another person’s Web site.” *Id.*

6 Here, a client’s customized page on the Democracy Engine platform would be a  
7 public communication because the customized page would be placed for a fee by  
8 Democracy Engine’s clients on the Democracy Engine website and available to the  
9 general public. Democracy Engine retains a copyright for the public facing contents of  
10 its platform, including the customized page of its corporate or corporate SSF client, and  
11 would retain technical control over all aspects of the customized page. AOR002-3.  
12 Accordingly, the customized page would be the Democracy Engine’s website. Because  
13 Democracy Engine’s client would pay a fee for placement of its customized page and  
14 solicit contributions to candidates or political committees on that page, AOR003, 7,  
15 disclaimers are required.

### 16 ***Conclusions***

17 The Commission concludes, under the circumstances proposed, that a corporate  
18 client of Democracy Engine may use a customized page on the Democracy Engine  
19 platform to solicit members of its restricted class to contribute to candidates or political  
20 committees – and need not operate through an SSF to do so – because Democracy  
21 Engine, not its corporate client, would provide the method of transmitting the  
22 contributions as a service to individual contributors. For the same reason, a corporation  
23 or its SSF may use a customized page to solicit members of the general public to

