



U.S. OFFICE OF SPECIAL COUNSEL

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January 25, 2008

Xx Xxxx Xxxxx

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VIA E-MAIL (Xxxxxx@xxxxx.xxx)

Re: OSC File No. AD-08-xxxx

Dear Xx Xxxxxx:

This letter is in response to your request for an advisory opinion concerning the Hatch Act. The Office of Special Counsel (OSC) is authorized pursuant to 5 U.S.C. § 1212(f) to issue opinions under the Act. Specifically, you ask whether the Hatch Act prohibits an employee of the Xxxx Xxxx Xxxxx (XXX) from soliciting contributions for the Human Rights Campaign (HRC).

The Hatch Act, 5 U.S.C. §§ 7321-7326, governs the political activity of federal civilian executive branch employees, including XXX employees. The Act prohibits employees from, among other things, knowingly soliciting, accepting or receiving political contributions from any person. 5 U.S.C. § 7323(a)(2). A political contribution is any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose. 5 U.S.C. § 7322(3); 5 C.F.R. § 734.101. The Hatch Act regulations define political purpose as an objective of promoting or opposing a political party, candidate for partisan political office or partisan political group. 5 C.F.R. § 734.101.

According to its website, HRC is the largest civil rights organization working to achieve equality for gay, lesbian, bisexual and transgender (GLBT) Americans through a grassroots force of more than 700,000 members and supporters nationwide. HRC advocates on behalf of GLBT Americans, mobilizes grassroots actions in diverse communities, invests strategically to elect fair-minded individuals to office, and educates the public about GLBT issues.<sup>1</sup>

HRC has an entity called the HRC Foundation, a nonprofit, tax-exempt 501(c)(3) organization that funds various research and educational efforts and outreach to encourage GLBT Americans to live their lives openly and to change the hearts and minds of Americans to the side of equality.<sup>2</sup> HRC, however, also has a political action committee (PAC), which has endorsed fair-minded candidates in every election since 1980 and makes financial and in-kind contributions to candidates vying for seats in the U.S. Senate and House of Representatives. The

<sup>1</sup> [http://www.hrc.org/about\\_us/what\\_we\\_do.asp](http://www.hrc.org/about_us/what_we_do.asp)

<sup>2</sup> [http://www.hrc.org/about\\_us/hrc-foundation.asp](http://www.hrc.org/about_us/hrc-foundation.asp); It is the HRC Foundation that can be found as a charitable organization in the Combined Federal Campaign.

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HRC PAC makes financial contributions directly to candidates and also helps organize fundraisers and generate volunteers for the elections. HRC staff members provide candidates with critical advice on organizing, fundraising and winning elections and also work on targeted races to assist candidates in their elections.<sup>3</sup>

Whether the Hatch Act prohibits a GSA employee from soliciting contributions for HRC depends on the purpose of the solicitation. The Act prohibits an employee from soliciting, accepting or receiving contributions for the HRC PAC because such contributions, as described above, are for the purpose of promoting or opposing candidates for partisan political office. However, if contributions for HRC or the HRC Foundation are not used to assist candidates for partisan political office, either financially or otherwise, the Act does not prohibit an employee from soliciting, accepting or receiving such contributions.<sup>4</sup>

Please contact me at (202) 254-3673 if you have any questions regarding this matter.

Sincerely,

/s/

Erica S. Hamrick  
Attorney  
Hatch Act Unit

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<sup>3</sup> [http://www.hrc.org/laws\\_and\\_elections/pac.asp](http://www.hrc.org/laws_and_elections/pac.asp)

<sup>4</sup> Whether contributions to HRC or the HRC Foundation are used in such a way is a question that needs to be answered by HRC.