

<b>FEDERAL ELECTION COMMISSION</b>		
<b>MANUAL OF DIRECTIVES</b>	<b>COMMISSION DIRECTIVE</b>	
	<b>REVOKES:</b> No. 24 dated March 27, 1987	<b>NO.</b> 24
	<b>EFFECTIVE DATE:</b> July 13, 2007	
Internal Procedures Related to Public Financing of Presidential Primary Candidates		

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The purpose of this Directive is to clarify responsibilities within the Commission's operating Divisions not clearly addressed in the Guideline for Presentation in Good Order ("Guideline") or the Regulations with respect to Title 26 Candidates and their requests for Determination of Eligibility or for Primary Matching Funds.

The time deadline set forth in this Directive, except for any specified by the Commission's regulations, are guidelines for internal use only. They are not legally binding requirements.

### **I. Initial Contact**

A. When a campaign first contacts any division within the Commission about their intent to seek public financing, the Division contacted will notify the Audit Division. The Audit Division will be responsible for the assignment of a Lead Auditor who will be the contact person for the campaign.

B. The Office of General Counsel will designate a staff person as the General Counsel's representative for all matters involving Title 26 primary matching funds to whom inquiries involving legal issues will be directed.

C. The Reports Analysis Division will designate an analyst to whom inquiries regarding Title 2 reporting requirements may be directed when necessary.

## **II. Receipt of Letter of Candidate Agreements and Certifications (9033 Letter)**

A. Upon receipt of a letter of Candidate Agreements and Certifications by any division within the Commission, the original will be date-stamped and forwarded to the Audit Division.

B. Within 2 business days, the Audit Division will:

1. Forward an informational memorandum to the Commission advising that a 9033 Letter (and Threshold Submission, if applicable) has been received. If the letter includes the bank account number of the designated depository, it will be deleted prior to making any copies for circulation or public disclosure.
2. Provide a copy of the 9033 Letter to the Press Office, Public Disclosure and the Office of General Counsel. Any amendment to 9033 Letter will also be distributed as stated above.

C. Within 2 business days of receipt, the Audit Division will:

1. Review the 9033 Letter for compliance with 26 U.S.C. §9033 and 11 C.F.R. §§9033.1 and 9033.2.
2. Forward a memorandum regarding the results of the review to the Office of General Counsel.

D. Within 2 business days of receipt of the Audit Division's memorandum, the Office of General Counsel will prepare and forward a legal analysis to the Audit Division. If the Office of General Counsel is unable to respond within the 2 business day period, the Audit Division will be notified of that fact in writing within those two business days.

E. If the 9033 Letter is found to be complete, the Audit Division will review the threshold submission, once it is submitted according to the procedures outlined in Section III below.

F. If the 9033 Letter is found to be incomplete by either the Audit Division or the Office of General Counsel, within 1 business day of receipt of the legal analysis and after consultation, if necessary, with the Office of General Counsel, the Audit Division will informally notify the campaign of the deficiencies and request that an amended or supplemental 9033 Letter be submitted.

G. When an amended 9033 Letter is received in response to a staff request, within 1 business day of receipt, the Audit Division will:

1. Review the amended 9033 Letter for compliance with the staff request.

2. If sufficient, forward a copy of the amended letter to the Press Office, Public Disclosure and the Office of General Counsel.
3. If yet deficient, make another request to the campaign.

H. If the campaign disputes the staff decision that the 9033 Letter is deficient, within 1 business day of being advised of the dispute, the Audit Division will:

1. Forward a memorandum to the Office of General Counsel advising of the campaign's position on the matter(s) along with any written response received from the campaign. If a written response is received at a later date, such response will be forwarded within 1 business day of receipt.
2. Furnish copies to the Commission.

I. Within five business days of receipt of the Audit Division's memorandum regarding the disputed 9033 Letter, the Office of General Counsel will:

1. Prepare and forward a memorandum to the Commission for an initial determination, together with a Notice to the campaign which states the legal and factual reasons that the 9033 Letter was found to be deficient.
  - a. If a Threshold Submission was also submitted, the proposed Notice will state that the Threshold Submission will not be considered by the Commission.
  - b. If no Threshold Submission was submitted, the Notice will state that no Threshold Submission will be accepted and considered.
2. If, after notification of the Commission's initial determination in the matter(s), the campaign submits any material pursuant to 11 C.F.R. § 9033.10(b) to the Audit Division, the Audit Division will, within 1 business day, forward such material to the Office of General Counsel.
3. Following receipt of any material submitted pursuant to 11 C.F.R. § 9033.10(b), the Office of General Counsel will prepare a recommendation to the Commission for the final determination on the disputed 9033 Letter. The Office of General Counsel will also prepare a proposed Statement of Reasons that supports its recommendation on the final determination.

### **III. Receipt and Acceptance/Non-Acceptance of Threshold Submission**

A. Upon receipt of a Threshold Submission, the Audit Division will conduct a Good Order Review<sup>1</sup>.

1. If in conformance with the Guideline and Regulations, the campaign will be provided with, a receipt for the Threshold Submission. The Threshold Submission data file will be placed on the public record. The Audit staff will conduct the review of the contributions to determine their matchability.
2. If not in conformance with the Guideline and Regulations, either of the actions described below at B. and C. will be taken.

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<sup>1</sup> "Review" means the consistent application of all standards, whether for format or matchability, as clearly set forth in the Guideline and Regulations. Where legal issues or areas not addressed by the Commission may surface, the Audit Division will consult with the Office of General Counsel.

B. If the Good Order requirements can easily be met by the submission of additional material (e.g., NSF List or bank documentation), and the campaign agrees to do so, the Audit Division will annotate the receipt that the Threshold Submission will not be viewed as officially accepted until the absent documents are submitted. The following steps will be undertaken by the Audit Division, within 1 business day of receipt of the submission.

1. A copy of the receipt will be furnished to the Press Office, Public Disclosure and the Office of General Counsel.
2. A copy of the Contributor List will be furnished to Public Disclosure to be processed for the Public Record.
3. If the Candidate's 9033 Letter was previously received, an informational memorandum regarding receipt of the Threshold Submission will be forwarded to the Commission, together with the Summary of states submitted.

C. If the Good Order requirements cannot easily be met, or if the campaign believes the Threshold Submission should be accepted as in good order, as presented, the Audit Division will orally consult with the Office of General Counsel for concurrence that the Threshold Submission will not be accepted for review.

D. If it is agreed the Threshold Submission should not be accepted for review, an informal staff Notice to that effect listing the reasons will be furnished to the campaign. (See example at Appendix 5 of the Guideline). This Notice will be jointly signed by the Chief Compliance Officer and the General Counsel or his or her designee. If the Office of General Counsel and the Audit Division disagree, the procedures at Appendix 1 will be followed. The Audit Division will notify the Committee.

E. If the campaign believes the Threshold Submission meets the Good Order requirements as presented and will take no corrective action, the Audit Division will:

1. Within 1 business day, inform the Office of General Counsel that an Eligibility Report containing a negative eligibility recommendation is being prepared for Commission consideration.
2. Within four business days, forward a proposed Eligibility Report and proposed Notice to the Candidate to the Office of General Counsel for review. The Eligibility Report will contain a recommendation that the Commission determine the Candidate is not eligible to receive primary matching funds because the requirements of 11 C.F.R. §9033.1(b) (8) have not been met, and will specify that the Threshold Submission was not reviewed to verify that the requisite amount of matchable contributions had been received.

F. Within five business days of receipt of the negative Eligibility Report, the Office of General Counsel will forward the legal analysis to the Audit Division.

G. The Audit Division will circulate the Eligibility Report and Notice along with the legal analysis to the Commission for an initial determination. The matter will be placed on the agenda for the next open session of the Commission.

1. The Commission will make an initial determination and the Audit Division will notify the committee of the Commission's initial determination. The notice to the

- committee will include the reasons that support the initial determination. If, after notification of the Commission's initial determination in the matter(s), the campaign submits to the Audit Division any material pursuant to 11 C.F.R. §9033.10(b), the Audit Division will, within 1 business day of receipt, forward such material to the Office of General Counsel.
2. Following receipt of any material submitted pursuant to 11C.F.R. §9033.10(b), the Office of General Counsel will prepare a recommendation to the Commission for the final determination on the Eligibility Report. The Office of General Counsel will also prepare a proposed Statement of Reasons that supports its recommendation on the final determination.
  3. The Commission will make a final determination, and the Office of General Counsel will notify the committee of the Commission's final determination and include the Statement of Reasons with the notification.

#### **IV. Results of Review of Threshold Submission**

- A. If the review of the Threshold Submission and all other related information verifies that all requirements have been met for establishing eligibility:
1. The Audit Division will, within 24 hours of completion of the review, prepare and forward an Eligibility Report to the Commission for a 48 hour tally vote.
  2. The Eligibility Report will be accompanied by OGC's legal analysis of the 9033 Letter. A legal analysis of the Eligibility Report will not be required as long as the report contains only the usual and standard language regarding the candidate's eligibility.
- B. If during the review the Audit staff identifies any unusual patterns or irregularities in a Threshold Submission, the following steps will be taken:
1. The Audit Division will review the information in accordance with the review procedures and summarize the same for inclusion in the Threshold Submission workpapers.
  2. If any unusual patterns<sup>2</sup> are observed during the submission review, the Audit Division will:
    - a. Inform the Office of General Counsel,
    - b. Within 48 hours of completing the review summaries, prepare a memorandum to OGC detailing the pattern (s).
  3. Within 48 hours of receipt of the Audit Division's memorandum, staff members from the Office of General Counsel and the Audit Division will informally meet to discuss the views of each office about the matter(s).
  4. Within five business days of receipt of the Audit Division's memorandum, the Office of General Counsel will forward to the Commission the Audit Division's memorandum, together with recommendations, as to whether the Commission should invoke its investigative authority under 26 U.S.C §9039 and 11 C.F.R. §9039.3.

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<sup>2</sup> Examples of "unusual patterns" include, but are not limited to, those which suggest (1) that the campaign received and submitted contributions made in the names of others or (2) that submitted contributions were received at a time other than indicated.

C. If during the review of a Threshold Submission it becomes apparent that the campaign will not meet the eligibility requirements in at least 20 States due to non-matchable contributions the Audit Division will<sup>3</sup>:

1. Within 1 business day, consult with the Office of General Counsel for concurrence on the non-matchability of the contributions rejected in the State listings reviewed to date. (See also Chapter I.O, of the Guideline).
2. Within 2 business days of concurrence by the Office of General Counsel and Audit Division, the Audit Division will prepare an informal staff Notice for each State reviewed in which the dollar threshold was not met and provide it to the campaign. The Notice(s) must be signed by both the Chief Compliance Officer and the General Counsel or his designee. If the Office of General Counsel and the Audit Division disagree, the procedures at Appendix I will be followed.
3. The Audit Division will forward an informational memorandum to the Commission informing them that the campaign will be notified that it has not met the eligibility requirements.
4. If possible, campaign personnel will be encouraged to meet with the Audit staff and/or OGC to discuss the matchability of contributions and the applicable Guideline requirements.
5. If a meeting between FEC staff and campaign personnel is not possible, the Audit staff will inform the campaign that the Notices are being mailed.

D. Upon receipt of an amended Threshold Submission or supplemental materials the applicable procedures outlined at III.A. and B. of this Directive will be followed.

E. The Audit Division will review the amended Threshold Submission or additional materials. If matchable contributions again fail to total more than \$5,000 in each of 20 States:

1. Prior to December of the year preceding the election, the procedures at C.1., 2. and 3. above will again be followed.
2. Beginning in December of the year proceeding the election year, the campaign is allowed only 10 days from receipt of the Notices to resubmit an amended Threshold Submission. If not received within 10 days, the procedures beginning at F.2. will be followed.

F. Upon receipt of a twice amended Threshold Submission the Audit Division will completely review the contributions submitted for all States.

1. If the eligibility requirements have been met, the procedures described at IV.A. of this Directive will be followed.
2. If the complete review identifies non-matchable contributions which cause the eligibility requirements not to be met, the Audit Division will, within 1 business day, verbally consult with the Office of General Counsel for concurrence on the non-matchability of the contributions rejected for threshold requirements.

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<sup>3</sup> This section reflects the provisions of the FEC Guideline (Chapter I.O.) which establish procedures for campaigns to take remedial action before the Commission makes an eligibility determination.

3. Within 1 business day of consulting the Office of General Counsel, the Audit Division will forward to them a memorandum advising that an Eligibility Report and Notice to the Candidate containing a negative recommendation is being prepared for Commission consideration. That memorandum will specify the date by which the Eligibility Report will be forwarded.<sup>4</sup> Copies will also be furnished to the Commission.

H. If the campaign disputes the staff determination concerning the matchability of contributions and does not submit any new information:

1. The Audit Division will, within 1 business day of notice (either orally or in writing) of the campaign's position, forward a memorandum to the Office of General Counsel advising that an Eligibility Report and Notice to the Candidate containing a negative recommendation is being prepared for Commission consideration. Copies will also be furnished to the Commission.
2. Within five business days, the Audit Division will forward the proposed negative Eligibility Report and proposed Notice to the Candidate that contains the legal and factual reasons for the Commission's initial determination, to the Office of General Counsel for review.
3. Within five business days of receipt of the negative Eligibility Report and proposed Notice to the Candidate, the Office of General Counsel will forward a legal analysis to the Audit Division. If the Office of General Counsel cannot prepare, the legal, analysis within the specified five business days, that office will notify the Staff Director and the Audit Division by memorandum.
4. The Audit Division will forward to the Commission via the Staff Director, the Eligibility Report and the Counsel's legal analysis for placement on the agenda for the next open session of the Commission for consideration of the initial determination.
5. The Commission will make an initial determination and the Audit Division will notify the committee of the Commission's initial determination. The notice to the committee will include the reasons that support the initial determination.
6. If after notification of the Commission's initial determination, the campaign submits to the Audit Division any material pursuant to 11 C.F.R. §9033.10(b), the Audit Division will, within one business day of receipt, forward such material to the Office of General Counsel.
7. Following receipt of any material submitted pursuant to 11 C.F.R. §9033.10(b), the Office of General Counsel will prepare a recommendation to the Commission for the final determination on the Eligibility Report. The Office of General Counsel will also prepare a proposed Statement of Reasons that supports its recommendation on the final determination.
8. The Commission will make a final determination, and the Office of General Counsel will notify the committee of the Commission's final determination and include the Statement of Reasons with the notification.

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<sup>4</sup> Preparation time for the documentation to support the ineligibility determination will vary, depending upon the number of specific non-matchable contributions that must be included and described.

I. Following Commission approval of an Eligibility Report for a Candidate/Committee, the Audit Division will provide to the Campaign Coordinator for the U.S. Secret Service a copy of such report (and during the election year, a copy of any Certification to the Secretary of the Treasury).

## **V. Receipt and Review of Non-Threshold Submissions**

A. The procedures for the Good Order Review described at Section III.A. - D. will be followed for all non-threshold submissions.

B. The Audit Division will review each non-threshold submission in accordance with the procedures described in the Commission's Guideline.

C. If a review of a non-threshold submission indicates that patterns exist in the contributions that may make them non-matchable as represented in the submission:

1. The Audit Division will immediately advise the Office of General Counsel (orally).
2. If possible, within five business days from completion of the review, the Audit Division will prepare and forward a memorandum to the Office of General Counsel detailing the matter(s) and presenting recommendations if appropriate. If the scope of the matter(s) requires additional time, the Audit Division will so advise the Office of General Counsel in writing.
3. Within 2 business days of receipt of the Audit Division's memorandum, staff members from the Office of General Counsel and the Audit Division will meet informally to discuss the views of each office in the matter(s).
4. Within ten business days of receipt of the Audit Division's memorandum, the Office of General Counsel will prepare and forward recommendations in the matter(s) to the Commission (including recommendations as to whether the Commission should invoke its investigative authority under 26 U.S.C. § 9039 and 11 C.F.R. § 9039.9). If the scope of the matter(s) requires additional time, the Office of General Counsel will so advise the Audit Division in writing before the expiration of the ten day period.

D. If during the review of a non-Threshold submission, the Audit Division encounters matchability/non-matchability situations not addressed in the Guideline or the Regulations:

1. The Audit Division will orally consult with the Office of General Counsel regarding the matchability of the contribution(s).
2. Within 2 business days of completion of the review<sup>5</sup>, the Audit Division will prepare and forward a memorandum to the Office of General Counsel regarding the matter(s) and advising as to the Audit staff's treatment of the contribution(s).

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<sup>5</sup> In order to complete the submission review in the time required by the Regulations, a staff decision of matchability must, be made for each contribution in the sample, regardless of whether the ultimate disposition by the Commission will be the same.



3. Within ten business days of receipt of the Audit Division's memorandum, the Office of General Counsel will prepare and forward a legal analysis on the matter to the Audit Division.
4. Within five business days of receipt of the legal analysis, the Audit Division will forward to the Commission via the Staff Director, a memorandum regarding the matter, including the amount of matching funds realized or lost to the campaign as a result of the staff decision along with the legal analysis.
5. The Staff Director will place the documents on the agenda for the next open session meeting of the Commission for consideration of the initial determination.
6. When possible, the next payment certified for the campaign will include an adjustment which reflects the Commission's determination in the matter(s). If an additional Certification for payment will be required, the Audit Division will prepare the necessary documents for either tally or voice vote and deliver the Certification to the Secretary of the Treasury within 24 hours of Commission approval.

E. If appropriate, within 10 business days following the Commission's action on the matter, the Audit Division will prepare a supplement to Chapter-VI of the Guideline (Guidance Regarding Matchability of Contributions) that addresses the matchability question identified in V.D. and forward it to the Office of General Counsel for review.

1. Within five business days of receipt, the Office of General Counsel will forward its comments regarding the Supplement to the Audit Division.
2. Within 2 business days from receipt of the above comments, the Audit Division will circulate the proposed Supplement, revised where appropriate, together with the legal review, to the Commission on a 48 hour no objection basis.

## **VI. Challenge to Statements Net Outstanding Campaign Obligations (NOCO) (11 C.F.R. §9034.5(d))**

A. When a NOCO statement is received from an Ineligible Candidate, within 24 hours, the Audit Division will:

1. Provide a copy to the Press Office, Public Records and the Office of General Counsel. If the NOCO Statement accompanies a Matching Fund Submission, attach a copy to the receipt for the submission.
2. Ensure that no overpayment results when a payment is certified after completion of the review of the submission.

B. If the Audit Staff's review of the NOCO Statement indicates that a challenge to the NOCO amount is appropriate:

1. Within 48 hours the Audit Division will prepare and forward a memorandum to the Office of General Counsel and provide copies to the Commission.

2. Within 48 hours of receipt of the Audit Division's memorandum, the Office of General Counsel will forward its comments to the Audit Division and provide copies to the Commission.

C. If the Audit Division and the Office of General Counsel agree that the NOCO Statement should be challenged, within 24 hours of receipt of the Office of General Counsel's comments, the Audit Division will submit its recommendation along with OGC's comments to the Commission for an initial determination.

D. If the Audit Division and the Office of General Counsel disagree that a challenge to the NOCO is warranted, within 48 hours after receipt of the comments from OGC, the Audit Division will forward a memoranda containing its recommendation along with OGC's comments to the Staff Director.

E. The Staff Director will forward to the Commission the memoranda from the Audit Division and the Office of General Counsel in sufficient time to permit the initial determination to be made within the "15 business day" time frame specified at 11 C.F.R. §9034.5(g).

F. The Commission will make an initial determination and the Audit Division will notify the committee of the Commission's initial determination. The notice to the committee will include the reasons that support the initial determination.

G. If in response to the Commission's initial determination the campaign submits to the Audit Division any material pursuant to 11 C.F.R. §9034.5(g)(2), the Audit Division will, within 24 hours of receipt, forward such material to the Office of General Counsel.

H. Following receipt of any material submitted pursuant to 11 C.F.R. §9034.5(g)(2), the Office of General Counsel will prepare a recommendation to the Commission for the final determination on the NOCO. The Office of General Counsel will also prepare a proposed Statement of Reasons that supports its recommendation on the final determination.

I. The Commission will make a final determination, and the Office of General Counsel will notify the committee of the Commission's final determination and include the Statement of Reasons with the notification.

## **VII. Failure to Comply With Disclosure Requirements (11 C.F.R. § 9033.9)**

A. The Reports Analysis Division (RAD) will alert the Audit Division and the Office of General Counsel during an election year that a publicly funded Presidential candidate failed to file a required report and is being sent a non-filer letter. The non-filer letter will notify the committee that the failure to file the required report may result in the suspension of public funding. RAD will coordinate with the Audit Division and provide a final update if the candidate committee of a Title 26 recipient is to be published as a non-filer by the Commission.

B. The Audit Division will inform the Office of General Counsel of the status of any matching fund payments to the candidate and any pending matching fund requests. The Audit Division will draft the recommendation that the Commission make an initial determination to suspend matching fund payments pursuant to 11 C.F.R. §9033.9 and forward such recommendation to OGC for a legal and factual analysis which will accompany the recommendation and draft notice to the committee.

C. The Commission will make an initial determination and the Audit Division will notify the committee of the Commission's initial determination. The notice to the committee will include the reasons that support the initial determination.

D. If the Commission approves the recommendation to make an initial determination, the candidate will have 20 days to correct the deficiencies noted or to present arguments why payments should be continued. Upon expiration of the 20 day response period, the Office of General Counsel after consultation with the Audit Division will prepare and forward to the Commission, a recommendation for a final determination. The Office of General Counsel will also prepare a proposed Statement of Reasons that supports its recommendation on the final determination.

E. The Commission will make a final determination, and the Office of General Counsel will notify the committee of the Commission's final determination and include the Statement of Reasons with the notification.

### **VIII. Investigations Under 11 C.F.R. § 9039.3**

If the candidate's submission or the submission with the committee's disclosure reports contains patent irregularities suggesting the possibility of fraud, the Commission may deny the candidate's eligibility and conduct a properly circumscribed investigation under 11 C.F.R. §9039. If, however, there are questions about the candidate's eligibility for public funds that do not rise to the level of patent irregularities suggesting the possibility of fraud, the Commission may initially determine that the candidate is eligible and conduct an investigation under 11 C.F.R. §9039 to resolve any outstanding questions about the candidate's eligibility. The information from an investigation conducted under 11 C.F.R. §9039 may be used to: 1) determine the candidate's eligibility, 2) suspend additional matching fund payments to a candidate, and 3) seek a repayment of public funds that have already been paid to the candidate. 11 C.F.R. §9039(a)(2).

### **IX. Notification to Candidate Re: Date of Ineligibility**

It is the responsibility of the Office of General Counsel to forward recommendations to the Commission for an initial determination regarding the occurrence of any candidate's date of ineligibility. The Office of General Counsel will prepare and send the notices regarding the date of ineligibility for candidates whose eligibility ends on the date the party nominates its candidate. The Notices will become the official record of the date of ineligibility.

Following Commission approval, the Office of General Counsel will forward to the Audit Division a copy of the dated and signed Notice.

## **X. Disputed Non-Matchable Contributions**

A. If after receiving the identification of non-matchable contributions, a campaign disputes a staff decision regarding the non-matchability of any contribution(s) and submits material within 30 calendar days pursuant to 11 C.F.R. §9036.5(e):

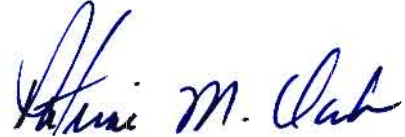
1. Within 1 business day from receipt of written notice from the campaign, the Audit Division will inform the Office of General Counsel that such a document has been received.
2. Within ten business days of receipt of the campaign's written notice, the Audit Division will prepare a memorandum containing an analysis of the disputed contribution(s), and the amount of matching funds denied to the campaign. The Audit Division will also prepare a proposed Notice to the Candidate. The memorandum and proposed Notice will be forwarded to the Office of General Counsel for review. If additional time is required, the Audit Division will so advise the Office of General Counsel in writing.
3. Within ten business days of receipt of the Audit Division's memorandum, the Office of General Counsel will prepare and forward a legal analysis on the matter to the Audit Division. If additional time is required, the Office of General Counsel will so advise the Audit Division in writing.
4. Within five business days of receipt of the legal analysis, the Audit Division will forward to the Commission via the Staff Director, a memorandum regarding the matter, including the amount of matching funds denied to the campaign as a result of the staff decision, along with the legal analysis.
5. The Staff Director will place the documents on the agenda for the next open session of the Commission for consideration of an initial determination.
6. If possible, the next payment certified for the campaign will include an adjustment which reflects the Commission's determination in the matter(s). If an additional Certification for payment will be required, the Audit Division will prepare the necessary documents for either tally or voice vote and deliver the Certification to the Secretary of the Treasury within 24 hours of Commission approval.
7. The Commission will make an initial determination and the Audit Division will notify the committee of the Commission's initial determination. The notice to the committee will include the reasons that support the initial determination.
8. If the Commission's initial determination upholds the non-matchability of the disputed contributions and if, after notification of the Commission's initial determination, the campaign submits to the Audit Division any material pursuant to 11 C.F.R. § 9036.5(e), the Audit Division will forward such material to the Office of General Counsel within 24 hours of receipt.
9. Following receipt of any material pursuant to 11 C.F.R. § 9036.5(e), the Office of General Counsel will prepare a recommendation to the Commission for the final determination on the disputed non-matchable contributions. The Office of

General Counsel will also prepare a proposed Statement of Reasons that supports its recommendation on the final determination.

10. The Commission will make a final determination, and the Office of General Counsel will notify the committee of the Commission's final determination and include the Statement of Reasons with the notification.

B. Following Commission certification of any payment, the Audit Division will provide a copy of the Commission's Certification to the Secretary of the Treasury, Press Office, Public Disclosure, and the Office of General Counsel (generally on the same date).

This Directive was adopted on July 13, 2007.



Patrina M. Clark  
Staff Director

## **Appendix 1**

### **Commission Resolution of Matters over Which the Audit Division and Office of General Counsel Disagree**

In situations which require oral consultation between the Audit Division and the Office of General Counsel and such communication produces a disagreement over the issue (s) at hand, each office will prepare a memorandum stating their respective position. Within five business days from the date of the joint consultation, the Office of General Counsel and the Audit Division will each forward its memorandum to the Staff Director/Commission for agenda placement and Commission resolution of the matter. If either office cannot prepare a memorandum within five business days, an informational memorandum stating that fact will be sent to the Staff Director, with a copy to the Commission. Such memorandum will specify a target date by which time the memorandum will be available for Commission consideration.