



**GENERAL ELECTION SUPPLEMENT
TO THE
FINANCIAL CONTROL AND
COMPLIANCE MANUAL**

**FOR PRESIDENTIAL PRIMARY CANDIDATES
RECEIVING PUBLIC FINANCING**

**FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463**

JUNE 2000

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Prepared By
Federal Election Commission
999 E Street, N.W.
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July 1980

Revised July, 1984
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COMMISSIONERS

Darryl R. Wold, Chairman
Danny Lee McDonald, Vice Chairman
Lee Ann Elliott
Scott E. Thomas
David M. Mason
Karl J. Sandstrom

Prepared By

Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

(800) 424-9530

(202) 694-1200

Statutory Officers

James A. Pehrkon, Staff Director
Lawrence M. Noble, General Counsel

NEW FOR 2000

The Commission has revised its regulations in a number of areas since the 1996 election cycle. The changes, as they relate to the primary, are summarized beginning on page iii of the Primary Manual. For emphasis, where these changes are parallel (i.e. also made in the regulations pertaining to the general election) or are primary in nature, but affect the general, they are noted here.

- **The Post General Audit** - As in the Primary, the procedures for the conduct and presentation of the audit of campaigns of candidates receiving federal funding in the general election have been changed. (See 11 CFR §9007.1(b)(2)(iii), (c)(1) & (2) and (d)(1)). For a discussion of the procedures, see Chapter 10, Section D of the Primary Manual.
- **Required Electronic Filing of Periodic FEC Reports** - The regulations have been revised to require Presidential candidates and their committees, as a condition of receiving general election funding, to file all reports with the Commission electronically provided that they maintain or use computerized information on receipts or disbursements. (See 11 CFR §9003.1(b)(11)). Electronic filing of reports is discussed in the Primary Manual at Chapters I and IV, Sections I.A. and I.D.4. and IV.B. Beginning January 1, 2001, subject to a threshold of minimum financial activity, all committees will be required to file their disclosure reports with the Commission electronically. (See 2 U.S.C. §434(a)(11)).
- **Primary vs. General Election Expenses** - The Commission modified its regulations with respect to the allocation of expenses between the primary and general election 11 CFR §9034.4(e). This was done to add flexibility to campaign funding in the primary period between June 1 of the Presidential election year and the date a candidate is nominated. During this period, salary and overhead, not to exceed 15% of the limitation on primary election expenditures, may be attributed to the general election rather than the primary. The Primary Manual addresses this topic in Chapter I, Section C.1.c. “Exclusively” was removed from the language at 11 CFR §9034.4(e)(1). Additionally, the Commission has revised the wording at 11 CFR §9034.4(e) to make clear that the regulation applies to candidates who accept federal funds for either the primary or general election or both.
- **Spending by Party Committees Prior to Candidate’s Nomination** - Party committees may make coordinated expenditures in connection with the general election campaign before their candidates have been nominated. All pre nomination coordinated expenditures shall be subject to the coordinated expenditure limitations for such expenditures, whether or not the candidate with

whom they are coordinated receives the party's nomination. (See 11 CFR §110.7(d)).

- **Documentation of Disbursements** - The Commission revised its regulations concerning disbursement documentation. If the purpose is not stated on accompanying documentation, it must be indicated on the canceled check which **must be negotiated** by the payee. (See 11 CFR §9003.5(b)(1)(iv)).
- **Reimbursements for Travel and Services by Media Representatives** - The Commission has written new regulations which specify that committees may seek reimbursement from the media only for the billable items specified in the "White House Press Corps Travel Policies and Procedures," a negotiated agreement between the White House Correspondents Association and the White House Travel Office. See Chapter V. Section D of the Primary Manual. (See 11 CFR §9004.6(a) & (b)).
- **Valuation of Capital Assets Transferred to General from Primary** - Assets transferred from the primary campaign to the general campaign must be transferred at 60% of cost. Items purchased from the primary campaign which are not capital assets and are not other assets as defined at 11 CFR §9004.9(d)(2) shall be listed on an inventory that states their valuation. (See 11 CFR §9004.9(d)(1)(ii) & (iii)).

The definition of a capital asset is clarified to include components of a system such as a computer or telecommunication system when the aggregate cost of the system exceeds \$2000. (See 11 CFR §9004.9(d)(1)(i)).

The Commission has added language to its regulations concerning lost and misplaced items. As a general matter, costs of lost or misplaced items may not be defrayed with public funds. The Commission has added to this regulation stolen items and included among the conditions of the committee's demonstration that it made conscientious efforts to safeguard assets, and whether, in the case of stolen items, a police report was filed. (See 11 CFR §9004.4(b)(8)).

- **Winding Down Period** - For a general election candidate who received federal matching funds in the primary period, winding down expense for the primary campaign begins after the end of the expenditure report period. (See 11 CFR §9034.4(a)(3)(iii)).
- Regulations pertaining to winding down costs were amended to more clearly indicate that the winding down costs described **are costs** associated with the general election campaign. (See 11 CFR §9004.4(a)(4)(i) & (ii)).
- **General Campaign Compliance Expense** - No change was made to the regulations which address the allocation of exempt legal and accounting

compliance expense taken in general election period. Consequently, the section discussing alternative methods of allocation of exempt legal and accounting expense, formerly in the primary manual, has been moved to this manual at Chapter I, Section J, Part 6.

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INTRODUCTION

The General Election Supplement to the Financial Control and Compliance Manual for Presidential Primary Candidates Receiving Public Financing (the Supplement) is designed for use by candidates seeking election to the Office of President of the United States who accept public funding. The Supplement and the Financial Control and Compliance Manual for Presidential Primary Candidates Receiving Public Financing (Primary Manual) are guides for the candidate or committee for use in formulating an overall plan of financial controls to achieve compliance for the general election. They also include suggested procedures which the candidate may find useful in the management and control of internal campaign activities.

Although neither the Supplement nor the Primary Manual prescribe a standard set of financial records, they offer a financial control framework within which procedures can be readily formulated to suit individual needs for:

- Receipt and Disbursement Controls;
- Recordkeeping;
- Budget Formulation;
- Internal Management;
- Reporting;
- Financing Exempt Legal and Accounting Compliance Costs.

Although there may be some key variations between the primary and the general election campaigns in terms of organization and volume of activity, the basic principles and procedures for financial control remain the same. This Supplement must be used in conjunction with the Primary Manual, since the reader is often referred to detailed information contained in the Primary Manual.

Further, the reader should be aware that the regulations pertaining to the general election (11 CFR Parts 9001-9007) closely parallel those pertaining to the primary election (11 CFR Parts 9031-9039) cited within the Primary Manual but are not identical. Determining the general election regulation which corresponds to the cited primary election regulation is easy since, in many cases, the section numbers are very similar. For instance, Press Reimbursements for Travel is addressed at 11 CFR §9034.6 for primary campaigns and the corresponding general election cite is 11 CFR §9004.6.

The accounting and financial management system outlined in the Primary Manual can be applied in large part to the general election campaign as well. This Supplement therefore presents procedures to minimize the delay and expense in formulating or converting to a financial control and compliance system for the general election. At the outset, it should be noted that all receipts, disbursement records and banking transactions for the general election must be separately maintained and reported, as if the general election were the only activity engaged in by the candidate or committee. Accordingly, all financial records must be completely separated from the Primary Election Campaign records.

This Supplement is a guide to the applicable statutory and regulatory provisions and does not purport to decide in advance issues which the Commission has not yet addressed directly. Nothing in this Supplement should be construed to supersede or override the applicable statutory and regulatory provisions.

In addition to this Supplement, the Commission has available through the Public Information Division at (202) 694-1100 or toll free (800) 424-9530, a monthly newsletter, the FEC Record. To further assist Presidential candidates and committees, the Commission offers routine assistance by the Public Information staff in the clarification of the law and the regulations. For questions relating to a specific factual situation, Presidential candidates and committees may request an advisory opinion in writing. Requests for opinions and the opinions themselves are made public. A requesting person who in good faith acts in accordance with the advisory opinion will not be subject to any penalties with regard to the activity in question.

Chapter I

GENERAL ELECTION FINANCING

A. GENERAL

A candidate under the General Election Public Financing provisions is an individual who has been nominated by a major party for the election to the Office of President of the United States or the Office of Vice President of the United States or has qualified or consented to have his or her name appear on the general election ballot (or to have the names of electors pledged to him or her on such ballot) as the candidate of a political party for election to either such office in 10 or more States. (See 26 U.S.C. §9002(2) and 11 CFR §9002.2(a)).

No later than 15 days after attaining candidate status an individual is required to file a Statement of Candidacy on FEC Form 2 designating a principal campaign committee. (See 2 U.S.C. §432(e)(1) and 11 CFR §101.1(a)). A candidate for the Office of President of the United States may designate the national committee of a political party as his or her principal campaign committee. (See 2 U.S.C. §432(e)(3) and 11 CFR §102.12(c)(1)). Each principal campaign committee is required to file a Statement of Organization on FEC Form 1 within 10 days of when it is designated by the candidate. (See 2 U.S.C. §433(a) and 11 CFR §102.1(a)).

A principal campaign committee may centralize its operation at a single location, or it may operate as many offices as desired. These additional offices are part of the operations of the principal campaign committee and do not require a separate Statement of Organization. For reporting purposes, receipts and expenditures of all offices of the principal campaign committee are combined and reported on FEC Form 3P as a single entity. In addition to the principal campaign committee, a candidate may authorize as many other committees as desired. Each of these committees must be authorized in writing by the candidate and must file a Statement of Organization with the principal campaign committee which in turn files the statement with the Commission. (See 2 U.S.C. §§432(e), 433(a) and 11 CFR §§101.1(b) and 102.1(b)). Each authorized committee is required to maintain separate records of its receipts and disbursements and file reports with the principal campaign committee. A consolidated report is then filed by the principal campaign committee. (See 2 U.S.C. §432(f)). Limitations on expenditures apply to the aggregate total for the principal campaign committee and all authorized committees. (See 2 U.S.C. §441a(b)(2)(B) and 11 CFR §9002.11(b)).

This supplement has been prepared with the assumption that the candidate will not use authorized committees, but will include any additional offices as part of the

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operations of the principal campaign committee. Should the candidate authorize any additional committees, it would be necessary to implement internal controls in addition to those outlined in this supplement to insure that the aggregate expenditure limitation is not exceeded and to insure timely reporting. Further, it is presumed there will be a separate General Election Legal and Accounting Compliance Fund (GELAC).

B. ELIGIBILITY

Both the Presidential and Vice Presidential candidates of a political party seeking to become eligible to receive payments from the Presidential Election Campaign Fund (the Fund) must make a written certification to the Commission that they and their authorized committees will comply with the conditions set forth in 11 CFR §§9003.1 and 9003.2. For the 2000 election cycle, the regulation at 11 CFR §9003.1(b)(11) added an additional requirement that Presidential candidates and their committees file all reports with the Commission electronically provided that they maintain or use computerized information on receipts or disbursements. Electronic filing of reports is discussed in the Primary Manual at Chapters I and IV, Sections I.A and I.D.4. and IV.B.¹

The written certifications for major party candidates shall be submitted to the Commission within 14 days after receiving the party's nomination for election. Minor and new party candidates shall submit the certifications within 14 days after such candidates have qualified to appear on the general election ballot in 10 States pursuant to 11 CFR §9002.2(a)(2), except that the Commission may, upon written application by the candidate at any time prior to the date of the general election, extend the deadline for filing, except that the deadline shall be a date prior to the day of the general election. (See 11 CFR §§9003.1 and 9003.2).

Not later than 10 days after the candidates of a political party have met all applicable conditions of eligibility to receive payments under 11 CFR §§9003.1, 9003.2 and 9004.2, the Commission shall certify to the Secretary of the Treasury that payment in full of the amounts to which the candidates are entitled under 11 CFR Part 9004 should be made pursuant to 11 CFR §9005.2. (See 11 CFR §9005.1).

¹ Beginning January 1, 2001, subject to a minimum level of activity, all committees will be required to file financial disclosure reports with the Commission electronically. (See 2 U.S.C. §434(a)(11) and for information concerning the promulgation of regulations to facilitate the implementation of the mandatory electronic filing system for reports of campaign finance activity filed with the Commission, Federal Register Vol. 65, No. 70, pps 19339-19345, April 11, 2000, Notice of proposed rulemaking).

C. CONTROL CONSIDERATIONS

Before discussing general election financing and compliance procedures, it is important to highlight two control procedures required in the primary election campaign that will not be needed in the general election, as outlined below:

- No contributions may be accepted by major party candidates to defray qualified campaign expenses in the general election, except to the extent necessary to make up any deficiency in payments from the Presidential Election Campaign Fund (See 26 U.S.C. §9003(b)(2) and 11 CFR §9003.3(b)(1)). A major party candidate may expect to receive, early in the campaign, a Federal funds payment in the full amount of his entitlement. Accordingly, the committee is not faced with an extensive fundraising effort and cash flow planning for the campaign is considerably minimized. As discussed later in the supplement, a committee may accept contributions to defray certain expenses outlined in 11 CFR §9003.3(a).
- The expenditure limitation in the case of a campaign for election to the Office of President of the United States is \$20 million, adjusted for the Consumer Price Index change since 1974. (Note: the expenditure limitation for the 2000 general election, adjusted for the Consumer Price Index change, is \$67,560,000). Federal Election Campaign laws do not prescribe limitations with respect to expenditures in any one State, as in the case of primary election campaigns. Therefore, the system for control of expenditures does not require separate accounting and identification of expenditures with respect to each State.

On the other hand, there are several aspects of the general election campaign which may introduce more demanding control considerations than were present in the primary election campaign, as outlined below:

- The average monthly volume of expenditure activity during the general election campaign may be six or seven times greater than that encountered in the primary election.
- The lead time available to acquire staff and facilities, and to formulate financial control and compliance procedures and instructions is substantially compressed.

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- The increased level of concurrent campaign activity throughout the various States may require more decentralization and thus more demanding control for cash and commitments.
- In the case of a primary campaign, there are opportunities to recover from budget plan overruns with respect to a State's primary election or caucus by adjusting the budget plan for subsequent primaries or caucuses and still remain within the statutory spending limitation. General election campaign activities within the States can be expected to commence and terminate at about the same time, increasing the risk of exceeding the statutory spending limitation as a consequence of overruns in any single State or cost center.

In view of the above, it is essential that the committee develop a complete and realistically priced budget plan as early as possible and establish sound commitment controls.

D. *TRANSITION PLANNING -- EXPENSES INCURRED PRIOR TO THE BEGINNING OF THE EXPENDITURE REPORT PERIOD OR PRIOR TO THE RECEIPT OF FEDERAL FUNDS*

1. *FINANCING PRIOR TO BEGINNING OF EXPENDITURE REPORT PERIOD*

Because of the short time available between the date of nomination and the date of the Presidential election, a candidate anticipating the nomination will need to engage in a considerable amount of advance planning for the general election campaign. A candidate not yet nominated may incur expenses in connection with the general election campaign prior to his nomination or September 1, (whichever is earlier) for property, services or facilities to be used during the general election campaign. Examples of such expenditures include, but are not limited to, expenditures for establishing financial accounting systems and expenditures for organizational planning. (See 11 CFR §9003.4(a)). For the 2000 election cycle, the regulation at 11 CFR §9034.4(e)(3) was amended to allow the general campaign the option of funding salary and overhead after June 1 of the Presidential election year in an amount not to exceed 15% of the limitation on primary election expenditures. These provisions are designed to allow a candidate greater flexibility to set up a basic campaign organization before the expenditure report period begins. A candidate may borrow funds to defray expenses incurred prior to the beginning of the expenditure report period for the general election, but candidates who receive full public funding must repay such loans within 15 days of receiving the Federal funds payment. (See

11 CFR §9003.4(b)). The following sources for borrowing may be used to finance expenses permitted to be incurred before the beginning of the expenditure report period for the general election:

- Bank -- A candidate may obtain a loan which meets the requirements of 11 CFR §100.7(b)(11) for loans in the ordinary course of business. The candidate may act as endorser or guarantor for such loan but only to the extent that the amount so endorsed, when added to all other expenditures made from his "personal funds" and "personal funds of his immediate family" does not exceed \$50,000. (See 11 CFR §9003.2(c) for definitions). For candidates whose federal payment(s) equals the expenditure limitation, a loan, the purpose of which is to defray expenses incurred during this period for the general election, may not be endorsed or guaranteed by any person other than the candidate.
- GELAC -- A candidate may borrow from his GELAC for the purposes of defraying expenses incurred during this transition period for the general election. Any amounts borrowed from the GELAC for this purpose must be repaid to such fund either from federal funds received under 11 CFR §9005 or from private contributions permitted to be received under 11 CFR §9003.3(b). For candidates receiving federal funds, restoration shall be made within 15 days after receipt of such funds. (See 11 CFR §9003.4(b)(2)).
- Primary Election Campaign Fund -- A candidate who has received Federal funding for the primary election may borrow from his primary election campaign an amount not to exceed the residual balance projected to remain in the candidate's primary account(s) on the basis of the formula set forth at 11 CFR §9038.3(c). A major party candidate receiving payments equal to the expenditure limitation shall reimburse all amounts borrowed within 15 days of such receipt. (See 11 CFR §9003.4(b)(4)(i)). An illustration of the residual calculation is shown in Chapter I, pages 66-68, of the Primary Manual.

A candidate who has not received Federal funding during the primary campaign may borrow at any time from his or her primary accounts to defray such expenses. A major party candidate receiving payments equal to the expenditure limitation shall reimburse all amounts borrowed within 15 days of such receipt. (See 11 CFR §9003.4(b)(4)(ii)).

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Any amounts received or borrowed to defray expenses incurred prior to the beginning of the expenditure report period for the general election must be deposited in a separate account and used only for such expenses. All receipts and disbursements from such account shall be reported on FEC Form 3P, Report of Receipts and Expenditures for the Federal funds accounts. Loans received are reported on Line 19 of FEC Form 3P for the reporting period in which received and if not repaid prior to the close of the first reporting period, itemized on Schedule C-P (Loans) and Supplementary Schedule C-P-1 if a lending institution is the source of the loan. The total amount of loans outstanding, for the reporting period, (last line on Schedule C-P) is carried forward to Schedule D-P, line 3.² Reporting examples for loans on Schedule C-P and Schedule C-P-1 are shown at Pages 24 and 25 of the Primary Manual.

When reporting a loan to defray expenses incurred during this period, the purpose of the loan should be clearly stated in the report. Expenditures are reported on Line 23 of FEC Form 3P, page 2, and itemized on Schedule B-P.

Any loans made from the GELAC or the Primary Election Campaign Fund must also be reported on Line 29 of separate FEC reports required to be filed by those committees and itemized on Schedule B-P, and Schedule C-P if applicable.

In addition to the sources for borrowing that may be available to finance expenses incurred prior to the beginning of the expenditure report period for the general election, the candidate may use personal funds in accordance with 11 CFR §9003.2(c) up to his or her \$50,000 limit. If funds provided by the candidate are intended to be a loan, it is strongly recommended that a loan agreement be prepared and executed. Such a loan agreement should eliminate any questions about whether a subsequent payment is a qualified campaign expense. Remember that any endorsements or guarantees for loans made by the candidate also count against the \$50,000 limit. Expenditures from personal funds of the candidate do not count against the expenditure limitations contained at 2 U.S.C. §441a(b)(1)(B), provided that the aggregate amount does not exceed \$50,000. (See 11 CFR §9003.2(c)(2)). This is not true of the proceeds of a loan made to the campaign by the candidate.

Please note that the value of a letter of credit is NOT included in either the receipt or expenditure sections of the committee's report, and therefore is not chargeable to the expenditure limitation, unless actual payments are made to

² If no debts or obligations are reported on Schedule D-P, carry the outstanding balance reported on schedule C-P forward on Line 12 of the Summary Page.

the vendor by the issuing institution, in which case, the expenditure(s) would be reported on the appropriate line in the expenditure section of the committee's report and itemized on Schedule B-P, if applicable. An illustration of the reporting of a letter of credit is shown at Page 26 of the Primary Manual.

2. INTERIM FINANCING FROM THE DATE OF NOMINATION TO THE RECEIPT OF FEDERAL FUNDS

A candidate can expect to receive payment from the Fund within a week after the date of nomination. Although most expenses incurred during this interim period will not require payment before the Federal payment is received (assuming a normal billing and payment cycle), some early deposits and advances may be necessary.

The sources of funds to defray expenses in accordance with 11 CFR §9003.4(b) outlined in the preceding section, are also available to finance expenses incurred during this interim period.

It should also be noted that the national committee of a political party may make certain expenditures in connection with the general election campaign of a Presidential candidate. (See Pages 16 and 17). However, the national committee cannot make transfers of money or loans to the candidate or his committee. The national committee would be allowed to make refundable vendor deposits or other expenditures on behalf of the candidate's campaign in accordance with 2 U.S.C. §441a(d) and 11 CFR §110.7(a). If a refundable deposit is made by the national committee, any subsequent related reimbursements must also go to the national committee.

E. PRESIDENTIAL ELECTION CAMPAIGN FUND PAYMENTS

1. MAJOR PARTIES

Eligible candidates of a major party in a Presidential election are entitled to payments from the Fund in an amount equal to the statutory expenditure limitation. (26 U.S.C. §9004(a)(1) and 11 CFR §9004.1). As noted on Page 3, the expenditure limitation for the 2000 general election is \$67,560,000.

Payments received by eligible candidates of a major party may be used only to:

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- Defray qualified campaign expenses including certain gifts and monetary bonuses (See 26 U.S.C. §9004(c) and 11 CFR §9004.4(a));
- Repay loans, the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds used to defray such qualified campaign expenses;
- Restore funds expended for qualified campaign expenses incurred by the candidate prior to the beginning of the expenditure report period; and,
- Pay winding down costs of the general election campaign.

Payments received from the Fund by a major party candidate must be deposited in a separate account maintained by the principal campaign committee, unless there is a deficiency in the Fund. (See 11 CFR §9005.2(c)).

Contributions to defray qualified campaign expenses may be accepted by major party candidates only to the extent necessary to make up any deficiency in payments from the Fund. (See 26 U.S.C. §9003(b)(2) and 11 CFR §9003.3(b)(1)).

2. MINOR AND NEW PARTIES

a. Pre-Election Payments

Eligible candidates of a minor party in a Presidential election may be entitled to payments from the Fund. The amount of the payment shall bear the same ratio to the amount received by the major party candidates as the number of popular votes received by the minor party's Presidential candidate in the preceding Presidential election bears to the average number of popular votes received by all major party candidates in that election. (See 26 U.S.C. §9004(a)(2) and 11 CFR §9004.2). A minor party is a party whose candidate received 5 percent or more, but less than 25 percent, of the popular votes received by all candidates in the preceding Presidential election. (See 26 U.S.C. §9002(7) and 11 CFR §9002.7). A new party is neither a major party nor a minor party. (See 26 U.S.C. §9002(8) and 11 CFR §9002.8). A candidate of a new party could possibly receive pre-election payments if he or she was the candidate of a party in the preceding election who received at least 5% of the popular vote. (See 11 CFR §9004.2(c)).

b. Post-Election Payments

Eligible candidates of a minor or new party who receive 5 percent or more of the total number of popular votes cast for the Office of President in the election are entitled to payments based on the formula described in 11 CFR §9004.3. The amount of post-election funding is limited as discussed at 11 CFR §9004.3(b) and (c). Candidates who hope to receive post-election payments must also comply with the \$50,000 personal spending limitation at 11 CFR §9003.2(c). (See AO 1980-108).

A minor or new party candidate may accept contributions to defray qualified campaign expenses subject to the limits of 11 CFR §9003.2(b). The contributions received shall be subject to the limitations and prohibitions of 11 CFR Parts 110, 114 and 115. (See 11 CFR §9003.3(c)).

Such contributions may be deposited in a separate account or may be deposited with federal funds received under 11 CFR §9005.2. Disbursements from all committee accounts shall be made only for the following purposes:

- To defray qualified campaign expenses;
- To make repayments under 11 CFR §9007.2;
- To defray the costs of soliciting contributions to such account; and,
- To defray the cost of legal and accounting services provided solely to insure compliance with 2 U.S.C. §431 et seq. and 26 U.S.C. §9001 et seq.

All disbursements from this account shall be documented in accordance with 11 CFR §9003.5 and shall be reported in accordance with 11 CFR Parts 104 and 9006. Any costs incurred for soliciting contributions to this account shall not be considered expenditures to the extent that the aggregate of such costs does not exceed 20 percent of the expenditure limitation. (See 11 CFR §9003.3(c)(5)).

Any costs incurred for legal and accounting services which are provided solely to insure compliance with 2 U.S.C. §431 et seq. and 26 U.S.C. §9001 et seq. shall be exempt from the expenditure limitation. A committee may exclude

from the expenditure limitation as exempt legal and accounting compliance costs an amount equal to 10 percent of the payroll, payroll taxes, and overhead expenditures of the national campaign headquarters and State offices. Further, the committee may exclude from the expenditure limitation an amount equal to 50 percent of the costs (other than payroll) associated with computer services. (See 11 CFR §§9003.3(a)(2)(ii)(A) and (D)). For a complete discussion, please refer to pages 18 through 22 of this manual.

Unless otherwise noted in the text, the discussion which follows assumes that the qualified campaign expenses for candidates of major parties are financed solely by payments from the Fund.

F. ALLOWABLE CONTRIBUTIONS

Contributions may be made to a candidate or committee to defray certain expenses as outlined below:

- Expenses for salary, overhead and computer services incurred after the expenditure report period, that is, more than 30 days after the Presidential election (See 11 CFR §9004.4(a)(4)(iii) and page 15);
- Legal and accounting expenses paid by the candidate or committee and rendered solely for the purpose of insuring compliance with the Act or Chapter 95 of the Internal Revenue Code of 1954 (See 11 CFR §9003.3(a)(2)(i)(A));
- Any civil or criminal penalties imposed pursuant to 2 U.S.C. §437g or 26 U.S.C. §9012 (See 11 CFR §9003.3(a)(2)(i)(C));
- Repayments under 11 CFR §9007.2 (See 11 CFR §9003.3(a)(2)(i)(D));
- The cost of soliciting contributions to the legal and accounting compliance fund (See 11 CFR §9003.3(a)(2)(i)(E)); and,
- Unreimbursed costs incurred in providing transportation and services for the Secret Service and national security staff pursuant to 11 CFR §9004.6 (See 11 CFR §9003.3(a)(2)(i)(H)).

These contributions are subject to the limitations and prohibitions of 11 CFR Parts 110, 114, and 115. (See 11 CFR §9003.3(a)(1)(i)(B)). Therefore, any contribution

must be aggregated with contributions made by the same person under the provisions of 11 CFR §9003.3(b)(1) for the purpose of such limitations.

There is no overall limitation with respect to the total amount that may be raised for the above purposes but any solicitation for these contributions must clearly state that Federal law prohibits private contributions from being used for the candidate's election and that contributions will be used solely for legal and accounting services to ensure compliance with Federal law, and shall clearly state how contribution checks should be made payable. (See 11 CFR §9003.3(a)(1)(i)(A)). Contributions shall be deposited in the GELAC only if they are designated in writing for the GELAC, or transferred pursuant to 11 CFR §9003.3(a)(ii), (iii), (iv), or (v). Any contribution which otherwise could be matched pursuant to 11 CFR §9034.2 shall not be considered designated in writing for the GELAC unless the contributor specifically redesignates it for the GELAC or unless it is accompanied by a proper designation for the GELAC. Any contribution that is designated in writing or redesignated for the GELAC shall not be matched pursuant to 11 CFR §9034.2. (See 11 CFR §9003.3(a)(1)(i)(C) and Primary Manual pages 15-18.) These contributions must be deposited in and disbursed from a separate account or accounts and may not be commingled with any money paid to candidates from the Fund. (See 11 CFR §9003.3(a)(3)(i)). The receipt of these contributions must be reported in a report separate from and in addition to the Report of Receipts and Expenditures for the principal campaign committee. (See 11 CFR §9003.3(a)(3)(ii)). See Primary Manual pages 3 through 21 for discussion on reporting requirements.

A GELAC may be established by a candidate prior to being nominated as the candidate of a political party for the Office of President or Vice President. (See 11 CFR §9003.3(a)(1)(i)).³ Payments made from the account, including the cost of

³ Revisions to Commission regulations at 11 CFR §§9003.3 and 9034.4(e)(6) pertaining to the GELAC were submitted to Congress for approval on September 12, 1999. Although the revisions were approved on October 27, 1999, their effective date was June 1, 2000. By doing so, these changes apply beginning for the 2004 election cycle. (See the following discussion).

In the 2004 election cycle, a major party candidate may accept contributions to a legal and accounting compliance fund. A general election legal and accounting compliance fund ("GELAC") may be established by the candidate prior to being nominated. Prior to June 1 of the calendar year in which a Presidential general election is held, only contributions made to the primary committee which are in excess of the contribution limitation and which have been redesignated for use by the GELAC (11 CFR §110.1) may be deposited to the GELAC. (See 11 CFR §9003.3(a)(1)(i)). Contributions for the GELAC may not be solicited until after June 1 of the calendar year in which a Presidential general election is held. Additionally, solicitations must state that Federal law prohibits private contributions from being used for the candidate's election and that contributions will be used solely for legal and accounting services to ensure compliance with Federal law. Also, these solicitations shall clearly state how contribution checks should be made payable. Finally, should the candidate not become the nominee, all contributions accepted for the GELAC, including

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soliciting contributions to the account, are not subject to the expenditure limitation at 2 U.S.C. §441a(b)(1)(B). (See 11 CFR §9003.3(a)(2)(iii)). The cost of soliciting contributions to the legal and accounting compliance fund may not be paid from the Federal funds account. (See 11 CFR §9004.4(b)(5)). It should be noted, however, that the candidate has the option to treat legal and accounting compliance costs as a qualified campaign expense and pay for such services from the Federal funds account. (See 11 CFR §9002.11(b)(5)).

Excess primary campaign funds may not be used to defray qualified campaign expenses for the general election but they may be used to defray legal and accounting compliance costs related to the general election. If a candidate's statement of net outstanding campaign obligations projects a surplus on the last day of eligibility for the primary election campaign, the residual amount of the surplus after subtracting the estimated repayment, may be transferred to the GELAC. Should the amount so transferred exceed the actual residual amount available for transfer as finally determined, any excess must be returned to the primary election campaign fund.

The excessive portion of a contribution to the candidate's primary election campaign may be redesignated to the GELAC. The treasurer of the primary committee is provided 60 days from the date of receipt to obtain a signed redesignation of the contribution. When requesting such redesignations, the contributor must be informed that he has the option to have the excessive portion of the contribution refunded. (See 11 CFR §110.1(b)(5) and (k)).

Contributions made during the matching payment period that do not exceed the contributor's limit for the primary election may be redesignated for the GELAC and subsequently transferred to the GELAC before the nomination provided the provisions of 11 CFR §9003.3(a)(1)(ii)(A) are met.

Contributions received during the matching payment period that are remaining in a candidate's primary election account after the nomination may be transferred to the GELAC if they are in excess of any amount needed to pay primary obligations as defined at 11 CFR §9034.1(b) and any amount needed for any repayments under 11 CFR §9038.2. (See 11 CFR §9003.3(a)(1)(iii)).

redesignated contributions, shall be refunded within sixty days after the candidate's date of ineligibility. (See 11 CFR §9003.3(a)(1)(i)(A)).

Should a candidate raise funds for the primary election and GELAC with a single communication, the allocation of fundraising costs and the distribution of the net proceeds will be made in the same manner as described in 11 CFR § 9034.8(c)(8)(i) and (ii). (See 11 CFR §9034.4(e)(6)(i)).

Contributions that are made after the date of nomination and are not specifically designated for the GELAC when initially received may be redesignated for the GELAC and transferred to the GELAC provided the provisions of 11 CFR §9003.3(a)(1)(iv)(A) through (C) are met. See also Primary Manual pages 15-18.

G. INVESTMENT OF PUBLIC FUNDS

The investment, or any other use of public funds that results in income is permissible, provided that an amount equal to all net income derived from such a use, less Federal, State and local taxes paid on such income, shall be paid to the United States Treasury.

Other income includes interest, gain on sale of purchased assets, to include that portion of any payment received from an insurance company that exceeds the cost of replacing the asset, dividends or other proceeds from investments or deposits, such as interest on a certificate of deposit or telephone service deposit. Any net loss resulting from the investment of public funds will be considered a non-qualified campaign expense and an amount equal to the amount of such net loss shall be repaid to the United States Treasury as provided under 11 CFR §9007.2(b)(2)(i). (See 11 CFR §9004.5).

Other income is reported on Line 21 of FEC Form 3P and itemized on Schedule A-P if over \$200, or aggregating in excess of \$200 within the calendar year from a source.

Income derived from investments made using assets of the GELAC is not required to be paid over to the United States Treasury but such income must be reported in the separate Report of Receipts and Expenditures of the GELAC.

Earned income may have income tax consequences. See Chapter V, Section D., Taxable Income.

H. LOANS AND LINES OF CREDIT

A loan or a line of credit from a bank is not considered a contribution from the bank if made in accordance with applicable banking laws and regulations, in the ordinary course of business and on a basis which assures repayment.⁴ The loan or line of credit may not be endorsed or guaranteed by any person other than the candidate, and then only to the extent that the amount so endorsed by the candidate, when

⁴ See pages 4-6 for special treatment of loans to defray expenses incurred before the beginning of the expenditure report period.

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added to all other expenditures made from his personal funds, or the personal funds of his immediate family, does not exceed \$50,000. (See 11 CFR §9003.2(c) and Primary Manual, pages 21-26).

I. REFUNDS, REBATES AND RETURNS OF DEPOSITS

Refunds, rebates and returns of deposits, although they are credits to previously reported expenses, are included in the receipts section of the report. (See 2 U.S.C. §434(b)(2)(I), 11 CFR §104.3(a)(4)(v) and Primary Manual page 21).

Reimbursements received by a committee which relate to travel by press and media representatives on committee chartered aircraft or buses are reported on Line 20(a).

Costs incurred by a committee for providing transportation and services to the U.S. Secret Service or other national security personnel are considered qualified campaign expenses but are not subject to the overall spending limitations. (See 11 CFR §9004.6(a)). Such costs should be reported as Other Disbursements on line 29 of FEC Form 3P. Any amounts received by the committee as a result of billings by the committee for such travel and services are reported as Other Receipts. Any amounts billed to the Secret Service which remain unpaid may be reimbursed by the GELAC and reported as other receipts.

Any unpaid bills submitted to press and media representatives and Secret Service personnel must also be reported on Line 11, Debts and Obligations Owed to the Committee, and itemized on Schedule D-P.

An additional refund item required to be accounted for and reported on Line 20 of FEC Form 3P relates to reimbursements from the GELAC for exempt legal and accounting expenses initially paid by the General Election Committee. Most such expenses will relate to shared personnel and facilities.

J. DISBURSEMENTS

1. GENERAL

A candidate who does not accept payments from the Presidential Election Campaign Fund may make unlimited expenditures from his personal funds. However, if a candidate accepts Federal financing, expenditures from the candidate's personal funds or the personal funds of his immediate family as defined in 11 CFR §9003.2(c)(3) are limited to \$50,000. Expenditures from personal funds made by the candidate for Vice President are considered to be

expenditures by the candidate for President. Expenditures from these personal funds do not count toward the expenditure limitation up to the \$50,000 limit. (See 11 CFR §9003.2(c)).

2. QUALIFIED CAMPAIGN EXPENSE

Federal funds may be used only to defray qualified campaign expenses. A qualified campaign expense is an expense incurred by or on behalf of candidates of a political party within the expenditure report period to further their election to the Office of President or Vice President of the United States. (See 26 U.S.C. §9002(11) and 11 CFR §9002.11(a), (b) and (c)). If the Commission determines that any portion of the payments made to eligible candidates was used for any purpose other than to defray qualified campaign expenses, an amount equal to the amount so determined must be paid by such candidates to the Secretary of the Treasury. (See 26 U.S.C. §9007(b)(4) and 11 CFR §9007.2(b)(2)).

The candidate has the burden of proving that expenditures are qualified campaign expenses.

An expenditure is made on behalf of a candidate, including a vice-presidential candidate, if it is made by:

- An authorized committee or any other agent of the candidate for the purpose of making an expenditure;
- Any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate or his or her authorized committee(s) to make an expenditure; or
- A committee which has been requested by the candidate, an authorized committee of the candidate, or an agent thereof to make the expenditure, even though such committee is not authorized in writing. (See 11 CFR §9002.11(b)(2)).

In order to insure that the statutory expenditure limitation is not exceeded, it is essential that a ceiling be set for each person, agent or committee which is authorized to incur expenses. Some of the procedures outlined in Chapter II may be used effectively to limit the liability of the committee and provide a basis to disavow excessive or unauthorized expenses.

3. EXPENDITURE REPORT PERIOD

The expenditure report period with respect to any Presidential election for major party candidates is the period beginning with the first day of September before the election, or, if earlier, with the date on which such party at its national convention nominated its candidate for election to the Office of President, and ending 30 days after the date of the Presidential election. In the case of a party which is not a major party, the expenditure report period is the same as that of the major party with the shortest expenditure report period. (See 26 U.S.C. §9002(12) and 11 CFR §9002.12). An expenditure incurred before the beginning of the expenditure report period is considered to be a qualified campaign expense only to the extent that such expense is for property, services, facilities which are to be used in connection with the general election campaign and which are for use during the expenditure report period. Examples of such expenditures include those for organization planning and establishing financial systems. (See 11 CFR §9003.4(a)(1)). In addition, the candidate may choose to pay salary and overhead expense from the general election campaign beginning June 1st of the election year. The total paid for salary and overhead between June 1st and the beginning of the expenditure report period may not exceed 15% of the primary spending limitation. (See 11 CFR §9034.4(e)(3)).

Expenses incurred after the last day of the expenditure report period are not qualified campaign expenses and may not be defrayed with Federal funds except for winding down costs as discussed below. (See 11 CFR §9004.4(b)(3)). Additionally, expenses which are not incurred to further the candidate's election, even though incurred within the expenditure report period, are not qualified campaign expenses. Such expenses do not, therefore, count against the expenditure limitation, but may give rise to a repayment obligation under 11 CFR §9007.2(b)(2).

Payments, of course, may continue to be made from Federal funds after the last day of the expenditure report period to defray qualified campaign expenses incurred within the expenditure report period.

4. WINDING DOWN

An exception to the general rule relating to expenditures incurred after the last day of the expenditure report period is made with respect to winding down costs. A candidate may include estimates of necessary winding down costs and termination costs in the calculation of net outstanding qualified campaign

expenses as of the last day of the expenditure report period. These costs may be paid with Federal funds.

Winding down costs shall be deemed to have been incurred before the last day of the expenditure report period if a written arrangement or commitment for the activity was made on or before such date (11 CFR §9004.4(a)(4)). Examples of some of the costs which candidates may incur after the last day of the expenditure report period, and which may be included in calculating net outstanding qualified campaign expenses are:

- The costs (salaries, office supplies, reproduction, etc.) associated with compiling and filing reports, up to and including a termination report, with the Commission; including any legal or accounting expenses related thereto;
- The telephone, utility and office space costs incurred during the winding down and termination of the committee; and,
- The costs associated with moving and storing records (required by the Act to be maintained for three years).

5. PARTY COMMITTEE EXPENDITURES

The national committee of a political party may make expenditures in connection with the general election campaign of any candidate for President of the United States affiliated with the party not to exceed an amount equal to 2 cents multiplied by the voting age population of the United States. (See 2 U.S.C. §441a(d)(2) and 11 CFR §110.7(a)(1) and (2)). Note: the expenditure limitation for the 2000 general election, adjusted for the Consumer Price Index change is \$13,680,292.⁵ Such expenditures may be made in connection with

⁵ Two decisions arose out of *FEC v. Colorado Republican Federal Campaign Committee*. In the first, “*Colorado I*,” the United States Supreme Court held that political party committees may make independent expenditures in support of congressional candidates, in addition to the coordinated expenditures authorized for congressional elections at 2 U.S.C. §441a(d)(3). See *Colorado I: Colorado Republican Federal Campaign Committee v. FEC*, 518 U.S. 604 (1996). Subsequently, in “*Colorado II*,” the United States Court of Appeals for the Tenth Circuit held the coordinated spending limitations for congressional candidates under 2 U.S.C. § 441a(d)(3) to be unconstitutional. See *FEC v. Colorado Republican Federal Campaign Committee*, No. 99-1211, ---F.3d ---, 2000 WL 554688 (10th Cir. May 05, 2000) (“*Colorado II*”). The coordinated party expenditure limitation, however, for publicly-financed general election candidates was not directly at issue in *Colorado I* and *Colorado II* and the courts did not address the effect of their decision on the coordinated party spending limitations for presidential candidates at 2 U.S.C. §441a(d)(2).

any campaign related activities of the candidate. Expenditures made under 11 CFR §110.7(a)(1) and (2) are in addition to any expenditures by the national committee of a political party serving as the principal campaign committee of a candidate for President. (See 11 CFR §110.7(a)(3)(i)). For the 2000 election cycle, the Commission's regulations at 11 CFR §110.7(d) have been amended to clarify how National Party Committees may make pre nomination expenditures on behalf of its candidates. All pre-nomination coordinated expenditures shall be subject to the coordinated expenditure limitations, whether or not the candidate with whom they are coordinated receives the party's nomination.

While 11 CFR §110.7(a)(4) permits such expenditures to be made by any designated agent, the Commission has determined that the candidate's principal campaign committee may not act as the agent of the national committee. Furthermore, the Commission has determined that the candidate's spending limitation at 11 CFR §110.8(a)(2) and the Party Committee's expenditure limitation at 11 CFR §110.7(a)(2) are separate, and that funds expended by each committee shall be kept separate including any refunds, rebates, or return of deposits which result from said expenditures.

In addition to the 2 U.S.C. §441a(d)(2) expenditures by a national committee of a political party, State and local party committees may make certain payments on behalf of the party's nominees which are exempted from the definition of contribution and expenditure. (See 11 CFR §100.7(b)(15) and (17); and 11 CFR §100.8(b)(16) and (18)).

6. LEGAL AND ACCOUNTING EXPENSES

Legal and accounting expenses incurred solely for the purpose of insuring compliance with the Act do not count against the expenditure limitation. (See 2 U.S.C. §431(9)(B)(vii) and 11 CFR §9002.11(b)(5)). This exception applies to all amounts paid or incurred by a candidate or his authorized committees for legal and accounting services, including expenses to support the regular legal and accounting staff of the committee, for those services which are solely for the purpose of insuring compliance with the Act (11 CFR §9003.3(a)(2)(ii)(A)). Further, 100% of salary, overhead and computer expenses incurred after the end of the expenditure report period may be paid from the GELAC, and will be presumed to be solely to insure compliance with 2 U.S.C. 431 et seq. and 26 U.S.C. 9001 et seq. (See 11 CFR §9004.4(a)(4)(iii)).

It should be noted that 11 CFR §9002.11(b)(5) allows the candidate the option of treating legal and accounting compliance costs as qualified campaign expenses or exempt compliance expenses. Some expenditures, such as national office overhead and administration, may be applicable in part to campaign operating activities and in part to legal and accounting compliance activities and may be allocated between the respective activities at the end of each reporting period. The Federal funds account may receive reimbursements from the GELAC for legal and accounting compliance expenses initially paid from the Federal funds account. Such reimbursement must be made prior to any final repayment determination by the Commission pursuant to 11 CFR §9007.2. Any amounts reimbursed to the Federal fund account may not subsequently be transferred back to the GELAC. (See 11 CFR §9003.3(a)(2)(ii)(G)). If a committee selects an accounting method which requires reimbursement from the GELAC, a careful record of legal and accounting charges must be maintained to support the reimbursement.

A committee may allocate 50 percent of the costs (other than payroll) associated with computer services to the exempt compliance. Such costs include but are not limited to rental and maintenance of computer equipment, data entry services not performed by committee personnel, and related supplies. If a committee wishes to use a larger percentage for the allocation of computer costs, the committee shall establish allocation percentages for each computer function that is considered necessary, in whole or in part, to insure compliance with 2 US 431 *et seq.* and 26 U.S.C. §9001 *et seq.* The allocation shall be based on a reasonable estimate of the costs associated with each computer function, such as the costs for data entry services performed by other than committee personnel and processing time. The committee shall keep detailed records to support such calculations. The records shall indicate which computer functions are considered compliance related and shall reflect which costs are associated with each computer function.

In addition to computer costs, a committee may exclude from the expenditure limitation as allocable to legal and accounting compliance an amount equal to 10 percent of the payroll, payroll taxes, and overhead expenditures of the national campaign headquarters and State offices. (See 11 CFR §9003.3(a)(2)(ii)(A)).

Should a committee determine that its legal and accounting compliance expenses are in excess of the allowance outlined above, it may use the following alternative method of allocating campaign payroll, payroll taxes, overhead and other accounting costs.

(a) National Campaign Office

A committee may allocate 85 percent of payroll, payroll taxes, overhead, and other costs which relate to the operations of the accounting office and 50 percent of computer expense as exempt compliance. The accounting office is defined as the cost center responsible for performing the following functions: expenditure processing, payroll, budget tracking, general ledger maintenance, cash receipt and disbursement journal maintenance, Federal and State Tax filings, review of documentation and payment of expenses, tracking of limitations, and preparation of disclosure reports.

The accounting office shall not include the legal department, fundraising, administration, State or regional offices, press, research, etc. Computer costs charged to the accounting office must not include costs related to fundraising or general campaign management. Overhead may be charged to the accounting cost center based on relative payroll dollars charged to the accounting office vs. total payroll dollars for the national headquarters staff.

If the committee wishes to use a larger percentage for the compliance allocation of the national campaign accounting office, then detailed records must be maintained to support the higher percentage. Such records are to include individual time records for the personnel working in the cost center, detailed computer usage records, etc.

In addition, a committee may allocate a portion of all expenses for payroll and/or legal fees, payroll taxes, overhead and other costs which relate to the operations of the committee's legal office or cost center, based upon an estimate of the time/costs associated with the performance of exempt compliance and operating tasks. Reasonable individual allocation percentages must be established for each person assigned to the cost center based on duties performed, and documented with a listing of those duties. The records shall include a description of duties which are considered exempt compliance, along with the time spent on these activities, as well as which duties are not considered exempt compliance and the time spent thereon.

These compliance percentages may then be applied to payroll costs for each individual. A percentage of compliance vs. non-compliance payroll

for the cost center, as a whole, may be calculated and applied to the non-payroll costs charged to the legal cost center. As with the accounting cost center, overhead costs associated with the legal cost center are calculated based on payroll dollars charged to the legal cost center vs. total national campaign headquarters office payroll dollars.

Since other national campaign headquarters cost centers may perform limited exempt compliance functions, portions of the payroll and overhead costs associated with these cost centers may be allocated to exempt compliance. A committee may allocate 5 percent of all payroll, payroll taxes, and overhead associated with the national campaign headquarters office (other than the legal and accounting cost centers discussed above) to exempt compliance. To allocate more than 5 percent of payroll and payroll taxes, and overhead expenses to exempt compliance, a committee must establish individual compliance allocation percentages for each person included in the allocation and maintain detailed records to support the derivation of such percentages. These percentages may then be applied to the individual payroll expenses and an overall campaign headquarters office compliance percentage developed. This percentage may then be applied to overhead costs associated with the national headquarters office (other than the legal and accounting cost centers).

(b) State Payroll

In addition, a committee may allocate 5 percent of State campaign workers' (persons who are permanently or temporarily working in a particular State including advance staff) salaries and payroll taxes to exempt compliance.

If a committee wishes to use a larger percentage for these allocations, then individual allocation percentages must be established for each person. The committee must keep detailed records supporting the derivation of such percentages, and the records must include a description of which duties are considered exempt compliance and the percentage of time spent on these activities, as well as which duties are not considered exempt compliance, and the percentage of time spent on those activities. All records must be made available for audit.

(c) Application of Legal and Accounting Allocation Methods

If a committee determines at a later date that a different allocation method would be more advantageous, the committee may change the method. However, all allocations made under the initial method selected must be recalculated and reported (including any necessary amendments and adjustments to the limitations at 26 U.S.C. §9004.1) using the new method.

7. RECORDKEEPING

The Act and the Regulations require that the treasurer of a political committee keep an account of contributions and expenditures. (See 2 U.S.C. §432(c) and (d) and 11 CFR §102.9). No contribution or expenditure may be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of the treasurer. (See 2 U.S.C. §432(a) and 11 CFR §102.7(b)). All records with respect to matters required to be reported and all reports must be kept available for audit, inspection, or examination for a period of not less than three years after the report or statement was filed. (See 2 U.S.C. §432(d) and 11 CFR §102.9(c)).

Records supporting the expenditures for qualified campaign expenses should comply with the documentation requirements presented at 11 CFR §9003.5(b). These requirements parallel those presented in the Primary Manual at pages 40-42.

K. REPORTING

The financial disclosure provisions of the Act relate basically to receipts and disbursements, and their attendant recordkeeping and reporting requirements. They also require that detailed disclosure reports be submitted to the Commission. (See 2 U.S.C. §434 and 11 CFR Part 104). Reports must be filed until all debts and obligations are extinguished and the committee has filed a Notice of Termination (See 11 CFR §102.3). Disclosure reports filed by the General Election Committee must be separate from those filed by the Primary Election Committee and the GELAC.

Report filing dates are set forth in 2 U.S.C. §434 and 11 CFR §104.5(b)(1).

Chapter II

DESIGNING A SYSTEM FOR ACHIEVING COMPLIANCE

A. **GENERAL**

The Act and the Commission's Regulations do not prescribe accounting procedures that must be followed, but they do require that a political committee keep an account of its receipts and expenditures. (See 2 U.S.C. §432(c) & (d) and 11 CFR §102.9). Section 104 of the regulations prescribes the form and content of disclosure reports to be filed. (See 2 U.S.C. §434(a), (b) & (c)). The form and content of the reports, and the controls necessary to insure that expenditure limits are not exceeded, to a large degree govern the design of the accounting system. The compliance system for a general election campaign should provide integrated controls necessary to satisfy the following requirements:

- Compliance with limitations on contributions (GELAC);
- Compliance with limitations on expenditures;
- Compliance with recordkeeping and reporting requirements;
- Accounting for legal and accounting expenses; and,
- Financial reports for campaign management.

Because of the large volume of expenditure activity in a general election campaign and the possibility that it may be necessary to make unplanned program changes on short notice, reliable and up-to-date financial status reports are essential to the effective management of the campaign.

A combination of manual and automated procedures may be used efficiently in connection with the data gathering and control activities.⁶ When designing an automated system, the campaign should consider the requirements of 11 CFR §9003.6. That section requires the campaign to provide the Commission with computerized information at the time of the Commission's audit of the campaign's

⁶ The regulations have been revised to require Presidential candidates and their committees, as a condition of receiving general election funding, to file all reports with the Commission electronically provided that they maintain or use computerized information on receipts or disbursements. (See 11 CFR §9003.1(b)(11)). Filing of reports electronically is discussed in the Primary Manual at Chapters I and IV, Sections I.A and I.D.4. and IV.B.

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Designing A System For Achieving Compliance

records. The formats and specifications for this data can be found at Appendix 2 of the Primary Manual, which should be consulted to assure that all required information can be supplied. This information must be produced at the campaign's expense and within 15 calendar days of the Commission's request. (See 11 CFR §9007.1).

Please refer to the Primary Manual, Chapter IV, pages 89-172, for a thorough presentation of designing a system to achieve compliance.

B. GENERAL ELECTION LEGAL AND ACCOUNTING COMPLIANCE FUND

Contribution processing for the GELAC may be handled in a manner similar to the primary election committee and it is anticipated that the same procedures will be used by most campaigns. Obviously, those procedures designed to provide the necessary information for matching fund purposes need not be carried over into the GELAC.

For more detailed information on contributions to the GELAC, refer to the Primary Manual pages 15-18 and pages 89-122.

C. ALLOCABLE EXPENDITURES

Expenditures, in some cases, cannot be directly attributed to a single purpose and must be allocated among the benefiting functions. Section 106 of the regulations outlines procedures for allocating multiple purpose expenditures between candidates and activities. Expenditures for a general election campaign need not be attributed to individual States. However, the committee will be required to establish a basis for allocating overhead expenses between campaign operating activities and exempt legal and accounting activities for purposes of determining the amount reimbursable to the Federal funds account from GELAC. (see Chapter I, Section J.6.). For a more detailed discussion concerning allocation of expenses between the Primary Campaign and the General Campaign refer to pages 37 to 40 of the Primary Manual and 11 CFR §9034.4(b)(3) and (e).

D. DEBTS AND OBLIGATIONS (EXCLUDING LOANS) AND RECONCILIATION AT CLOSE OF REPORTING PERIOD

Debts and obligations and end of reporting period reconciliations are discussed at pages 164 to 171 of the Primary Manual.

E. NET OUTSTANDING QUALIFIED CAMPAIGN EXPENSES

No later than 30 calendar days after the end of the expenditure report period, the candidate shall file a statement of Net Outstanding Qualified Campaign Expenses (NOQCE) that is complete as of the end of the expenditure report period. (See 11 CFR §9004.9). A NOQCE statement is essentially a statement of financial position for the candidate's general election campaign committee(s).

Accordingly, all assets and liabilities must be reflected on the NOQCE statement. Although the format and certain asset and liability categorizations differ from that of a corporate financial statement, the basic components are somewhat similar. The components and presentation also closely resemble the NOCO statement associated with primary candidates, discussed in detail in the Primary Manual, pages 49-61. If the net result of the NOQCE statement shows a deficit, the campaign has exceeded the expenditure limitation. If the NOQCE shows a surplus, a repayment of unused funds is necessary.

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Designing A System For Achieving Compliance

Chapter III

BANKING

A. GENERAL

All payments received by a candidate from the Presidential Election Campaign Fund must be deposited in a separate account maintained by the candidate's principal campaign committee pursuant to 11 CFR §9005.2(c). Information in addition to that presented below can be found in the Primary Manual, pages 185-187.

1. GENERAL ELECTION LEGAL AND ACCOUNTING COMPLIANCE FUND

As previously noted in Chapter I, Section F, any contributions accepted by a committee to defray legal and accounting compliance costs must be deposited in and disbursed from a separate account or accounts and may not be commingled with any money paid to candidates from the Federal fund. Accordingly, the following additional bank accounts are suggested for compliance transactions:

GELAC Checking Account: For deposit of all contributions and any residual balances transferred from the primary election campaign to finance exempt legal and accounting compliance costs related to the general election. The account is used for the payment of legal and accounting compliance costs and to reimburse the campaign operating accounts for legal and accounting compliance costs initially paid from such accounts.

GELAC Savings Account: Any funds in excess of amounts required to finance current operations can be transferred from the GELAC Checking Account to an interest-bearing account. Interest earned from the investment of balances in the GELAC is not required to be paid to the United States Treasury, as is the case with investment of Federal funds. (See 11 CFR §9004.5). However, there may be tax consequences related to the interest earned.

2. **CONTRIBUTIONS TO DEFRAY QUALIFIED CAMPAIGN EXPENSES**

Contributions accepted by a candidate or committee to make up any deficiency in payments received from the Fund, or in the case of a minor or new party candidates to defray qualified campaign expenses which exceed the amount received from the fund, must be deposited in the Federal funds account or in a separate account.

3. **PRE-EXPENDITURE REPORT PERIOD FUNDS**

As noted in Chapter I, Section D.1., a candidate may establish a fund to defray qualified campaign expenses for the general election incurred before the receipt of Federal payments. Any amounts received or borrowed for such fund must be deposited in a separate account. The following bank account is suggested:

Pre-Expenditure Report Period Checking Account: For deposit of funds borrowed or provided by the candidate to defray qualified campaign expenses incurred before the receipt of Federal payments. The account is used only for the payment of qualified campaign expenses incurred before the receipt of Federal payments.

Chapter IV

MANAGEMENT CONTROLS

No matter how well conceived the financial control system may be, if there is not a basic discipline and control for the activities of the campaign staff, the system will fail. The purpose of the system is to keep track of money coming in and money going out so that the committee knows where it is and how much of the expenditure limitation is left at any time. Each transaction must be recorded when it occurs. To do this requires the cooperation of every member of the staff who is in a position to authorize an obligation for the committee.

In connection with the review work of the Commission, a number of procedures have been encountered to improve the general control and management of committee activities. Although these controls are not necessarily required by statute or regulation, they are presented as suggestions in the hope that other candidates may find some of them useful in managing their own campaigns. These are discussed in detail in the Primary Manual at pages 189-192.

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OTHER ITEMS FOR CONSIDERATION

A. NATIONAL TELEPHONE AGREEMENT

Telephone expenses for a national campaign can absorb a significant portion of the campaign budget and they are one of the most difficult items to forecast accurately and control. National telephone agreements are discussed in the Primary Manual at page 193.

B. EMPLOYEE HEALTH AND LIFE INSURANCE PROGRAMS

Many insurance companies offer group health and life insurance plans which can be used by political campaigns. These are discussed at the Primary Manual pages 193-194.

C. STATE UNEMPLOYMENT TAXES

The State where the committee employs and pays campaign staff requires that campaigns pay State unemployment taxes. Late filing and/or payment may result in the assessment of a late payment penalty which is not considered a qualified campaign expense. To avoid the assessment of late payment penalties and insure that all liabilities are properly recognized, the committee should determine each applicable State's unemployment tax procedures and comply with them (see Primary Manual page 194).

D. TAXABLE INCOME

Taxable income is discussed in the Primary Manual at Chapter IX, page 195.

E. CLOSE-OUT PROCEDURES

Close-out procedures, including the Commission's post campaign audit, are discussed in the Primary Manual at Chapter X, pages 197-205.

F. RECORDS RETENTION

The committee is required to keep records in sufficient detail to support and explain each report or statement filed. These records along with a copy of each report or statement must be available for audit, inspection or examination by the Commission

for a period of not less than 3 years after the report or statement to which such records and accounts relate is filed (11 CFR §104.14(b)(3)). The records may be maintained or stored at any location selected by the committee.

G. RESIDUAL AFTER REPAYMENT

As previously noted, if any portion of the payment received by a candidate from the Presidential Election Campaign Fund remains unspent after all qualified campaign expenses have been paid, the balance must be returned to the United States Treasury. The possible repayment aspects of an audit are described at 11 CFR §9007.2.

Any residual balances in the GELAC after legal and accounting compliance costs have been paid may be used by the candidate or committee for the purposes outlined in 2 U.S.C. §439(a). That is, they may be used to defray any ordinary and necessary expenses in connection with the candidate's duties as a holder of Federal office, they may be contributed to any organization described in Section 170(c) of Title 26 of the United States Code, or they may be used for any other lawful purpose. (See 11 CFR §113.2 and 11 CFR §9003.3(a)(2)(iv)). For example, they may be contributed to a political party without limit or to other candidates subject to the limitation in 11 CFR Part 110.

However, prior to disbursing its residual funds, the GELAC should ensure that any repayment required to be made by the primary or general election committee has been made or that funds are available to make such repayment.