

ANNUAL REPORT 1975

FEDERAL ELECTION COMMISSION

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WASHINGTON, D.C. 20463

MARCH 1976

Federal Election Commission

Commissioners

Thomas B. Curtis, Chairman
Neil Staebler, Vice Chairman
Joan D. Aikens
Thomas E. Harris
Vernon W. Thomson
Robert O. Tiernan

Ex Officio Commissioners

Edmund L. Henshaw, Jr., Clerk of the House
Francis R. Valeo, Secretary of the Senate

Statutory Officers

Orlando B. Potter, Staff Director
John G. Murphy, Jr., General Counsel

Annual Report Editor

Ann Lang Irvine

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Introduction

Purpose of the FEC

By the terms of its creation under the Federal Election Campaign Act Amendments of 1974, the Federal Election Commission was assigned a mission which was without precedent or parallel at the Federal level. Through a program of disclosure of campaign financing, strict limitations on contributions and expenditures, and the granting of public financing to Presidential candidates, the Commission was charged with supervising and regulating political campaigns for Federal office. In order to accomplish this task the Commission was granted specific powers of investigation, regulation, and interpretation. In short, the Commission was assigned the role of a regulatory agency for the basic process by which political power is attained and transferred in modern democratic society.

Buckley v. *Valeo*

Many of the programs to be administered by the FEC were new and untried, and there was even doubt in some quarters whether they were advisable or even constitutional. Some of these concerns formed the basis for the constitutional challenge to the law, and to the composition of the Commission itself, filed in January, 1975.¹ The very existence of this challenge, and the possible implications for the future of the Commission were a constant factor during the first year of operation, and undoubtedly affected attitudes of the public, as well as the expectations and morale of the staff.

On January 30, 1976, the Supreme Court decided the case of *Buckley v. Valeo*. While upholding major portions of the Act, the decision modified to a substantial degree the powers and duties of the Commission itself as originally constituted under the 1974 Act.² The Court did grant a 30-day stay of its ruling to allow Congress to act, and the stay was subsequently extended for another 20 days.

Annual Report Requirement

This Annual Report, which has been written during the uncertain period before the Congressional response to the ruling of the Supreme Court, is a requirement of the Act: "The Commission shall transmit reports to the

¹ See Appendix O for a chronology of the events associated with *Buckley v. Valeo* in relation to the activities of the Commission.

² See Appendix N for highlights of that decision.

President of the United States and to each House of the Congress no later than March 31 of each year. Each such report shall contain a detailed statement of the activities of the Commission in carrying out its duties under this title, together with recommendations for such legislative or other action as the Commission considers appropriate." (2 U.S.C 437e). This report should stand first as an important historical record of the establishment and initial activities of a new Federal agency, but even more significantly as a guide and reference for future modification and implementation of Federal election campaign laws.

**Outline
of
Report**

Effort has been made to include sufficient material to interest the researcher while still providing an overview for the more casual reader. The basic text affords an analysis of Commission activities from three points of view: organization, policy, and program implementation. Background detail is in the Appendix. The first chapter gives some background on the 1974 Federal Election Campaign Act Amendments which set up the Commission, and the details of how the FEC came into being in April 1975. Then the Organization section of Chapter I focuses on the structure of the FEC, and how it is organized to get the job done. Each Office is described briefly, including its major functions.

Chapter II takes a look at some of the major approaches and decisions of the Commission during its first year of existence, and the effect on the priorities and procedures which evolved. Chapter III, on Implementing the Act, tells what the FEC has accomplished from a functional point of view. Each of four sections deals with the coordinated activities of the Commission in public financing, disclosure, campaign limitations and compliance.

A separate chapter on Federal-State Relations describes how the Commission has begun to play an informational and clearinghouse role between the many State and local election agencies. The primary focus here is on the specialized research role of the Clearinghouse of Election Administration and Information. A final chapter deals with the question of possible legislative amendments.

The compilation of the material for the report itself became an FEC activity, since it afforded an opportunity for many staff members, along with Commissioners, to take a wider view of the Commission and its many interrelated divisions than is often possible under the stress of day-to-day decision making. The Commission intends to use the report as a base for assessment of progress during the first year of existence.

Hearings

Consistent with its policy of "openness", the Commission invites public and Congressional comment and suggestion, and further suggests that the appropriate committees of Congress consider holding regular public hearings on its Annual Report. This will provide an opportunity to examine the Commission's work in depth and as a whole, and allow the Commission to make future reports more useful to both the Congress and the public.

**Establishment and
Organization of the FEC**

Establishment

Legislative History

The manner in which American election campaigns are financed has been a subject of concern and controversy since the turn of the century. Over that time, Congress sought to regulate the process and prevent abuses in three ways: by prohibiting contributions from certain sources¹, by requiring public disclosure of campaign funds, and by imposing limits on certain contributions and expenditures.

1925 Act

Until 1972, the principal statute governing Federal elections was the Federal Corrupt Practices Act of 1925. While it contained disclosure requirements and spending ceilings for Congressional candidates and some political committees, the 1925 Act was not comprehensive, was easily circumvented and went almost wholly unenforced. As a result, subsequent campaign financing proposals began to take a somewhat different approach. Full disclosure remained the first essential, but new emphasis was placed on effective enforcement and on the idea of public financing as an alternative to a system totally dependent on private contributions.

The pressures for reform grew through the 1950's and 1960's as campaigns became increasingly complex, sophisticated and expensive. Change was slow in coming, however, as a program of Presidential public financing adopted in 1966 (P.L. 89-809) was rescinded by Congress a year later, and a bill to regulate candidates' media spending was passed but vetoed on the eve of the 1970 mid-term election.

¹ This included prohibitions on contributions by corporations and national banks (Tillman Act, 1907), labor unions (Smith-Connally Act, 1943, and Taft-Hartley Act, 1949), civil servants (Pendleton Act, 1883, and the Hatch Act, 1959).

**1971
Act**

In 1971-72, the first major election reforms since 1925 were adopted by Congress and signed into law. In the Federal Election Campaign Act of 1971 (P.L. 92-225), Congress addressed the obvious disclosure deficiencies of the Corrupt Practices Act. Almost simultaneously Congress revived the earlier public financing proposal. An amendment to the 1971 Revenue Act (P.L. 92-178) established the Presidential Election Campaign Fund, to be financed by citizens' voluntary tax check-off, and, in addition, provided limited tax credits and deductions for small political contributions.

The Federal Election Campaign Act required, for the first time, comprehensive and detailed reporting of campaign contributions and expenditures both before and after all Federal elections. It vested the Secretary of the Senate and the Clerk of the House with responsibility for supervising candidates for their respective houses and gave the Comptroller General authority to oversee Presidential campaigns. These three Supervisory Officers were responsible for administering the disclosure provisions, making candidate and committee reports available to the public and assisting in enforcement of the law. In addition to disclosure, the 1971 Act set a ceiling on campaign spending from personal funds by candidates and their families and set limits on the amount that could be spent by candidates on media advertising. Finally, the Act restated certain recognized but carefully limited exceptions to the longstanding prohibitions on political activity by corporations and labor organizations. This amendment to 18 USC Section 610 permitted, among other things, the solicitation of voluntary contributions to a separate, segregated campaign fund maintained by the corporation or union.

Although the 1971 Act was signed into law on February 7, 1972, the reporting and disclosure requirements did not take effect until April 7, 1972. This time enabled the Supervisory Offices to draft regulations and prepare for orderly implementation; but the delay also permitted an eleventh hour influx of large contributions which thus escaped immediate disclosure.² Nonetheless, the new law and the post-election investigations and lawsuits generated by the Watergate scandal revealed a shocking pattern of campaign financing practices.

Spurred by the Watergate revelations and an aroused citizenry, Congress again took up the campaign reform issue in early 1973. It seemed clear that disclosure alone was not sufficient deterrent to major abuses and distortions of the campaign process. Under consideration were comprehensive,

²This conflict between the need for an orderly, step-by-step implementation of any new election reform law and the need to impose its provisions immediately, to prevent last-minute evasion, foreshadowed a major problem facing the new Federal Election Commission in early 1975. When the Commission came into existence the financing for the 1976 election was well under way. There was little or no time for a gradual evolution of rules and regulations, but rather an immediate necessity to implement policy if guidance was to be provided and the requirements of the law were not to be effectively avoided.

enforceable limits on all spending by candidates and committees; limits on contributions by individuals and organizations, a broad system of public financing for all Federal campaigns, and creation of an independent Federal Election Commission to administer and enforce the body of campaign laws.

**1974
Amendments**

These efforts culminated, after extensive hearings and debate in both houses, in the Federal Election Campaign Act Amendments of 1974 (P.L. 93-443). The Senate passed S. 3044 in April extending public financing to Presidential primaries and Congressional elections, setting overall limits on contributions and expenditures, and establishing an independent enforcement agency. The House passed H.R. 16090 on August 8, 1974. This bill differed from the Senate version on two significant points: it omitted Congressional public financing (while adding financing for the national party conventions), and it rejected an independent enforcement body in favor of retention of the existing system of Supervisory Officers as overseers of the law.

The compromise measure which emerged from the House-Senate conference extended public financing to the Presidential primary and nomination process only, but it provided for the establishment of an independent Federal Election Commission with broad administrative and enforcement powers. Six voting members of the new FEC were to be appointed: two by the President, two by the Speaker of the House on the recommendation of the Majority and Minority Leaders, and two by the President Pro Tempore of the Senate on the recommendation of the Majority and Minority Leaders. The Secretary of the Senate and the Clerk of the House were designated to serve as ex-officio, non-voting members.³ The conference report was adopted by both houses in early October, and the legislation was signed into law by President Ford on October 15, 1974.

Major Provisions of the Federal Election Campaign Act

Note: *This is only a summary of the major provisions of the Federal Election Campaign Act. It is not all-inclusive.*

These provisions were effective during the time period covered by this Annual Report. They do not reflect changes mandated by the Supreme Court's decision in Buckley v. Valeo. For these changes, see Appendix N.

³It was this final compromise concerning the appointment of the six Commissioners, dividing the authority for appointment between the legislative and executive branches, however, which collided with the constitutional requirement for separation of powers. The Supreme Court ruled in its January 30, 1976 opinion, *Buckley v. Valeo*, that the Commission could not continue to exercise certain of its powers unless the Congress acted to reconstitute it as an Executive agency in conformance with Article II of the Constitution.

The 1974 Amendments to the Federal Election Campaign Act created a six-member Federal Election Commission responsible for administering election law and a public financing program, and vested it with civil enforcement.

The President, Speaker of the House, and President pro tempore of the Senate each appoint two members (of different parties), all subject to confirmation by both Houses of Congress.

The Secretary of the Senate and the Clerk of the House serve as ex-officio, non-voting members of the Commission.

Commissioners serve six-year, staggered terms, rotating a one-year chairmanship.

The Commission receives campaign reports; makes rules and regulations (subject to review by Congress within 30 legislative days); maintains cumulative index of reports filed and not filed; makes special and regular reports to Congress and the President; serves as national clearinghouse for information on administration of elections.

The Commission has power to render Advisory Opinions; conduct audits and investigations; subpoena witnesses and information; initiate civil proceedings for relief.

Criminal violations are to be referred to Justice Department for prosecution; provision is made for advancing cases under the Act on the court docket, and for judicial review.

Contribution Limits

On Individuals

\$1,000 limit on amount an individual may contribute to any candidate for U.S. House, Senate, or President in primary campaign (Presidential primaries treated as single election).

\$1,000 limit on contribution to any Federal candidate in general election (run-offs and special elections treated as separate elections; separate \$1,000 limit applies).

No individual may contribute more than \$25,000 for all Federal campaigns for entire campaign period (includes contributions to party organizations supporting Federal candidates).

No more than \$1,000 in independent expenditures on behalf of any one candidate for Federal office per entire campaign is permitted.

Certain "in-kind" contributions (up to \$500 per candidate per election) are exempt from contribution limits.

On Organizations (To qualify, an organization must be registered with Election Commission for six months, receive contributions from more than 50 persons and, except for State party organizations, make contributions to at least five Federal candidates.)

\$5,000 limit on amount an organization may contribute to any candidate for U.S. House, Senate, or President in primary election campaign (Presidential primaries treated as single election).

\$5,000 limit on contributions to any Federal candidate in general election (run-offs and special elections treated as separate elections; separate \$5,000 limit applies).

No more than \$1,000 in independent expenditures on behalf of any one Federal candidate during a calendar year.

No limit on aggregate amount organizations may contribute in campaign period, nor on amount organizations may contribute to party organizations supporting Federal candidates.

Certain "in-kind" contributions (up to \$500 per candidate per election) are exempt from contribution limits.

On Candidate's Own Campaign President—\$50,000 for entire campaign
Senate—\$35,000 for entire campaign
House—\$25,000 for entire campaign

On Party National and State party organizations are limited to \$5,000 in actual contributions to Federal candidates, but may make limited expenditures on behalf of its candidate in general election (see spending limits).

Spending Limits

Specific communications media limitations have been repealed. However, the total candidate spending limits imposed allow 20 percent in addition to the basic limit for fund-raising, plus limited spending by parties in general election and a cost of living adjustment.

Conventions \$2 million for national nominating convention.

Presidential Primary—
\$10 million basic limit; in addition, candidate allowed to spend 20 percent for fund-raising. In any Presidential primary, a candidate may spend no more

than twice what a Senate candidate in that State is allowed to spend for the primary.

General—

\$20 million basic limit (Presidential candidate opting not to receive public financing would be allowed to spend an additional 20 percent for fund-raising).

Party—

National party may spend 2¢ times Voting Age Population (VAP), or approximately \$2.9 million, on behalf of its Presidential nominee in general election.

Senate

Primary—

8¢ times VAP of State or \$100,000, whichever is higher. Additional 20 percent of basic limit allowed for fund-raising.

General—

12¢ times VAP of State or \$150,000, whichever is higher. Additional 20 percent of basic limit allowed for fund-raising.

Party—

In general election, 2¢ times VAP or \$20,000, whichever is higher, by national party, and 2¢ times VAP or \$20,000 by State party.

House

Primary—

\$70,000. Additional 20 percent of limit allowed for fund-raising (total—\$84,000). House candidates running at large permitted to spend same amount as Senate candidate in that State.

General—

\$70,000. Additional 20 percent allowed for fund-raising (total—\$84,000). House candidates running at large permitted to spend same as Senate candidate in that State.

Party—

In general election, \$10,000 by national party and \$10,000 by State party on behalf of House candidates except that a Representative from a State with only one Representative is subject to Senatorial limits.

Presidential Public Financing (from dollar check-off fund)

**General
Elections**

\$20 million in public funds; acceptance optional. Major party nominee automatically qualifies for full funding; minor party and independent candidate eligible to receive proportion of full funding based on past or

current votes received. If candidate receives full funding, no private contributions permitted.

Conventions \$2 million; optional. Major parties automatically qualify. Minor parties eligible for lesser amount based on proportion of votes received in past election.

Primaries Federal matching of private contributions up to \$250 once candidate has qualified by raising \$5,000 in each of 20 States in matchable contributions. Only first \$250 of any private contribution may be matched.

Only private gifts raised after January 1975 qualify for matching for the 1976 election; no Federal payments will be made before January 1976.

Reporting and Disclosure

Candidate required to establish one central campaign committee; all contributions and expenditures on behalf of candidate must be reported through this committee. Also requires designation of specific bank depositories.

Full reports of contributions and expenditures to be filed with Commission 10 days before and 30 days after every election, and within 10 days of close of each quarter unless committee has received or expended less than \$1,000 in that quarter. Year-end report due in non-election years.

Contributions of \$1,000 or more received within last 15 days before election must be reported to Commission within 48 hours.

Other Provisions

Cash contributions over \$100 prohibited.

Contributions from foreign nationals prohibited.

Contributions in name of another prohibited.

Loans treated as contributions; must have cosigner or guarantor for each \$1,000 of outstanding obligation.

Requires that any organization which spends any money or commits any act for the purpose of influencing any election must report as a political committee.

Every person who spends or contributes over \$100 other than to or through a candidate or political committee is required to report.

No elected or appointed official or employee of Government may accept more than \$1,000 in honorarium for speech or article, or \$15,000 aggregate per year.

Corporations and labor unions which are Government contractors are permitted to maintain separate, segregated voluntary political funds in accordance with 18 USC 610. (Formerly all contributions by Government contractors were prohibited.)

Penalties

Increases existing fines to maximum of \$50,000. Candidate for Federal office who fails to file reports may be prohibited from running again for the term of that office plus one year.

Prohibits solicitation of funds by franked mail. Pre-empts State election laws for Federal candidates.

Establishment of the FEC

Although the Senate submitted its nominees immediately following the signing of the bill in October, 1974, no further steps towards establishing the Commission were taken until after the New Year. By that time, Senator James Buckley and Eugene McCarthy, along with several other parties, had filed suit challenging nearly every provision of the new law and many provisions of the 1971 Act. The existence of this challenge was a constant factor in the Commission's first year of existence.⁴

Nominees

The House of Representatives made public its nominees on January 29. The Speaker, Carl Albert, nominating Robert Tiernan of Rhode Island upon recommendation of Majority Leader Thomas P. O'Neill, and Vernon W. Thomson upon the recommendation of Minority Leader John Rhodes.

On February 20, nominees were submitted to the Senate for the second time. Joan Aikens of Pennsylvania was renominated by the President Pro-Tempore upon the recommendation of Minority Leader Hugh Scott. Senator Mansfield submitted the recommendation making Tom Harris of Virginia his nominee. The nominating process was completed on March 1, when President Gerald Ford made Tom Curtis of Missouri and Neil Staebler of Michigan his nominees.⁵ Soon thereafter, the Commissioner designees met for the first time and discussed future plans in the office of ex-officio Commissioner Francis R. Valeo, Secretary of the Senate.

⁴ See Appendix O for a chronology of the Commission's actions in conjunction with *Buckley v. Valeo*.

⁵ See Appendix A for full biographic data of Commissioners and Statutory Officers.

Confirmation and Swearing-in The House Administration Committee met on March 5 and scheduled confirmation hearings for March 10. House confirmation took place on March 19. The Senate held its hearings on March 14 and confirmed recommendations on April 10. The President signed their commissions on April 11, and the FEC's first Commissioners were sworn to office in the White House Rose Garden on April 14, 1975.

As extensive preparatory work had been done by many of the Commissioners-designate, the Commission was able to hold its first meeting later that day at its present headquarters. At that meeting, Tom Curtis was elected Chairman and Neil Staebler Vice Chairman.

Statutory Officers During the remainder of the month of April, the Commissioners conducted exhaustive interviews for the statutory positions of Staff Director and General Counsel. On April 23, Orlando B. Potter was appointed the Commission's first Staff Director. Mr. Potter had formerly served as assistant to the Secretary of the Senate, where he administered the Senate program under the Federal Election Campaign Act of 1971. Professor John Murphy of Georgetown University was selected to be the Commission's first General Counsel on May 1.

Appropriations One of the first major problems confronting the Commission was the lack of an appropriations bill. Senator Edward Kennedy and Rep. Bill Frenzel had testified on March 3 before the Treasury, U.S. Postal Service Appropriations Subcommittee to request funds for the Commission. Before the situation could become critical, the Senate attached as a rider to a veterans supplemental appropriation bill a \$500,000 emergency appropriation for the Commission. This funding was for the remainder of FY 75. The bill was quickly cleared by the House and signed into law by the President on April 24.

Almost immediately, the Commission began work on its fiscal year 1976 authorization and appropriation requests, with testimony coming before the House Administration Committee on May 8 and the Senate Rules and Administration Committee on June 3. The Commission testified before the Treasury, U.S. Postal Service and General Government Appropriations Subcommittee on April 22 and before the same appropriations committee in the House on May 13. The above testimony resulted in an appropriation of \$5 million for FY 76 and \$1.25 million for the first quarter of FY 77.

Staffing Once initial appropriations had been secured, the Staff Director and the General Counsel selected the core of the FEC staff for their respective areas of responsibility. A major effort was made to find personnel with previous experience in the election field and many of the staff were drawn from the

three previous supervisory offices in the House, Senate and General Accounting Office. Others came to the Commission after successful private endeavors in the elections field, both at the state and Federal level. In a very short period of time, the FEC brought together individuals with substantial election administration expertise, who would serve as the foundation for the training and further recruitment of a professional staff.

**Special
Counsel**

The Commission also decided to hire a Special Counsel to defend its composition and enforcement powers in the case of *Buckley v. Valeo*. This was done due to the possible conflict of interest which the Justice Department might have had in defending the Commission.

On June 1, 1975, in accordance with 2 U.S.C. 437c and 30 days after the appointment of its full complement of Commissioners and Statutory Officers, the Federal Election Commission assumed its full powers and responsibilities, including assumption of those duties transferred from the previous supervisory offices.

Organization

The Commissioners

Meetings

The first Commissioners took an active role in Commission affairs. While the law stipulates that the Commissioners meet once a month or at the call of any member, between April 14 and December 31, the Commission met 72 times, an average of eight times a month. Regularly scheduled meetings are held weekly on Thursdays. The Commissioners also chaired most of the Task Forces, interdivision staff groups which dealt with the more difficult and complicated programs facing the Commission.⁶ Each Commissioner has an Executive Assistant and a Confidential Secretary to handle administrative matters, and to keep in contact with the day-to-day activities of the Commission.

Policy Decisions

The Commissioners play an active role in the legal and policy decisions of the Commission. Each Advisory Opinion Request is brought before the Commission for preliminary discussion prior to the formal commencement of work on the opinion, and every Advisory Opinion and Opinion of Counsel is reviewed on a paragraph-by-paragraph basis by the Commission prior to issuance. The Commissioners also review preliminary drafts of all regulations before they are published in the *Federal Register* for comment. In cooperation with the General Counsel's office, the Commissioners conduct public hearings on each set of proposed regulations. Final consideration entails an intensive review by each Commissioner, and can require a meeting as long as seven hours, as was the case with the disclosure regulations.

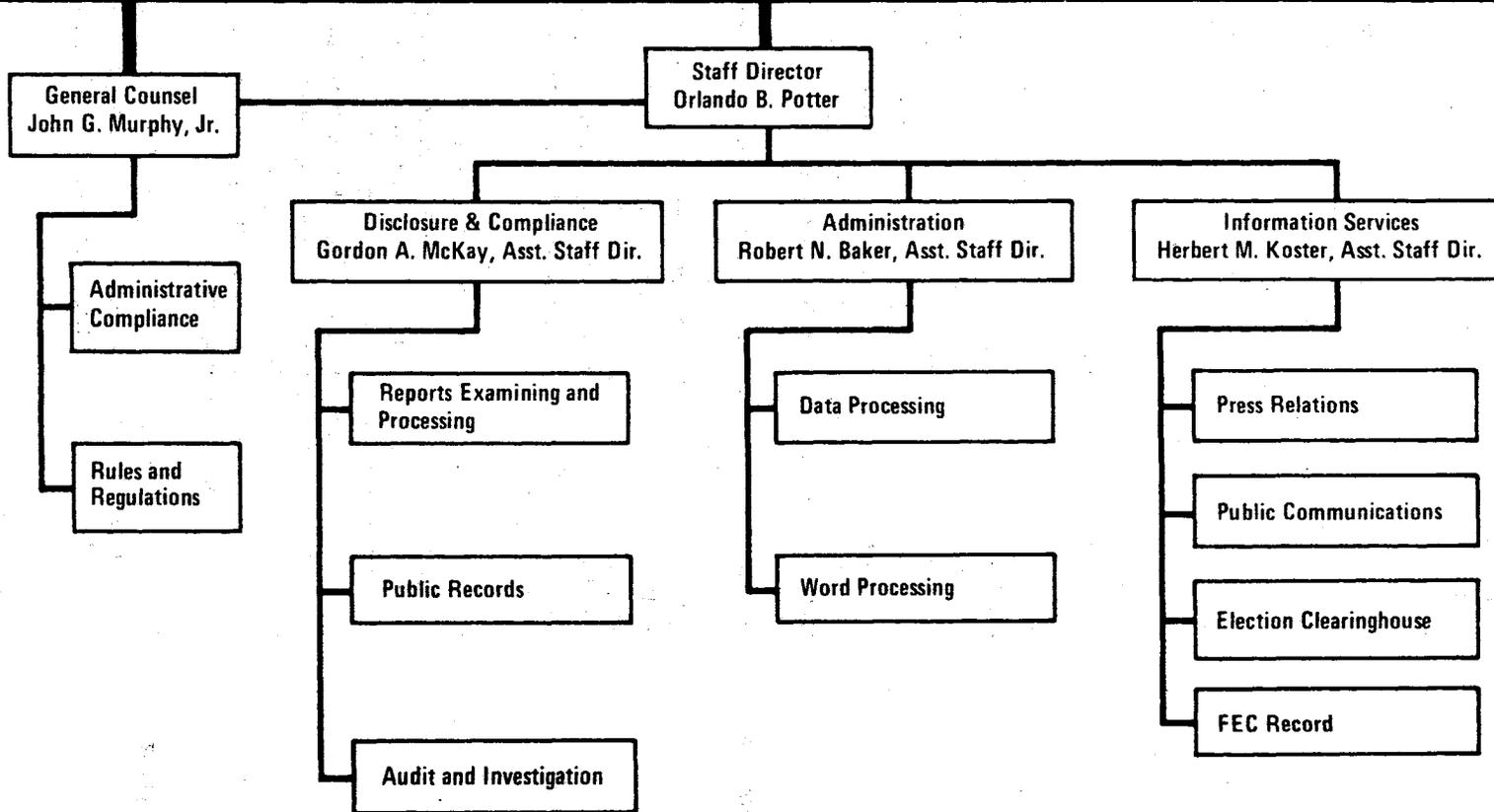
Staff Decisions

The Commissioners approve the hiring of staff appointed by the Staff Director and approve all salary rates and adjustments for Commission employees as fixed by the Staff Director. All internal rules and procedures

⁶See Appendix H for list of the Task Forces.

FEDERAL ELECTION COMMISSION

Thomas B. Curtis Chairman	Neil Staebler Vice Chairman	Joan D. Aikens Commissioner	Thomas E. Harris Commissioner	Vernon W. Thomson Commissioner	Robert O. Tiernan Commissioner	Francis R. Valeo Ex officio – Senate Commissioner	Edmund L. Henshaw, Jr. Ex officio – House Commissioner
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have been developed with the cooperation and consent of each Commissioner, and are periodically reviewed by them in the light of Commission experience.

Other Activities

The Commissioners have been involved in other activities of the Commission ranging from traveling across the country speaking to various political committees and organizations, to assisting in the development of the report forms and Bookkeeping Manual. Responses to requests from the Congress for comments on proposed legislation are all reviewed by the Commissioners, all compliance actions are periodically reviewed, and all final actions on enforcement matters are approved by the Commission.

Office of the Staff Director

Role

The Staff Director's position as chief executive officer of the Commission is established by the statutory provisions which authorize him to appoint and fix the salary of the Commission staff, with the approval of the Commission. In addition to this basic responsibility, and flowing from it, the activities of the Staff Director in the early months of the Commission were devoted to establishing the basic organizational structure of the Commission, initiating the functional programs of the Commission, coordinating these activities and translating Commission policy into action.

Staffing

At the outset, recruitment and appointment responsibilities were most critical, in view of the urgent need to provide the Commission with an operating staff in the shortest possible time. Every effort was made to identify and recruit persons with experience in the implementation of campaign finance law. Following designation of the Staff Director on April 23, 1975, recruitment proceeded at a rapid pace. By the end of June, some 55 staff members had been hired, and by the end of the calendar year, the staff totalled 124.

While initial hiring of senior personnel was handled personally by the Staff Director, subsequent recruitment for subordinate positions was delegated as time went on, with final appointments made by the Staff Director. Recruitment of the legal staff was left strictly to the discretion of the General Counsel, who forwarded his recommendations to the Staff Director for final appointment. Because the Commission was held to be exempt from Civil Service, it was able to move with considerable speed and flexibility in filling critical positions with persons possessing qualifications of special value to the mission of the Agency.

Organization

Because of the budgetary constraints imposed upon the Commission, and because of the need for the closest possible relationship between the Staff Director and the rest of the Commission staff, it was decided to organize the

Staff Director's Office on the simplest possible lines. All support activity was provided by a Senior Executive Secretary and one Assistant Secretary. No Deputy Staff Director was appointed, and lines of authority flowed directly to the three Assistant Staff Directors heading the operational divisions of the Agency.

**Relations
with
General
Counsel**

It was perceived at the outset that the General Counsel occupied a separate and collateral position, reporting directly to the Commission in consequence of his direct appointment by the Commission. A mutually cooperative approach was adopted by the two statutory officers, one manifestation of which was an arrangement by which the legal staff transmitted draft copies of its opinions and other policy statements through the Office of the Staff Director, thus permitting review and comment by the rest of the Commission staff.

**Secretary
to the
Commission**

An important adjunct to the Office of the Staff Director was established in the separate position of Secretary to the Commission, with responsibilities for preparing agendas for all Commission meetings, the collection and dissemination of all appropriate backup papers to be used at the Commission meetings, and taking accurate and complete minutes of all proceedings of the Commission. In addition, this office assumed responsibility for making tape recordings of all Commission proceedings and for preparing certified transcripts thereof upon request from interested parties.⁷

Office of General Counsel

Role

As the Commission's legal arm, the Counsel's Office must supply the agency with interpretations of the law in the form of binding Advisory Opinions and informal Opinions of Counsel; draft regulations to implement the law; proposed procedures for internal operation of the Commission itself; recommendations for amendments to the Act; and finally, with representation in compliance and litigation matters arising under the law.

Organization

Following the appointment of the General Counsel to the Commission on May 1, 1975, the Office was organized as a separate arm of the Commission, expected to work in close contact with other offices. It was felt advisable not to establish rigid divisions within the Office but to maintain sufficient flexibility so that any staff person could be called upon for any job as the demand arose. This was necessitated by the varied demands on the General Counsel's staff during the first months of operation of a new agency, and by a slim staff confronted by an overwhelming quantity of requests for direction both from within and without the Commission. To this day, General Counsel's Office has remained organized, despite titles, in a flexible

⁷Since the transcription of proceedings is a very time-consuming process, the Commission charges a standard fee for this service.

manner permitting transfer of personnel on a day-to-day or a week-to-week basis from one principal assignment to another.

To the extent that there were subdivisions, however much ignored in practice, they fell along the lines of policy and compliance matters.

**Policy
Division**

The **Policy Division** was given the major responsibility of answering Advisory Opinion Requests and developing the regulations which would fill out gaps in the Act and supply elaboration of those provisions which needed further functional description.⁸

As is the case with any new agency, there were also countless questions about the applicability of other Federal laws to the Commission, which were especially complicated and difficult because there was continuing doubt as to whether the Commission was a legislative or executive agency. The Policy Division had the responsibility for researching and developing positions for the Commission relating to these questions. Examples were the writing of a Code of Ethics, and determining the manner in which correspondence and records would be handled under the Freedom of Information and Privacy Acts.⁹

Counsel's Office also wrote a series of procedural narratives which would govern the Commission's chief functions. The two major ones were proposed procedures for handling Advisory Opinion Requests and a Compliance Procedures Narrative. Other policy needs were to develop interim guidelines and policy statements to meet special situations, such as off-year elections. Finally, this division handled all Congressional requests for opinions on pending legislation, and undertook analyses of any legislation which might affect the implementation of the Federal Election Campaign Laws.¹⁰

**Compliance
Division**

The **Compliance Division** originated with the early receipt by the Commission of complaints in one form or another with regard to past elections or current practices of ongoing political committees. In each compliance action the assigned attorneys worked closely with the Office of Disclosure and Compliance.

⁸See Appendix C and D for detailed statements regarding the development of regulations and advisory opinions.

⁹See Appendix F for FEC activities concerning these Acts.

¹⁰See Appendix G for description of the procedures involved with pending legislation.

Litigation	Toward the end of 1975, it became apparent that the moment had arrived for implementation of plans for a separate section for litigation, ^{1 1} and a unit to deal exclusively with the problems of implementing the disbursement of public monies under the public financing section of the law. A recent reorganization of the Office reflects these developments.
Library	A separate section of the Counsel's Office is the Library, which though used primarily by the legal staff, serves the entire Commission. The Library currently contains approximately 1,800 books, periodicals, newsletters, government reports and hearings, plus a journal article file. ^{1 2}
Staff	The General Counsel's proposed budget for 1975 and 1976 provided for a total staff of 26 of whom 17 were attorneys. Critical characteristics for which each attorney or intern candidate was examined were as follows: election experience, a completely non-partisan approach, and a personality which would prove tolerant of contrasting approaches to difficult issues. Everyone understood that the credibility of the Commission rested in substantial part upon the belief in the public sector that the Commission's lawyers could not be compromised by any partisan suggestion.
Relations Within FEC	Much time was demanded in developing effective working relationships with other sections of the Commission. If the General Counsel's Office is to provide the necessary legal framework within which all Commission activities should take place, the staff must work daily and closely with other divisions. People new to one another had to grow familiar, to develop a perception of the others' experience and range, and to develop a mode of merging information and skills. For example, the staff helped in the development of reporting forms and the Accounting Manual to ensure that they would be consistent with regulations being developed. In compliance actions, a close contact has been necessary to make sure of the production and preservation of a record which might eventually be used in a judicial proceeding. In addition, the legal staff has provided assistance to the Office of Information Services to help in providing summaries and answers which accurately reflect the Commission's interpretation of the law.

^{1 1} As 1975 drew to a close, particularly with the initiation of the program implementing the public financing provisions of Title 26 of the United States Code together with the issuance of several advisory opinions by the Commission which drew criticism from several special interest sectors, it became apparent that more thought would have to be given to the development of a functional litigation unit above and beyond the compliance operation already in place. It was anticipated that from time to time persons in the public sector would have standing to challenge an advisory opinion; it was more than clear from the face of the statute that numerous determinations by the Commission under Title 26 would be subject to challenge under the judicial review provisions of that title; and it was further evident that under existing jurisdictional provisions of Title 28, United States Code, other Commission determinations, throughout the range of its jurisdiction, could come under affirmative attack by individuals affected by the Act.

^{1 2} See Appendix L for a listing of the types of materials which are available in the library.

**Relations
Outside
FEC**

Beyond the Commission itself lay other related agencies of government, both State and Federal, and numerous other groups, all of whom had to be contacted and much of whose expertise had to be identified for later use. In addition to continuing relations with the Justice and Treasury Departments, notable in this connection were contacts made with the Securities and Exchange Commission, the Civil Aeronautics Board, the Federal Communications Commission and other Federal agencies.

Office of Information Services

Duties

The Office of Information Services serves two functions in the Commission. On the one hand, it provides the focus for public and press contact with the Commission, and on the other, it generates, designs and produces a variety of materials to help explain the complex Federal campaign law to the public. In particular, Information Services has the vital responsibility for acquainting candidates, committees and the public of their specific obligations under the law. In order to accomplish this goal, small functional subdivisions were established within the Office to allow greater efficiency of operation, and let the public know more precisely who can help them with their particular question.

**Public Com-
munications
Division**

Public Communications, a seven person division, is the focal point for public contact with the FEC, with special emphasis on the FEC's primary clients: the approximately 2,000 candidates for Federal office, 5,000 political committees, and countless other persons involved in political campaigns. They reach these clients first by responding to inquiries which come directly to the FEC. During 1975 such inquiries were:

	Phone Inquiries	3,110
Inquiries	Information Requested and Forwarded by Mail	2,127
	Individual Letters Responding to Inquiries	225

Nationwide telephone access to the Commission was enhanced in January, 1976 with the installation of a toll-free "800" line. The volume of correspondence has increased in proportion to accelerated campaign activity, and telephone inquiries now average 400 to 500 per week.

Mailings

Secondly, Public Communications reaches their clients by anticipating their needs, and generating needed information in pamphlet, letter, report or

other published form. Specialized brochures have been prepared for specific audiences, such as fund raisers or volunteers, and general materials have been developed for mass distribution to the mailing list of nearly 10,000 developed by the Commission.^{1 3} In addition, when appropriate, mailings on particular questions have gone to the entire mailing list or to selective audiences such as state chairmen, Secretaries of State, Members of Congress, and multi-candidate committees.^{1 4}

Regional Seminars

An additional responsibility of this division has been the design and coordination of a nationwide program of Regional Seminars, beginning in January, 1976. This seminar program is an effort to take the Commission to the field, and help candidates and committee persons with their requests and problems in a more direct way. FEC lawyers, auditors and information staff are available to discuss specific problems with the candidates and committee personnel attending the seminars. Sessions are scheduled in 15 major cities through the country.^{1 5}

Newsletter

The **Record**, the Commission newsletter, is produced by a separate two-person division. Published every three weeks, the **Record** is the formal vehicle for making available to the public summaries and synopses of Commission action on regulations, Advisory Opinions, report deadlines, and other items of timely and special significance to the Commission's clients. The first issue was published in September, 1975 and three subsequent monthly issues have appeared during 1975, plus a special year end supplement. The **Record** will be published 18 times in 1976, supplemented by Quarterly Indexes of Commission activities, printed as insert documents.

Press Office

All media contacts are centralized in the **Press Office**. Here three persons insure coordinated responses to media questions and requests. Like the Public Communications Division, the work involves initiating considerable contact with the media through regular meetings, mailings (particularly outside of Washington), and notices of all FEC actions and activities. Although the Press officer has a narrower immediate constituency than other parts of the division, indirectly this office is responsible for explaining the law and the Commission to a much wider general audience.

Printing/ Publications

A section for **Printing and Publications** provides the technical assistance and coordination on all Commission publications.

Clearinghouse

The **National Clearinghouse for Information and Administration of Elections**, an already established research operation within the GAO under the 1971 Election Campaign Act, with its staff of three, was inherited by the

^{1 3} See Appendix J for a description of all FEC publications and documents.

^{1 4} See Appendix K for a complete listing of all such mailings during 1975.

^{1 5} See Appendix M for schedule of the Regional Seminars.

Commission and has retained its identity within the Office of Information Services. In addition to serving as a national clearinghouse for information with respect to the administration of elections, the Clearinghouse conducts independent contract studies of the administration of elections. The Clearinghouse, since its major clients are state election officials, has also provided a needed link between the FEC and the states with regard to other FEC operations as well.¹⁶

Office of Disclosure and Compliance

Duties

The Office of Disclosure and Compliance is the operational arm of the Commission. In addition to its disclosure and compliance responsibilities, this Office is also the primary agent for implementing the public finance program.

Public Records

Disclosure is the responsibility of the **Public Records Division** which maintains the financial records submitted by candidates and committees and makes them available to the public. This Division, which was opened on June 2, 1975, was the first of the Commission to be fully staffed and operative. The staff of four persons inherited nearly a million pages of campaign finance records from the previous supervisory offices, and since then, during 1975, has received and prepared for public viewing approximately 25,000 pages of documents.¹⁷

Reports Examining

The first part of the compliance function is performed by the **Reports Examining and Processing Division**. A staff of 11 receives the reports submitted to the Commission, and reviews them for completeness and accuracy. Political committees and candidates often have their first contact with the Commission at this point and through informal contacts, this Division is able to assist them in developing a more complete understanding of the Act and its reporting requirements.

Reports Examining is also responsible for determining whether candidates and their committees and contributors have adhered to the statutory campaign limitation on contributions and expenditures. While the number of documents here is enormous, totalling 3,477 during 1975, computer assistance, to be provided during 1976, should enable this Division to accomplish its monitoring function in a timely fashion.

AID

The **Audit and Investigation Division's** staff of 29 persons fulfills the remainder of the Commission's compliance responsibilities through its audit

¹⁶ See chapter on Federal-State Relations for a fuller description of Clearinghouse activities.

¹⁷ This does not include report copies filed originally with the Clerk of the House and the Secretary of the Senate which were also made available to the public by the FEC.

and investigation activities. This Division conducts the following kinds of audits:

- Audits**
- 1) **Management review** (to assist candidates and their political committees in complying with the law by helping them develop and maintain accurate and complete records),
 - 2) **Routine audits** (to determine whether contribution and expenditure limitations imposed by the Act have been respected, and to determine whether adequate documentation exists as support for reports of candidates and their committees),
 - 3) **Public funding audits** (to determine the eligibility of Presidential candidates for the receipt of matching funds, and to determine the amount of public funding candidates are to receive),
 - 4) **Investigative audits** (conducted in conjunction with a compliance action).

Investigations Investigations are initiated either in response to a complaint from the general public, or as the result of internally generated interest. In conducting its investigations, AID works closely with the Commission's Office of General Counsel to ensure as fair and correct an investigation as possible.

Combined Functions The audit and investigative functions were located in one division because they demand a variety of skills not normally found in either a conventional "auditor" or "investigator". The Commission sought to build a staff with the ability to research, interview, and investigate; as well as with a knowledge of audit techniques, techniques of criminal investigation, and rules of evidence. The creation of a separate, in-house unit to fulfill the audit and investigative functions followed the precedent set by the previous statutory officers. Combining these functions also provides a flexibility which allows the Commission to put its major effort into achieving voluntary compliance while at the same time being prepared and staffed to carry out whatever investigation might be necessary to properly enforce the law.

Office of Administration

Duties The Office of Administration is the "housekeeping" unit of the Commission and is responsible for personnel and related matters, budget management, space, supplies and contracting. In addition, several functions of the Commission are centralized in the office, namely a word processing center, reproduction, mail (including distribution of all Commission forms and brochures), and finally computer assistance for various activities of the Commission.

A large part of the administrative effort in the initial months of the Commission was devoted to processing of incoming personnel, rehabilitation of the 33,500 square feet of office space assigned to the Commission and establishment of procedures. The Commission had 124 individuals on board at the year's end. Manning in the various offices was as follows:

Staffing

Commissioners and Immediate Staff	17
Staff Director's Office	5
General Counsel	26
Information Services	20
Disclosure and Compliance	44
Administration	12
Total	<u>124</u>

Of the 124 individuals, 116 were in the equivalent of graded General Service positions. It was planned to bring the Commission staff to the authorized strength of 160 positions before the end of FY 76.

Space

Space was acquired at 1325 K Street in April, 1975 and the Commission opened its doors to the public on April 14, 1975. Rehabilitation of the assigned office space has fallen behind schedule due largely to the fact that another agency, occupying the space, was unable to move to a newly assigned location. This delay has caused serious overcrowding and has hindered the activities of the Commission, particularly in the area of monitoring the campaigns and certifying matching funds.

Priority effort was given, however, to refurbishing the parts of the Commission which would be used by the public, notably the Public Records Division which by early 1976 was located in a ground floor facility readily accessible to the street and providing convenient and attractive space for public use of the campaign finance reports received by the Commission.

Budget

As a start-up appropriation, in Fiscal Year 1976^{5y}, the Commission received \$500,000 of which \$490,269 was obligated as follows:

	Salaries	\$156,538
	Benefits	13,306
	Travel	4,254
	Motor Pool	4,473
Start-up	Space Rental	52,593
funds	Equipment Rental	28,871
\$490,269	Printing	2,975
	Support Contracts	27,000
	Supplies and Materials	2,615
	Library Materials	13,534
	Postage	5,000
	Equipment	<u>179,110</u>
		\$490,269

FY 1976
\$6,250,000

For Fiscal Year 1976, the Commission has received an appropriation of \$5,000,000. Furthermore, an appropriation of \$1,250,000 has been granted for the first quarter of FY 77. Expenditures of these monies over the fifteen month period is budgeted as follows:

Commission and Staff Salaries, including benefits	\$3,372,800
Consultants	125,000
Travel	250,000
Motor Pool	7,500
Space Rental	285,300
Equipment Rental	46,959
Printing	250,000
Support Contracts	1,170,000
Supplies/Materials	135,000
Library Materials	50,000
Telephone/Telegraph	118,200
Postage	62,500
Administrative Expenses	210,441
Equipment	166,300
	<hr/>
	\$6,250,000

FY 1977
\$6,950,000

An appropriation of \$6,950,000 has been requested for FY 77. Congressional hearings on this request were scheduled for late March.

Data Systems Development

The Commission has responsibilities in several areas which can best be met with computer assistance. The Commission's strong desire to ensure voluntary compliance demands extensive and continuous public contact through mailings of informational brochures and other guidelines and opinions of the Commission. A computerized mailing list is the only way to keep this system timely and up to date. Secondly, computer support is essential to implement several statutory responsibilities of the Commission, namely, the maintenance of accurate and up to date indexes of disclosure reports, as well as lists of persons who filed, or failed to file reports as required. Finally, computer assistance support is required to administer the various campaign limitations. This will demand continuous and cumulative record keeping of the reported contributions and expenditures which can be done most accurately and quickly with computer assistance.

During 1975 certain steps were taken to provide data processing services to the Commission. A Manager of Data Processing was hired, and located in the Office of Administration. A survey was undertaken to identify the needs of the Commission and analysis of how those needs might be satisfied was begun. Additionally, a contract for the use of Computer Facilities at the

Department of Agriculture was negotiated, as well as a contract for Data Entry Services with a private firm. Design and programming of a mailing system was begun, and implementation of the mailing system was scheduled for mid-January.

In addition to the mailing system, plans for 1976 include the establishment of an information system which will assist the Commission:

- (a) to facilitate disclosure of campaign finance data;
- (b) to manage, in an orderly fashion, the flow of documents and information;
- (c) to perform compliance monitoring obligations;¹⁸
- (d) to procure data necessary to formulate policy and obtain compliance with the Act.

During the development and initial implementation period of this program, the Director will be located in the Office of the Staff Director. The program will utilize purchased time on computers rather than purchasing expensive hardware. All data will be captured in-house for reasons of speed, security, accuracy and control and the Reports Examining Division will be the data collection point for information flowing into the system.

¹⁸ See chapter on Implementing the Act for a fuller discussion of how computer assistance will be utilized for monitoring campaign limitations.

**Commission Policies, Priorities
and Procedures**

Commission Policies, Priorities and Procedures

Policies

Open Commission

From its inception, the Commission was especially mindful of an overriding need to establish its credibility at a time of public skepticism and lack of confidence in the political process in general. The Commission recognized that it should make every effort to be evenhanded in all its dealings, in fact as well as in appearance, and that it must hold itself at arms length from incumbent officeholders and partisan interests. It further concluded that its best course would be to conduct its affairs in the open, subject to the hard light of public examination and scrutiny, both to promote public understanding of its work, and to ensure the credibility of its equally divided bi-partisan membership. With but one brief exception,¹ this "sunshine policy" prevailed for all deliberations of the Commission except those relating to specific enforcement matters or to discussions of personnel matters internal to the Commission. Although such openness sometimes may have reduced the efficiency of deliberations, the Commission remains convinced it is imperative for the credibility of its actions.

Code of Ethics

To give further substance to its concern for the maintenance of its integrity and independence, the Commission devoted early attention to the drafting and promulgation of an internal Code of Ethics which required that Commissioners and staff alike hold themselves aloof from active participation in political affairs relating to Federal campaigns.² The Code was promulgated to fill a special need in view of the fact that the Commission, as originally constituted, was a creature of the Legislative Branch, and had been ruled therefore exempt from the provisions and prohibitions of the Hatch Act.

¹ One early meeting of the Commission was closed to press and public by a 4-2 vote of the members. The public outcry against this one instance gave ample evidence of the correctness of the Commission's basic decision to be an "open" agency.

² See Appendix B for full text of the Code of Ethics, adopted by the Commission on October 30, 1975.

**Voluntary
Compliance**
2 U.S.C.
§ 437d
(a)(11)

The Commission early in its career embraced another philosophical tenet which was to have pervasive effect on all its subsequent activity, and that was the goal of voluntary compliance. This was suggested by the explicit language of the statute which directed the Commission "to encourage voluntary compliance" as part of a range of enforcement activities that included audits and investigations, complaints and hearings, civil actions for relief, and finally referral to appropriate law enforcement authorities. As embraced and amplified by the Commission, voluntary compliance suggested a presumption on the part of the Commission that the participants in the political process wanted to comply with the law and would comply if properly advised of their obligations. The Commission for its part would devote its primary effort and energy to making certain that the necessary advice was given and only thereafter would it concentrate on enforcement actions.

**Effect on
Organization**

The emphasis on achieving voluntary compliance had profound effect on the structure of the Commission. It led directly to the creation of the Office of Information Services as one of the three principal operating arms of the Agency, charged primarily with providing the information which candidates and committees alike needed to comply with their responsibilities under the law. This meant devoting information resources to a much wider range of activities than conventional press relations and processing routine inquiries.

**Disclosure
and
Compliance**

The goal of voluntary compliance had effect on the structure and operation of a second major operating arm of the Commission, the Office of Disclosure and Compliance. The separate Reports Examining Division was directed to help candidates and committees file their required reports accurately and completely through prompt review and assistance; and the highly visible Public Records Division was created for prompt and readily available public access to documents, since the theory underlying disclosure is that public scrutiny invites voluntary compliance. Finally, and most significantly, the auditing and investigating functions of the Commission were combined in one unit with the primary objective of encouraging and promoting voluntary compliance (through initial review and assistance to candidates and committees) and only secondarily through investigation of evident wrongdoing.

Priorities

**Backlog
of
Requests**

Quite apart from its influence on the structure of the Commission, the theme of voluntary compliance had an overriding effect on the priorities the Commission established in the early months of operation. As of May 1, 1975, the Commission had received close to 100 inquiries regarding the application of the Act. Many were from officeholders, potential candidates and private individuals who needed immediate help in knowing how to plan and structure their 1976 campaigns if they were to be within the

requirements of the new law. The Commission decided that, in the interest of encouraging compliance, the legal staff should devote its primary attention to this extensive backlog of requests for interpretations of the law, particularly from those persons who were entitled to binding advice, in the form of Advisory Opinions, as to whether certain contemplated transactions or activities would be within the law.³

The impact on compliance was threefold. First, it was felt that if these unclear areas of the law were not clarified, many unintentional violations of the law might occur. Second, staff who were involved in the early implementation of the 1971 Act were mindful of the evasions of the law which were possible because of the delayed implementation date of that Act. The complexity of the new 1974 law meant that such evasions could also occur prior to the promulgation of formal rules, and the use of Advisory Opinions, by pinning down some unclear areas of the law, could to some extent minimize such evasion. Third, it was felt that examining the law through the actual cases presented by Advisory Opinion Requests would give the staff a feel for the real problems involved in implementing the law. This, in turn, would be invaluable in the development of realistic regulations of general applicability.

While this decision to stress the processing of requests regarding the Act may have seemed to have delayed the promulgation of regulations, the two functions actually began simultaneously. Commissioners were aware that the rulemaking procedure would be time consuming, not only because of the involved procedures prescribed in the Act, which allowed Congress a 30-legislative-day review period, but because of the extreme complexity of the law and the desire to attain maximum public involvement in the rulemaking process.

**Advisory
Opinions
2 U.S.C.
§ 437f**

**Opinions
of
Counsel**

Since the Act directs the Commission to issue binding Advisory Opinions to candidates, officeholders, and political committees on how a specific activity or transaction would be affected by the Act, where applicable this method was chosen to answer an inquiry.⁴ Inquiries which did not fall within the category of Advisory Opinions were responded to on an informal basis or later by issuance of Opinions of Counsel, where the issue was of sufficient importance but not eligible for full Commission treatment through the Advisory Opinion mechanism.⁵

³Under 2 U.S.C. § 437(f), the Commission "... shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee, would constitute a violation of this Act, of Chapter 95 or Chapter 96 of Title 26 of the U.S. Code, or of Sections 608, 610, 611, 613, 614, 616, or 617 of Title 18, United States Code."

⁴Development of a procedure for the management of Advisory Opinion Requests was one of the early jobs of the General Counsel's Office and by January 1976, 76 had been issued. Formal regulations on the issuance of Advisory Opinions were adopted by the Commission on December 23, 1975, for transmittal to Congress.

⁵See Appendix D for a full description of Advisory Opinion and Opinion of Counsel procedures; and see Appendix E for a subject index and summaries of Advisory Opinions.

**Interim
Guidelines**

Because the development of regulations was such a time consuming process, Commission emphasis on voluntary compliance also led to the decision to issue informal, nonbinding, general advisories, which were called "Interim Guidelines." These embodied the substance of general regulations which were in the process of being approved and promulgated. These interim measures did much to help persons comply with the law prior to the adoption of fixed regulations. Finally, FEC efforts to secure voluntary compliance led to the decision not to begin a major program of routine audits during 1975. Rather, the audit and investigation staff was used almost exclusively to implement the public financing program. There is no question that without the concentration of staff in helping the Presidential candidates prepare for participation in the public financing program, these candidates would have had a great deal more difficulty in complying with the requirements of the Act.

Audits

Procedures

Meetings

The two basic philosophical commitments of the Commission – "sunshine" and voluntary compliance – in turn had substantial effect on the procedures which evolved to guide Commission activities. The Commission met regularly in open session at established times on Thursdays with occasional special Tuesday meetings. Agendas were prepared and circulated in advance with attached back-up material permitting Commissioners and staff alike to have the benefit of an advance study of draft opinions, regulations and other policy matters. All such material is made available to the public. Detailed logs and other documentary indexes were kept of Advisory Opinions and regulations, and of all correspondence and internal memoranda and notices, so that the basic documents of the Commission could be readily retrieved for further reference.

Documents

**Regulations
2 U.S.C.
§ 438c**

One Commission procedure which evolved somewhat in response to circumstance but clearly demonstrated the need for openness, was the sequence of steps by which draft regulations were presented to Congress for review, as required by the statute. By early June of 1975, the Commission began to outline the scope of regulations which would have to be issued. A task force was created within the Counsel's Office for the purpose of drafting the Disclosure Regulations in the first instance, to be followed thereafter by regulations bearing on the Public Financing Provisions of Title 26 of the United States Code. Following Commission approval, proposed regulations are sent to Congress.

While the statute directs the Commission to "transmit" such material to the Congress for its review, along with a detailed explanation and justification, it does not elaborate or specify any steps which should be taken prior to such transmittal. Accordingly, before final Commission policy was adopted in this

regard, and in response to urgent requests for guidance, the Commission transmitted its first two draft regulations, dealing with Document Filing and Office Accounts,⁶ to the Congress on July 31, and August 1, 1975, only to have both regulations meet with substantial Congressional disapproval.

**Public
Input**

Thereafter, beginning in September 1975, the Commission decided as a matter of policy to publish all draft regulations in the *Federal Register* with a 30-day period for public comment. Public hearings were also held during this period to offer a forum for Congressional views as well as those of other interested parties. At the close of comment period, the draft regulation would be reworked to incorporate public and Congressional suggestions and then, after final approval by the Commission, the document would be submitted to Congress. This procedure was followed with respect to all subsequent transmissions of regulations with the result that many beneficial suggestions were received and incorporated prior to the final transmission of the regulation to Congress.⁷

**Use of
*Federal
Register***

In other cases, too, the Commission followed the procedure of publishing in the *Federal Register* the text of requests for Advisory Opinions, as well as the final responses thereto, along with the text of Interim Guidelines and proposed regulations. The purpose was to elicit comment from interested parties as well as to disseminate broadly all the basic policy documents of the Commission and thereby to give maximum impetus to the process of voluntary compliance. At the outset, such materials were published concurrently in the *Congressional Record* but this practice was suspended by Congress in the interest of public economy.

**Congres-
sional
Relations**

The problems involved in submitting the initial regulations to Congress typified, and in fact, exacerbated, what was to be one of the major problems of the Commission during the first eight months of its existence, and that was the whole question of how it should conduct its business with the Legislative Branch. It found itself in the anomalous position from the beginning of being in a potentially adversarial position with the very persons who were to review its regulations and provide its funds, and who, in fact, had given it its existence to begin with. Clearly the Commission was not in a position to conduct a conventional liaison operation with the Congress, although the Commissioners themselves held varying shades of opinion as to the degree of restraint required of them in their own dealings with the Legislative Branch. Initial efforts to coordinate Congressional contacts through the Chairman were subsequently modified as each Commissioner took charge of a special liaison effort on behalf of a particular regulation or other policy matter in which he or she had assumed a specialized interest. In

⁶ These were early sections of the Disclosure Regulations which were of great initial concern to candidates and the public and seemed to demand immediate attention.

⁷ See Appendix C for fuller statement of the procedure used in developing Regulations and Interim Guidelines.

December 1975, the Commission formally adopted a policy memorandum which centralized the coordination of Congressional liaison under the Staff Director and revised procedures were still in the evolutionary stage as this report was being prepared.

**Within
FEC**

Within the Commission itself, working relationships were also a critical factor. It was recognized quite early in the Commission that there would be a need to promote and encourage the widest possible cross exchange of ideas and communication among the various operating arms of the agency, particularly in view of the fact that some members of the professional staff had extensive experience under prior administration of the preceding Federal Election Campaign Act of 1971, while others were bringing fresh talents to the task. A close working relationship was also crucial because the divisions were not functioning separately but rather directing their various talents and skills toward common objectives, be they disclosure, public financing, limitations or compliance.

**Task
Forces**

To supplement informal contacts, a number of *ad hoc* task forces were assembled to cover such specialized areas as the design of reporting forms, the drafting of various specialized regulations, the review of informational policies and publications, and disbursements of monies from the Presidential Election Campaign Fund. In some cases, these groups were chaired by Commissioners who had a special interest in the subject matter at hand and in other cases, they were chaired by staff members and interested Commissioners participated on an occasional basis. In each instance, the main intent was to make certain that there was the fullest possible exchange between lawyers, accountants, reports examiners, information specialists, and, where need be, computer and microfilm experts. The system seemed to work with general salutatory results, and by year's end a total of 14 such groups had been constituted.

**Implementing
the Act**

Public Financing

Introduction

Check-off

The most novel and immediate responsibility vested in the Commission was to implement the Nation's first experiment with public financing of political candidates. This program was enacted in response to historical abuses in campaign financing and a desire to encourage broader public participation in the electoral process. The legitimacy of the idea has already been proven by the public response to the tax-check-off program under which taxpayers could indicate their willingness to participate in public financing. In three years public participation had grown from 3% to 23% and by December 31, 1975, the fund stood at \$61 million with an additional \$30 million anticipated from the 1975 tax returns.

Impartiality

The Commission realized early that if the public were going to accept public financing and the FEC role in particular, there must be no hint of partiality, or any intrusion into the dynamics of the electoral decision-making process. This demanded an objective set of criteria for determining eligibility of candidates, and for verifying their submissions for matching funds. The system had to work quickly and efficiently if the candidates were to have confidence that they would indeed be able to pay their campaign bills. A corollary goal of the Commission was to promote the greatest possible public understanding of the purpose of public financing and how it was working.

Public Confidence

Duties

There are three accounts established in the Presidential Election Campaign Fund: the Presidential **general** election account; the Presidential **primary matching** payment account; and the national **party convention** payment account. All were to be implemented for the 1976 election. The FEC had until January 1, 1976, to prepare to certify the first Presidential candidates to receive matching primary payments and to certify the national parties for receipt of convention financing. The general election account would not be used until after the primaries in 1976.

**Primary
Matching
Fund**
26 U.S.C.
§ 9033

Responsibilities involved in the primary matching program were:

1. Certifying whether candidates had met the threshold requirements to be eligible for matching funds. These requirements involve receiving matching contributions of \$250 or less from individuals, which in the aggregate represents \$5,000 from each of at least 20 States;¹
2. Certifying the amounts of matching funds each candidate may receive, based on verification of submissions made by the candidate.
3. Directing the Department of Treasury to make payments for the amounts certified.

**Convention
Financing**
§ 9008

Steps in the convention financing program are less complicated. Under this program each major political party is entitled to receive up to \$2 million. The FEC decided to make these payments in installments, based on statements of anticipated expenditures submitted with the quarterly expenditure reports. The Department of Treasury is then notified to make payment.

By January 1, 1976, the deadline in the statute, the FEC had certified 11 Presidential candidates as eligible to receive approximately \$1.9 million in primary matching funds. The Democratic and Republican National Committees had been certified eligible for initial payments of \$710,000 between them for the expenses of their 1976 nominating conventions.²

**Public
Acceptance**

The operation was accomplished with smoothness and with every evidence of candidate, committee and public confidence in the objectivity of the FEC participation in the process. The operation demanded intense use of manpower, at times pulling all available staff off other Commission projects. There is no question but that other jobs have gone undone, or been delayed in the process. The Commission feels, however, that this was the correct allocation of staff and priorities in order to get this crucial program off to a good start.

¹ Candidates must also agree not to exceed the expenditure limitations, furnish the FEC evidence of qualified campaign expenses, keep and furnish to the FEC any records, books, or other information it may request, submit to an audit and examination by the FEC at the end of the primary and to make any repayments required by the Commission (26 U.S.C. 9033).

² In the case of convention payments, certification could have been made earlier since payments were authorized anytime after July 1, 1975. However, plaintiffs in *Buckley v. Valeo* had indicated they would ask the court to bar any public financing until the case was decided. The Commission, in consultation with the party recipients and counsel in the Supreme Court challenge mutually agreed that the better course would be not to precipitate the injunction and to defer payments until a later date.

Policy Development

Regulations 26 U.S.C. § 9009	Formal regulations had to be developed for both the Presidential primary matching plans and the convention financing program. These followed the normal lengthy preparation process, but the first public hearings were held November 4, and the respective regulations were adopted by the Commission by January 8.
“Primary” Interim Guidelines	Because of the urgency involved, however, the Commission felt compelled to issue Interim Guidelines to help candidates and parties know what they had to do to qualify for funds, specifically what contributions were matchable. Guidelines were issued in August and October. Although Congress specified criteria as to what constituted a matchable contribution, there were still many unclear areas and the Commission had to make several policy decisions based on the statutory criteria. Among the issues addressed in the guidelines were 1) whether in-kind contributions could be matched (they couldn’t); 2) whether political committee contributions could be matched (they couldn’t); and 3) whether fundraising monies could be matched (they could).
Written Instrument	Also included in the guidelines was the crucial requirement that all submissions be accompanied by a “written instrument.” This caused some difficulty later for candidates who had collected many of their matchable contributions in small amounts but had not maintained a copy of the written instrument. This generated additional work for the candidates and the Commission but did not in the long run prevent those candidates from receiving any matching funds. Submissions were verified by sending confirmation letters to a sample of contributors.
Letters to Candidates	In addition to the formal policy statements, the FEC wrote letters to each candidate and committee giving detailed descriptions and suggested methods of preparing and presenting requests for matching funds. These letters were distributed to the candidates and their committees on November 7, December 9 and 31, 1975, and January 26, 1976. As AID’s and the committee’s experience increased, the FEC was able to amend previous guidelines to outline simpler techniques which would permit quicker review and certification processes.
“Convention” Interim Guideline	An August Interim Guideline was also issued on Convention Financing to help the parties make their own plans and make initial requests for convention funds. The Guideline outlined standards for the parties to follow to qualify for financing, procedures for them to apply, and the procedures the FEC would follow in approving and certifying requested payments. Policy determinations for convention financing were much simpler because there was no “matching” involved, only a straight payment of up to two million dollars. Additional policy questions were handled through Advisory Opinions. One dealt with questions of whether corporations could make
Advisory Opinions	

contributions to assist national party conventions while the second dealt with the impact of public fund limitations and expenditure limitations on certain kinds of convention spending.

Eligibility and Verification Procedures

Consultations

The Commission also began consideration of the physical task of conducting the audits and reviews necessary to certify candidates who were eligible and to verify which funds could be matched. The FEC realized that considerable coordination and consultation would be necessary with the Presidential candidates and the national parties if they were going to meet the eligibility requirements set forth in the statute. During June the Commission brought the parties into the planning process in preparation for the convention financing program. FEC auditors met with representatives of the respective party committee staffs to review convention finance details, to discuss certification submission procedures. These discussions were followed up by a meeting with the Commissioners and top officials of the major political parties.

Management Review Audits

The preparation of the Presidential matching program was much more complex and it was decided that the FEC needed to work on-the-spot with each candidate's staff in order to prepare them for making submissions for matching. In August, therefore, management review audits were begun of those major Presidential candidates who appeared to have raised enough contributions to qualify.

There were four goals of the management review audits:

Audit Goals

1. To determine whether the candidate had received matchable contributions of \$250 or less, totalling \$5,000 in each of 20 States;
2. To assist committee officials in maintaining their bookkeeping and accounting systems in an order enabling them to make submissions for matching funds with greater ease;
3. To determine what, if any, problem areas existed with regard to submissions for matching;
4. To determine what total amounts of funds appeared to qualify for matching payments of public funds.

Manpower Demands

Field audit teams consisted of three auditors who spent approximately two weeks at each audit site, for a total to date of approximately 420 man-days of field work. Between August and December, 1975, the FEC conducted 14 such field audits which also included work with the national parties in preparing them for submissions for convention financing.

**Usefulness
to FEC and
Candidates**

In spite of a certain public concern at the time about "auditing" Presidential candidates, these field audits, conducted two at a time, were extremely helpful to the candidates, and to the Commission. Professional working relationships were established between the campaign treasurers and managers and the FEC auditors. This communication helped to prevent numerous problems of bookkeeping and other technical areas that could have resulted in delays in matching contributions. It also accelerated the job of review for eligibility so that 11 candidates could be declared eligible for matching funds by the first of the year.

**Verifica-
tion**

The corollary task of verifying each submission for payment was one of the most tedious, time-consuming and critical tasks performed by the Commission during 1975. Not only was staff working under an intense time deadline, but the integrity of the public funding required that only those contributions which truly met the criteria should be matched. A detailed statement of the certification process is included in Appendix I.

**Manpower
Needs**

It should be noted that the manpower demands were enormous: between December 3 and February 12, the total AID staff of 28 was fully occupied in the verification process. In addition to the 1,120 man-days of normal working hours, the staff worked 1,650 hours on nights and weekends to meet the 15-day deadline imposed in the regulations. Furthermore, the Commission was compelled to call on other agency personnel, as provided for in the statute, involving an additional 1,700 man-hours.

**100%
Review**

It should also be noted that the verification process was scrupulously thorough, using 100% review. Sampling was simply not possible given the condition of the submissions. In the future, sampling will be possible, particularly if the submissions arrive in better order.

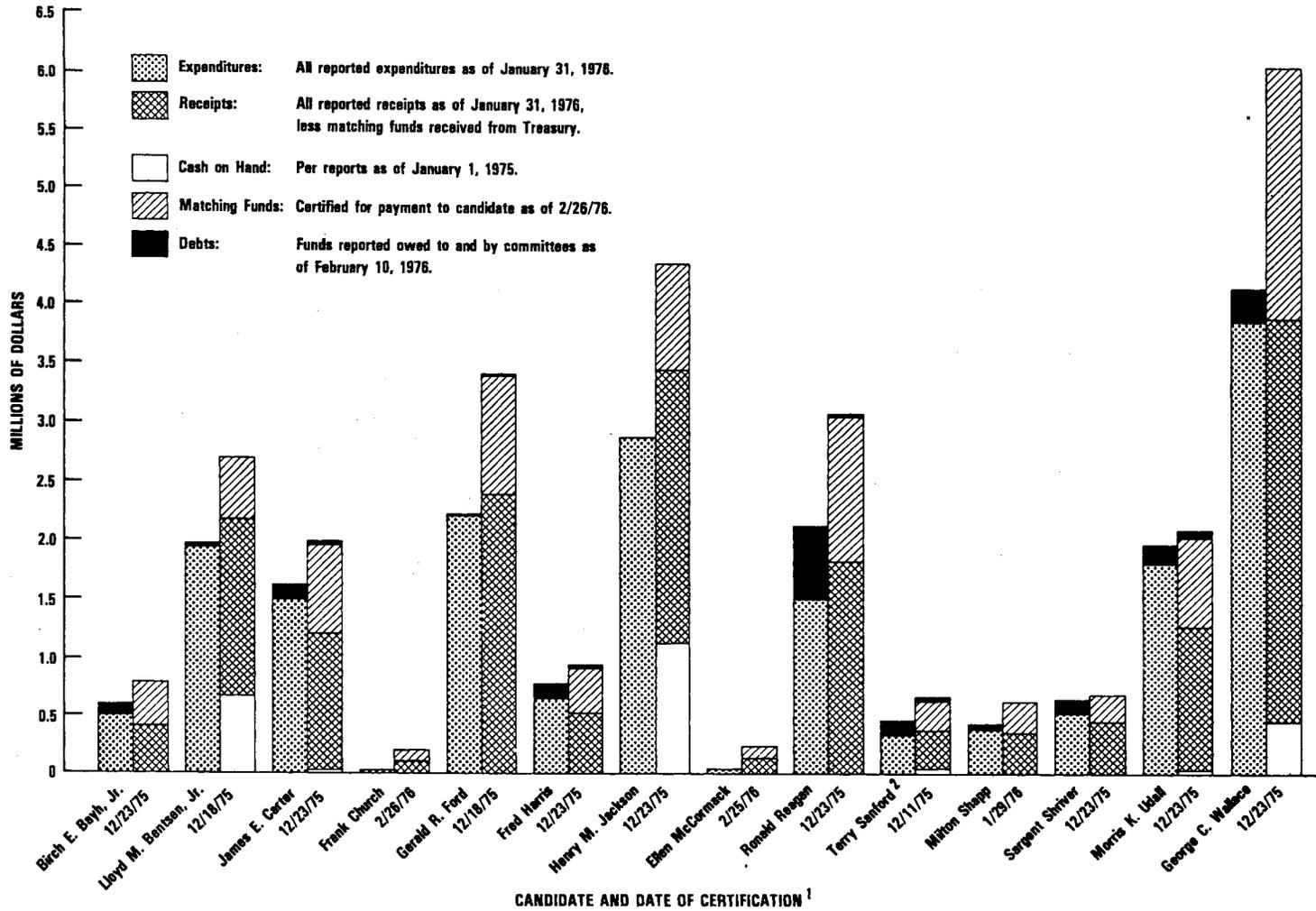
**Assessment
of
Procedure**

As a result of constant review and improvement of procedures, the Commission believes that it has developed and implemented techniques for processing submissions which allow an accurate calculation of the amounts of matching funds due Presidential candidates under the provisions of Chapter 96 of the Internal Revenue Code. Those techniques, developed over a six-month period by AID and the committees, represent a body of new knowledge as they relate to the first application of matching fund payments to Federal candidates.

**Initial
Certifi-
cation
and
Payment**

With the benefit of this background preparation, formal certification began on December 18, 1975, when three Presidential candidates were certified as eligible to receive matching funds. By December 23, an additional eight were determined eligible, one more was added during January and two more in February. Certification of the political parties had taken place on November 13, 1975. The matching funds which were verified for payment amounted to \$1.9 million for 11 candidates on December 23, and a total by February 26 of \$9.1 million.

PRESIDENTIAL CANDIDATES' RECEIPTS, EXPENDITURES AND PUBLIC FUNDS



1. The date of certification is the date on which the Commission determined that the candidate was eligible under the provisions of 26 U.S.C. Chapter 96 to receive matching funds.

2. Terry Sanford withdrew his candidacy on January 23, 1976. As of that date he was no longer required to file monthly reports. Therefore, all Mr. Sanford's figures are as of 12/31/75.

**Continuing
Certifica-
tion**
26 U.S.C.
§ 9036

The Commission is allowed 10 days after certification of eligibility to verify a candidate's first submission for payment by the Treasury. Subsequent submissions have a 15-day deadline for verification and payment. The Commission continues this on-going process of determining eligibility, verifying submissions, and certifying payments. Prior to the Supreme Court decision on January 30, the Commission was certifying every two weeks. This process was then accelerated to weekly when the Supreme Court ruled that the Commission would no longer have the power to certify payments after February 29, pending Congressional action.³

**Post-
Election
Audits**
26 U.S.C.
§ 9038

The final step in the public financing process will come after the election when the FEC must determine whether public funds have been spent only for authorized campaign expenditures, and as a corollary that the expenditure limits have not been exceeded, since the Supreme Court has decreed that candidates accepting public financing are subject to expenditure limitations. Plans are underway for the audit programs which will be necessary for this step.

Treasury Department Coordination

**Treasury
Dept.**

Active lines of communication were set up between the Commission and the Treasury Department to coordinate the certifications for public monies by the FEC and the actual disbursement by the Treasury Department. Activities were coordinated in the area of developing standards and guidelines, shortage questions, and Secret Service.

**Shortage
Questions**

Active consultation is on-going between the FEC and the Treasury Department concerning the question of primary fund payments in the event certifications exceed the money in the primary account. Approximately \$12-13 million was apparently available for primary matching payments at the beginning of 1976, after deducting the first two payment priority categories of 1) general election payments and, 2) conventions. Since by mid-February, 1976, requests for funds had not risen above \$8 million, no critical question of insufficient money had been raised.⁴

**Secret
Service**

The Commission also cooperated fully with the Treasury Department in providing financial and certification data to the Treasury after they determined that the matching fund data would be the standard used by the Department to decide which Presidential candidates would be eligible for Secret Service protection.

³On February 29, the Court extended its stay by an additional 20 days.

⁴The Commission considered borrowing in an election year from the general election account up to a level reasonably certain to be returned from the current year's income tax check-offs, but no decision as to the propriety of this course of action was made. This is still an on-going subject.

General Election Fund

General Election Fund

No specific action was completed during 1975 on general election public financing, other than consultations with the Treasury Department concerning the priority of tax check-off fund distribution. Preliminary work is in progress on a general election fund regulation.

Disclosure

Introduction

Purpose In the minds of many the disclosure function of the FEC may not seem as dramatic as the public financing operation, concerned as it is with paper rather than money. That paper, however, is the cornerstone of the election reform effort. Without the cartons of reports being delivered on report deadline days, without the files of cross-referenced reports, without the boxes of microfilm and the ready access of the public to the information in those reports, there would be no reform. Campaign limitations could not be monitored without the reports; the public and the press could not know who supports which candidates and where candidates spend their money; the qualifications of candidates for public financing could not be readily certified, and the policy interpretations of the law, which are the responsibility of the General Counsel's office, could not be checked against "the real world" of campaign finance.⁵

Importance of Disclosure

History Disclosure has the longest history of any approach as a technique for reform, ranging back to a 1910 disclosure law, and has the soundest constitutional roots. Although the Courts have repeatedly found that compelled disclosure in itself can seriously infringe on privacy of association and belief, in January 1976, *Buckley v. Valeo*, the Supreme Court held that there are governmental interests sufficiently important to outweigh the possibility of infringement, particularly when the free functioning of our national institutions is involved. These interests fall into three categories: 1) better informed voters, 2) deterrence of corruption through publicity and 3) detection of violations of the campaign limitations.

Constitutionality

During its first year of operation, FEC activities in the disclosure area included major efforts on rules and regulations, forms and manuals, plus

⁵The General Counsel's Office has found that for both Advisory Opinion and compliance matters, consultation with the existing public records had often revealed a different factual pattern than that apparent from the initial request or complaint.

Duties
2 U.S.C.
§ 438

educational assistance and providing facilities for display, retrieval and copying of reports. These activities required coordination among almost all divisions of the Commission.

Policy Development

Point of
Entry

The activity on disclosure regulations provided some of the most time-consuming and dramatic events of the Commission's first year. The first two regulations sent to the Hill for review were the initial sections of the comprehensive disclosure regulations being developed throughout the fall. One of these two regulations dealt with where documents would be filed ("point of entry"). It met with quick disapproval in early October. The other regulation dealt with "office accounts" and only partially involved disclosure.⁶

The question of point of entry had significant impact on the disclosure functions of the Commission since it determined whether reports would be filed in a single location (thus simplifying the logging, indexing, and filing job), or in the first instance with the Clerk of the House of Representatives for House reports, the Secretary of the Senate for Senate reports, and the Commission for all others. The modified regulation, later forwarded without disapproval, provided for three filing locations and did necessitate additional coordination so that the Commission may receive copies of the reports from the House and Senate respectively and make them available to the public.

Disclosure
Regulations
§ 438(a)(10)

Work on the comprehensive disclosure regulations was begun in early July and proceeded throughout the summer and fall, under new procedures which evolved as consequence of the initial adverse Congressional reaction.⁷ Of particular note in the sometimes tedious, time-consuming process of drafting and review were the public hearings held on October 21, 22, and 24, 1975, to ensure that the Commission would receive the views of persons across the Nation having the most familiarity and experience with the previous Act and with the problems of the candidates and committees in the campaign process. These hearings were in addition to the publication in the *Federal Register* and briefings for Members of Congress and their staffs. All these steps proved extremely helpful adjuncts to the drafting process. The list of 22 witnesses included Representatives of Congress, Counsels for the National Committees of the major parties, Counsels for several Presidential candidates, business and labor groups, and representatives of State committees and of various public interest groups. Copies of the transcript of those hearings are available for inspection. Over and above the 450 pages of oral testimony taken, the Commission received more than 40 written submissions running to approximately 500 pages of material.

⁶See page 111 for a discussion of this regulation.

⁷See Appendix C for a more detailed description of the process of development of these regulations.

The final draft incorporating many public and Congressional suggestions was approved by the Commission on November 25 and forwarded to Congress on December 4. The prescribed 30-day legislative review period had not run when the Supreme Court ruled on January 30.

Interim Guidelines

Prior to the approval of the disclosure regulations, the Commission found it necessary to issue Interim Guidelines on disclosure requirements relating to reporting, multi-candidate committees, reporting of debts and obligations, the New Hampshire election, the Tennessee special election, the October 10 quarterly report, and to basic reporting requirements. In the period from June 1975 through December the Commission also issued 14 Advisory Opinions relating to disclosure requirements.⁸

Procedures

Forms § 438(a)(1)

Along with the development of regulations went the designing of forms for reporting receipts and expenditures. Every effort was made to strike a balance between the desire for simplified forms and the need for forms sufficiently detailed to help the candidates and their committees complete the forms in a logical fashion, and to provide the Commission all the information it needs to carry out its duties. For further simplification, the Commission developed a "short form" for small campaigns. Final forms were brought before the Commission in December of 1975 and approved for limited initial publication in January 1976.⁹

Manual § 438(a)(2)

The Bookkeeping Manual, developed to assist candidates and committees in maintaining proper records to comply with Federal requirements, was also an activity related to disclosure completed during 1975. The system presented therein utilized parts of other systems successfully used by candidates and committees in the past, updated to reflect changes in the new law.

48-Hour Availability § 438(a)(4)

When reports are submitted, the Commission undertakes a special statutory requirement of making reports and statements available to the public within 48 hours of receipt. During the period of this report, the Reports Examining Division received 25,000 pages, representing 3,500 documents from Presidential candidates and multi-candidate committees filed directly with the Commission. During the fall of 1975 a microfilm camera was installed to assist the logging-in function and create an accurate, chronological, permanent record of all reports filed. For public access, however, the Commission prefers to also photocopy reports for display in the Public Records Division. To date, these paper and microfilm files represent more than one million pages of reports.

⁸ See Appendix E for index and summaries of Advisory Opinions.

⁹ The Supreme Court ruling striking down expenditure limits, except for candidates accepting public financing, may make it possible to simplify the forms.

Index
§ 438(a)(6)

An additional required step in this process is to create and maintain an accurate index of all statements and reports filed directly with the Commission. During 1975, this was done by manually logging in the 25,000 pages of documents, and since there was no computer assistance this index was manually typed for printing in the *Federal Register*. Plans have now been developed to use computer assistance for this indexing process and to derive additional campaign finance data from the reports.

Inheritance of Previous Reports
§ 437(c)

In addition to the 25,000 reports filed directly with the Commission, Public Records inherited nearly a million pages of campaign financing records from the three former supervisory offices covering the period 1972-1975. These records included 60 file cabinets of reports from the Comptroller General, 56 reels of microfilm from the Clerk of the House of Representatives and a comparable volume from the Senate. In order to have this material in one coordinated form the Commission chose to have a primary record system of microfilm for storage and retrieval. By the end of 1975 the Commission not only had all House and Senate reports available on microfilm plus a paper copy for public use, but had placed half the 1972 Presidential election reports on microfilm. This project should be completed by the spring of 1976.

Public Access in D.C.
§ 438(a)(4)

Once the documents are filed, they must be easy to use by the public. Without ready accessibility, there is no effective disclosure, just files of dusty documents. The Commission took it as a primary goal to improve and increase the public knowledge about the availability of disclosure reports. In Washington, reports can be reviewed in a "store-front" on the first floor of the Commission headquarters at 1325 K Street. The office has the appearance of a public library, and can accommodate over 40 persons at reading tables in a modern, brightly lit area. Every effort is made to make reports easily accessible. Paper copies are filed by the State and district of the candidates, which permits a visitor to find all reports for any one candidate in one central location. Staff also assist the public in understanding what is available, how to use the copying and microfilm machines and what the reports mean. Five copying devices are available, two Xerox copiers plus three Kodak microfilm printer/reader machines which produce paper copies of microfilm records.

Outside D.C.
§ 439

The Commission is also concerned that these records be available to the public outside the capital. A coordinated and efficient method for filling requests for copies of documents has permitted the office to disseminate across the country over 50 thousand pages of campaign finance data. In addition the statute requires duplicate filings with the relevant Secretaries of State.

During 1975, the Commission has publicized the availability of reports through its general informational literature. The availability of documents has been highlighted in monthly newsletters to over 8,000 candidates,

**Publicizing
Documents**

political committees, and organizations. The 600 news media organizations dealing with the Commission's Office of Information were also sent informational material. In addition, copies of the index to public records which includes detailed information on what is available and how to obtain it were sent to the 50 Secretaries of State and major libraries throughout the country. With the consolidation of all records to be completed in the spring of 1976, the Commission is planning to issue a separate public records brochure. The brochure will be widely distributed and serve as the principal means of increasing public knowledge about the availability of disclosure reports.

Campaign Limitations

Introduction

Broad Impact

The feature of the Federal Election Campaign Act of 1971, as amended in 1974, which can have the greatest impact on candidates and committees alike, is the imposition of general limitations on contributions to and expenditures by candidates for President, Senate, and House of Representatives in both primary and general elections. Admittedly, the Act's use of campaign limitations does not constitute a radical innovation in the history of election reform.¹⁰ Rather, the Act is unique because it represents Congress' greatest effort to date to limit, in an effective and comprehensive fashion, the apparent and actual influence of unlimited wealth on the political process. The very uniqueness and comprehensiveness of these statutory provisions meant, however, that the Federal Election Commission had to devote much of its first year of operation to clarifying the impact of various limitations on the financing of campaigns, and to investigating compliance actions involving the possible violation of these limitations.

Complexity of Act

Contribution Limits Upheld

Before reviewing the activities of the Commission during 1975 with reference to campaign limitations, it should be noted that the recent Supreme Court decision, *Buckley v. Valeo*, has had significant impact on these sections of the Act. In this opinion, the Court held the Act's contribution provisions to be a constitutional safeguarding of the integrity of the electoral process without directly impinging on the rights of individual citizens and candidates to engage in political debate and discussion. On the other hand, the Court ruled that the First Amendment requires the invalidation of the expenditure provisions (18 U.S.C. 608(a), 508(c), and

Spending Limits Struck

¹⁰ Limitations and even prohibitions on the making of contributions and expenditures have been previously applied in a piecemeal fashion to Federal elections. See Appendix C, "Brief History of Federal Election Regulation," in *Buckley v. Valeo*, __ U.S. App. D.C. __, 519 F.2d 821, 904-907 (1975), affirmed in part and reversed in part, 44 U.S.L.W. 4127 (U.S., January 30, 1976).

608(e)), since these provisions place substantial and direct restrictions on the ability of candidates, citizens, and associations to engage in protected political expression.

The Court did not invalidate campaign expenditure limitations for candidates who accept public financing. This fact, along with the still intact contribution limitations, means that many of the policy and procedural determinations of the Commission during 1975 are still relevant, to a great extent. Such considerations will continue to consume the time and attention of the FEC, candidates and committees alike.¹¹ This would be particularly true should the Congress, as it is considering in legislation presently before it, extend public financing to candidates for the House and Senate.

Policy Development¹²

Difficulty of Implementing the Act.

A review of the limits imposed by the 1974 Act might lead the reader to the erroneous conclusion that the Act is clear on its face as to how its limitations affect the conduct of political activity.¹³ Unfortunately, the complexities of American politics, the ambiguities in our Federal system of elections, and the ingenious ability of humans to invent seemingly endless variations in the method of financing campaigns, all combine to pose an obstacle to the implementation of campaign limitations which cannot be overcome by any statute, no matter how complex. Thus the Commission felt compelled in its first year of operation to supplement the statute through detailed regulations in order to break this obstacle into comprehensive portions, Advisory Opinions to clarify and interrelate these portions, and an information process to explain the Act's effects in layman's terms. The Commission also began to develop the processes and mechanisms necessary to ensure that candidates and political committees comply with the Act's campaign limitations.

Emphasis on Policy Interpretations

Advisory Opinions

Nearly all of the requests for Advisory Opinions concerned campaign limitations. Candidates and committees alike were clearly uncertain as to the impact of the Act on specified situations. These requests were on matters as diverse as:

- the application of the limitations to the Federal election activities of State and local political parties (AO 1975-2);
- whether a loan constitutes a contribution when made to a political party telethon (AO 1975-4);

¹¹ For example, the Commission recently considered the question of what limits, if any, would be imposed on a candidate who received public monies as a Presidential candidate, but who, as a candidate for the U.S. Senate was presumably no longer subject to any expenditure limitations.

¹² All policy discussions relate to the provisions of the Act prior to *Buckley v. Valeo*.

¹³ See chapter on Establishment and Organization of the FEC for a summary of the limits.

- the treatment of current contributions received to pay debts incurred before the effective date of the Act (AO 1975-5 and AO 1975-6);
- whether an honorarium donated to a charity counts against the limit on honorariums (AO 1975-8);
- the application of the limits to an unopposed primary candidate (AO 1975-9);
- whether a contribution to a Congressman's office account is to be treated as a political contribution (AO 1975-14);
- how should contributions by a corporation (AO 1975-16) or a partnership (AO 1975-17) be treated.¹⁴

In fact, it was largely the Commission's concern to provide a prompt and definitive response to these kinds of requests which caused it to begin to issue Advisory Opinions prior to the promulgation of regulations. Since the issuance of these first opinions, if anything the volume and uniqueness of the Advisory Opinion requests to the Commission in the area of campaign limitations have increased. But this has hopefully been matched by an increase in the thoroughness of the Commission's analysis of these requests and by the increasing sophistication of its responses.

**Special
Elections**

Two special elections held in the fall of 1975, New Hampshire's re-run of the previous year's Senate contest and an election to fill a vacated Tennessee Congressional seat, were the first elections to be held under the Act's limitations. The Commission issued Interim Guidelines to these elections, and each candidate was informed that campaign related activities were subject to the provisions of the Act. To provide special assistance in an already highly charged election, the Commission dispatched a team of auditors and attorneys to New Hampshire to advise the candidates and discuss the implications of the Guidelines. Follow up audits were conducted subsequent to the election to determine whether there was compliance with the Act's campaign limitations.

**Further
Interim
Guidelines**

The Commission has to date issued two additional Interim Guidelines which relate to specific problems concerning the Act's limitations. The first of these immediately implemented the Act's intent by generally exempting from the limitations contributions to repay pre-1975 election debts. The second was intended to expand on the conclusions of AO 1975-12 by making generally applicable the Advisory Opinion's clarification of when contributions to, and expenditures by, different types of candidates for

¹⁴See Appendix E for subject index and summaries of all Advisory Opinions.

delegate to a national presidential nominating convention, are subject to the Act's limitations. This question of delegate candidates consumed a considerable amount of time on the part of the Commission staff, notably because the Act did not explicitly address itself to the application of limits to these campaigns. Because this caused great uncertainty on the part of candidates and the public, the Commission felt compelled to deal with the question.

**Office
Account
Regulation**

The Commission has also proposed two regulations which represent general policy formulations intended to equitably resolve special problems relative to the Act's limitations. In its Office Account Regulation, transmitted first to Congress in July, the Commission attempted to prescribe when certain donations to a Federal officeholder's office account are to be treated as a contribution. This regulation was proposed in response to the large number of requests from Congress concerning whether office accounts were subject to the limitations in the Act. Another factor was the desire to ensure that an incumbent could not employ the perquisites of office in order to gain an unfair advantage over a challenger. Although the first and second versions of this regulation were disapproved by the Senate, a third version (which reflects modifications made to meet previous Congressional objections), is currently before Congress subject to the 30 day disapproval rule.

**Allocation
Regulation**

Another major problem in implementing limitations concerned allocations of contributions and expenditures among various limits. Specifically, the Commission had to determine allocation guides between a candidate's primary and general election efforts; among candidates who make common expenditures; among various states for Presidential candidates, and between campaign and non-campaign common travel expenses. Accordingly, the Commission proposed an Allocation Regulation which is currently before Congress subject to the 30 day disapproval rule as provided in 2 U.S.C. § 438(c).

Compliance

**Responsibility
for
Compliance**

During its first year of operation, the Commission also took steps to ensure meaningful compliance with the Act's campaign limitations. Realizing that most candidates and political committees do desire to comply fully with the Act, the Commission declared its assumption that the primary responsibility for compliance lay with the candidates and political committees. Political committees which accept contributions are thus charged with the responsibility of ensuring that they do not accept a prohibited contribution or a contribution in excess of the limits. Political committees are also expected to monitor the amount of contributions received directly from the candidate and his immediate family. For Presidential campaign committees, any burden posed by such internal monitoring is readily diminished and compensated for by the fact that similar procedures must be followed in

order to prove the campaign's eligibility for matching funds. Candidates and political committees are also relied on to closely follow their own expenditures in order to make certain that they do not exceed their limitations for each election, and in the case of Presidential primary candidates do not exceed the separate expenditure limitations provided for each State.

**Routine
Field
Audits**
2 U.S.C.
§ 438(a)(8)

A more traditional tool which the Commission will utilize to ensure compliance with campaign limitations, is the conduct of routine audits of the contributions and expenditures of a candidate or political committee. The Commission's general auditing authority was established under 2 U.S.C. § 438(a)(8). While staff limitations would prevent audits of every campaign, it is hoped that selected audits conducted under specific criteria will discourage any deliberate evasion of the Act's limitations. The only such audits conducted during 1975 were in connection with the various special elections.

**Computer
Monitoring**

It was also assumed from the beginning that the Commission would have to rely to a major degree on computer technology to monitor the statutory limitations on contributions and expenditures. Without such technology, it would be virtually impossible to process the enormous volume of data subject to the limitations, or to perform the sorting and aggregating functions necessary to an equitable implementation of the statute.

**Computer as
a Tool Only**

With respect to the limitations on contributions, for example, it was necessary to design a system which would provide the Commission with compilations which showed not only when a single contributor had given \$1,000 or more to a single Federal candidate in a single election, but also when that contributor had given in excess of \$25,000 to all Federal candidates in a calendar year. The design of such a system was further complicated by the fact that the statute did not specify the use of Social Security numbers or other unique identifiers for contributors; hence, there would be no certain grounds for assuming that multiple listings of a contributor appearing to have the same name and the same address were indeed all from the same individual. The Commission staff was forced to conclude in this respect that computer-generated lists of contributors, arranged in alphabetical order, could only serve as a preliminary tool for visual inspection by auditors who would then proceed to investigate those instances in which a coincidence of identity on the computer list suggested an apparent violation of the law.

Similarly, with respect to expenditures, it was envisioned that computer technology would be used to aggregate on a cumulative basis all expenditures made by or on behalf of all Federal candidates and to compare these against the statutory limitations established in the 1974 Act. While the Supreme Court's decision in *Buckley v. Valeo* made such monitoring unnecessary with

respect to campaigns for the U.S. Senate or House of Representatives, the requirement remained with respect to Presidential candidates accepting public funding.

**Delay
Because of
Buckley
v.
*Valeo***

These data processing requirements were listed among the priority objectives assigned to the Commission's Manager of Data Processing Services when that position was created in October 1975. While it was not possible to design the necessary data capture and aggregation system until the issues in the case of *Buckley v. Valeo* had been finally decided upon, preliminary work did proceed through the fall and winter with the aid of outside consultants, and this preliminary work had been completed at the time this report was being prepared.

**Current
Computer
Plans**

The system envisions, at its core, the in-house collection of data from disclosure reports at the point at which they would be received and initially screened by the Commission staff. Data entry clerks would identify and enter into computer terminals the name and address of each contributor together with the amount given, plus expenditure figures from the summary page of the report. From the data entry terminals, the material would be transmitted to central computer facilities on a leased-time basis for compilation and aggregation of the data in accordance with the programs specifically designed for that purpose. Computer-generated reports of the compiled data would then be issued on a regular basis for the use of the auditing staff in monitoring the limitations of the statute.

**Informa-
tion About
the Limi-
tations**

Since such heavy reliance is placed on the voluntary compliance of candidates and committees with the limitations, the Commission has as a necessary corollary stressed the dissemination of information concerning the meaning of the Act's limitations. Such informational activities were particularly crucial in explaining the complexities of the limitations in the Act. Accordingly, telephoned and written inquiries have been promptly responded to by the Commission staff in order to provide basic clarifications of the Act's meaning and implications. Similarly, numerous publications have been prepared to state in layman's terms the Commission's treatment of the limitations. The implementation of the regional seminar program of the Commission has also had as a major focus the clarification, in a face-to-face fashion, of common ambiguities regarding the limits.

Compliance and Enforcement

Introduction

Compliance, investigation and enforcement are emotionally charged words describing processes which when injected into the atmosphere of political campaigns can be unsettling, at the least. The idea of a Federal auditor poring over the books of a candidate is often distressing to even the most scrupulous campaign manager. Obviously, the activities of the FEC in this area have been and will be closely scrutinized by politicians and the public alike.

During the early months of operation, the Commission moved with caution in exercising the enforcement powers granted it by Congress and concentrated efforts on achieving voluntary compliance with the law. Even where there were investigations of evidence of noncompliance, the Commission used conciliation as its primary method of resolving complaints. There has been no occasion to use the civil enforcement powers available to the Commission.

Powers and Duties

2 U.S.C.

§ 437c(b)

§ 437d(a)(11)

The FEC has varied duties in the area of compliance and enforcement. First, the 1974 law requires the Commission to "seek to obtain compliance with . . ." and "to encourage voluntary compliance" with Title 2 and parts of Title 18. This demands an active role by the Commission to obtain compliance voluntarily before the fact as well as the more conventional enforcement after the fact.

§ 437d(a)(11)

§ 438(a)(8)

Second, the Commission was granted powers to determine whether compliance has been achieved. These powers include conducting investigations, hearings and audits. Finally, the Commission has been given primary jurisdiction for civil enforcement of the Act. The subpoena, injunctive and other powers relative to civil enforcement are new elements in the

administration of election law as, heretofore, the supervisory officers could only refer cases of noncompliance to the Department of Justice for possible criminal prosecution.

Voluntary Compliance

Policy The Commission decided early to direct its major efforts to achieving voluntary compliance with the law, and to use its stronger enforcement powers only when absolutely necessary. A number of circumstances contributed to this decision, but two major concerns were that the requirements set out in the law are extremely complex, and the area covered by the law had not been previously subjected to such rigorous regulation. It was felt that success would best obtain if the relationship between the Commission and the candidates were to proceed in an atmosphere which allowed for the "informal methods of conference, conciliation and persuasion" prescribed by the Act. Although the Commission will certainly fulfill its obligations to enforce the law when voluntary compliance cannot be obtained, there is every reason for the Commission to walk softly while carrying a big stick.

§ 437g(a)(5)

**Information
Activities** Most of the branches of the Commission are actively involved in the production of informational material which will assist the candidates for Federal office, and their campaign committees, in complying with the law. The Commission estimates that in the first seven months of its existence, 70% of Commission staff hours were employed in bringing about compliance through information and education.

For example, almost all of the activities of the Office of Information Services can be seen as means of helping people comply with the law. These activities include the regular newsletter, *The FEC Record*, which summarizes policy decisions of the Commission, and the Regional Seminars which took place in early 1976 at 15 major cities across the country. The seminars are intended to transmit information on filing and reporting, campaign limitations, the use of volunteers, the role of political parties, etc.¹⁵ The Information Services' general information and specialized brochures are also designed to encourage and facilitate voluntary compliance with the law.

In addition to initiating information, the Commission spends a good deal of time responding to specific inquiries. The Office of Information Services and Office of Disclosure and Compliance estimate that together they receive approximately 800 requests for information a month.

**Legal
Activities** Likewise, the great bulk of the work of the Commission's Office of General Counsel can be considered providing the legal advice necessary for voluntary

¹⁵ See Appendix M for schedule of Regional Seminars.

compliance. Advisory Opinions and Opinions of Counsel are responses to requests for advice. Interim Guidelines are issued to help persons understand and comply with the law before regulations can be promulgated and approved. In addition, there are myriad cases of assistance given by the legal division on matters which do not warrant formal legal opinions. By the end of 1975, 76 Advisory Opinions, 48 Opinions of Counsel and 12 Interim Guidelines had been issued.

**Disclosure
Activities**

Disclosure is another of the Commission's methods for obtaining voluntary compliance, since the statutory public display of campaign reports itself tends to promote voluntary compliance with the law. Such exposure may discourage those who might through carelessness or design use money for improper purposes either before or after the election, and a public armed with information about a candidate's most generous supporters is better able to detect any post-election special favors that may be given in return.

**AID
Activities**

The Audit and Investigation Division was also active in providing information, specifically through the production of a Bookkeeping Manual, to assist candidates in keeping correct records. In designing reporting forms, the Commission emphasized the need for clarity and simplicity to facilitate compliance.

**Management
Reviews**

Other examples of activity by the Audit and Investigation Division in the area of voluntary compliance were the management review audits, conducted of all the Presidential candidates' committees in order to help them meet the requirements to receive matching funds under the public financing program. FEC auditors spent many hours in the field helping the committees understand the requirements, and assisting them in determining which contributions were acceptable for matching purposes and which were not. When contributions were not acceptable, the committee was told how to go about correcting points which made the contributions unmatchable. This service continued once the candidates had satisfied the threshold requirements and began submitting for matching funds on a regular basis. Other management review audits were conducted with the Senatorial candidates prior to the New Hampshire special election and with the national parties in connection with their qualifications for convention financing.

**Examination
of Reports**

Once the completed campaign reports have been submitted to the FEC the effort for voluntary compliance continues. Reports are reviewed in depth by the Reports Examining Division with the express purpose of discovering errors and allowing corrections to be made. When there are errors or omissions, a *Request for Additional Information* is sent to the filing party. This request is not intended to be a charge of violation of the Act, but serves to alert committees and candidates to the type of information required of them and gives them an opportunity to submit amendments to their reports. Special emphasis is placed on detailing the requirements of the Act to newly registered committees. In these, as in all other cases, telephone calls explaining the situation have been very helpful in reducing the rate of error.

During 1975, 3,477 documents were reviewed and acknowledged as received by the Reports Examining Division; of these 80% required amendments. The number of documents submitted with errors or omissions has been dramatically reduced over the months, hopefully as a result of these educational efforts on the part of Reports Examining.

Compliance Review

FEC Duties

While it is a primary goal of the Commission to assist candidates for Federal office and their committees in complying with the law, it is also the duty of the Commission to determine whether or not those candidates and committees have, in fact, complied with the law. Once disclosure has been obtained, the Commission is expected to ascertain whether the information in reports and documents filed with it is correct and complete, and there is the further responsibility to determine whether campaign limitations have been exceeded. Finally, the Commission has special responsibilities in regard to Presidential primary matching funds, in that it must determine whether the eligibility requirements for receipt of such funds have been fulfilled, and whether contributions submitted for matching payments meet the Commission's acceptance standards. After the election the FEC must conduct audit reviews of all Presidential candidates receiving public financing to determine that use of public funds was in accordance with the law, and report to Congress thereon. Activity in this area of compliance should not be construed as investigation predicated on any suspicion of alleged wrongdoing. Such audits are undertaken with an assumption of compliance, in accordance with strict criteria and on a set time schedule.

1975 Presidential Audits

The primary activities in this area during 1975 were the preliminary audits of the Presidential candidates to determine whether they had met the threshold requirements for receiving public financing.¹⁶ The continued verification of the submissions by candidates to determine whether their contributions do indeed meet the criteria for matching, is also a form of examination for compliance.

Routine Audits § 438(a) (8)

The FEC can also use its general audit authority to conduct periodic audits of selected candidates to determine compliance. "It shall be the duty of the Commission . . . to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this chapter. . . ." Again such audits carry no implication of wrongdoing and will only be undertaken according to pre-established criteria. While the Commission conducted field audits of the Senatorial candidates in the New Hampshire special election, staff limitations due to the almost exclusive use of audit staff to verify Presidential matching funds during the last months of 1975 precluded any further routine field audits. Specific procedures and

¹⁶The procedures here are discussed in detail in the section on Public Financing and in Appendix I.

criteria for routine audits are still in the process of being developed and approved and the proposed budget for FY 1977 does include plans for a beginning program of routine post-election audits of all major Federal campaigns. In planning its FY 1977 budget the Commission decided to conduct routine off-year audits of those candidates and committees who spend over a given threshold amount, \$25,000 in House campaigns and \$35,000 in Senate campaigns. Circumstances permitting, general pre-election audits of multi-candidate committees and State committees were being contemplated.

Investigations & Enforcement

**Policies
and
Priorities**

FEC policy in formal compliance and enforcement activities evolved gradually during 1975. From the beginning the Commission was acutely aware of the significance of even the most routine compliance activity in a field as sensitive as political campaigns and felt this dictated care and extreme caution in the development of policy and procedures. At the same time there was urgent need for some procedural guidance since complaints and evidence of noncompliance would and did come to the Commission and the obligation for investigation and enforcement must be fulfilled if the public and the candidates were to have faith in the viability of the Commission as an enforcement agency.

There is no question that this dichotomy between a desire to proceed with caution and the need for immediate action meant that compliance activity during 1975 did not always proceed promptly or consistently. The Commission's concern for thoroughness and caution meant that undue time did sometimes elapse between the filing of a complaint and the closing of a case. The Commission recognizes these deficiencies, and is presently revising its compliance policies to clarify procedures and to provide for quicker turnaround period.

**Origin of
Compliance
Actions
§ 437g(a)(1)**

There are several special considerations which color the development of compliance policy for the Commission. In the first place, the origin of compliance actions is quite broad. The FEC must investigate evidence of noncompliance originating either by the complaint of any individual, or through evidence generated from within the Commission. This demands an investigative policy which must be broader in scope than that of most other Federal agencies.

**Need for
Impartiality**

Second, the very fact that the Commission is investigating in many cases Members of Congress and their committees, plus other candidates in the sensitive political arena, demands evenhanded treatment of all evidence of noncompliance, free from all considerations of incumbency or partisan interest.

**Abuse of
Complaints**

The obverse of this is the real danger of abuse of the complaint procedure for political purposes. For many committees against whom a complaint is

filed, the major concern is not the charge itself, but possible publicity which might label them as "under investigation by Federal officials." In many instances, violations consist of minor technical errors; nevertheless, committees fear insinuations of willful misconduct. Therefore, the law, and the Commission as its arm, must seek to discourage gratuitous or frivolous complaints emanating from opposing candidates as a part of the campaign. These are not considered honest efforts to bring violations of the law to the attention of the appropriate authorities. Section 437g(3) of the Act states:

"Any investigation under paragraph (2)(b) shall be conducted expeditiously and shall include an investigation of reports and statements filed by any complainant under this title, if such complainant is a candidate."

The Commission policy, therefore, is to find out whether a complainant is acting on behalf of any candidate. If so, the Commission must also investigate reports and statements filed by that candidate.

Confidentiality
§ 437g(a)(3)

A final consideration in policy development is the fact that confidentiality must be maintained at all times in any compliance action or audit activity which might lead to a compliance action, in keeping with the statutory requirement that investigations and notifications of violations shall not be made public unless authorized by the subject thereof. This is done in order to protect the individuals involved from unfair publicity stemming from ambiguous information. For example, when the Reports Examining Division finds from reviewing a report that a candidate may have unknowingly accepted a corporate or labor union contribution, the notification of this circumstance would not be made part of the individual's public file; in other circumstances a request for additional information would be made part of the file. It is the intent of the Commission to make public as much information as possible, while simultaneously protecting candidates from unfair publicity.

Interim Guidelines

Early in June the Commission recognized the urgent need for guidelines for the submission of complaints and one of its first Interim Guidelines, on July 7, specified the procedures to be followed in filing a complaint.

Narrative

By August the Commission was able to adopt as its basic interim policy a Compliance Procedures Narrative which set forth a detailed plan for processing complaints, initiating investigations thereon, and for undertaking other compliance actions on the Commission's initiative. The Compliance Procedures Narrative was conceived as an interim and temporary framework to guide the operations of this staff pending the evolution of more formal procedures. Initial experience with complaints and other enforcement actions during the summer and fall of 1975 indicated a need for a review and revision of the procedures.

Regulations In late fall of 1975, the Counsel's Office drew up a formal regulation embodying the basic concepts with some revisions of the previously adopted narrative and this was published for public comments in December 1975. Hearings were scheduled to be held in early February 1976, but were held in abeyance following the Supreme Court decision in *Buckley v. Valeo*. Within the Commission itself continuing discussions occurred with respect to modifying and improving the Commission's methods of responding to apparent violations.

1975 Compliance Actions The FEC opened 57 compliance cases during 1975 and by December had closed files on 31 of these cases. In 81% of the cases closed, it was determined either that the Commission had no jurisdiction, or that there had been no violation of the Act.

TERMINATED COMPLIANCE ACTIONS

Voluntary Compliance Achieved	No Jurisdiction	No Violation	Referred to Department of Justice
5	10	15	1

The cases which the Commission has considered or is still considering include matters such as: 1) an inadvertent failure to place a disclaimer on campaign literature; 2) an intentional failure to disclose contributions and expenditures; 3) allegations of improper control by a corporation of a political action committee; 4) failure to register with the Commission; 5) solicitation of contributions in excess of \$1,000; 6) receipts of campaign contributions from individuals which exceeded the \$1,000 per election limitation; and 7) receipt of contributions in excess of the \$5,000 per election limit from multi-candidate committees. It is anticipated as the campaign year moves closer towards the elections that there will be a steady increase in the number of compliance actions opened by the Commission.

Procedures In all these cases, the Commission's Legal and Disclosure and Compliance Divisions worked in tandem. Under the 1975 compliance procedures the Assistant Staff Director for Disclosure and Compliance had primary responsibility for initial screening for jurisdiction, sufficiency of a complaint, or in the case of internally raised matters, sufficient cause to initiate an investigation. The General Counsel was kept personally informed of the status of all compliance actions and day-to-day responsibility for monitoring individual cases was given to a staff attorney, including the drafting of initial notification letters, and discussions with the respondent as to the scope of the Commission's authority and the records and documents to be reviewed.

The Audit and Investigation Division of the Office of Disclosure and Compliance assumes responsibility for actual investigations. No investigation was made without the knowledge and approval of the Commissioners.

**Relations
with
Dept. of
Justice**

In developing overall policy, the Commission had numerous discussions with the Fraud Section of the Criminal Division of the U.S. Department of Justice. In order to ensure a smooth transfer of information between the Department and the Commission, there is a continual, informal exchange at the staff level. Matters requiring formal action are transmitted by the Staff Director or the General Counsel, as directed by the Commission. It should be noted that 2 U.S.C. § 437g(b) of the Act requires the Department to file periodic reports with the Commission concerning any cases it had referred to the Attorney General. These reports were properly filed in the one case referred by the Commission to the Department in 1975.

**Federal-State
Relations**

Federal State Relations

FEC Clearinghouse Function

Common Concerns

The Commission regards its relations with State and local election agencies as one of its most important responsibilities. Not only do these State and local agencies have the ultimate responsibility for conducting both State and Federal elections, but they have many other areas of common concern. In the area of campaign financing, for example, some 38 States have passed legislation affecting the campaign financing activities of various State and local candidates. Similarly, many State and local election offices are making substantial efforts to improve the elections process by means of voter education activities, improving voter registration methods, and providing new and improved vote-counting equipment.

Lack of Communication

Despite these common concerns, there is an almost total lack of communication among State and local election jurisdictions. There are over 6,300 independent election boards who, it is estimated, directly expended \$813 million for administering elections during fiscal years 1970-1973. In addition there are literally tens of thousands of other governmental units who spent additional sums in administering local elections.

Many election boards have faced and solved such difficult election problems as approving and purchasing vote-counting equipment, automating registration and voting systems, absentee registration and voting, training election poll workers, informing the voters on candidates and issues, and re-counting the election results. Their experiences, however, have not been available to other election administrators facing similar problems. Because of the lack of communication among these thousands of election jurisdictions, millions of dollars have been wasted through duplication of effort. Similarly, in the area of campaign financing, most States have great difficulty in learning what other States are doing and in discovering how various legislative efforts could be successfully applied.

1971 Clearinghouse Congress, in recognizing these problems, created a National Clearinghouse for Information on the Administration of Elections within the General Accounting Office under the Federal Election Campaign Act of 1971. This function was transferred to the Federal Election Commission by 2 U.S.C. 439(b) of the Federal Election Campaign Act Amendments of 1974. This section of the Act calls upon the Commission to serve as a national clearinghouse for information with respect to the administration of elections and to conduct independent contract studies of the administration of elections. These studies are to include, but not be limited to: the method of selection of, and the type of duties assigned to, election board officials and personnel practices relating to the registration of voters, and voting and counting methods. Finally, this section provides that the research products issuing from these efforts be made available to the general public at cost.

The Commission, by performing this clearinghouse function, feels that it can serve as an effective communication link among Federal, State and local election agencies, while always recognizing that the FEC has absolutely no regulatory or supervisory authority over State and local elections and procedures. Not only can these three levels of government learn a great deal through a free and open exchange of information but also, and most significantly, the exchange of information can and has resulted in substantial cost savings as more efficient methods are adopted from the experiences of others.

1975 Activities The Commission has already taken a number of positive steps toward achieving this clearinghouse goal. The Vice Chairman of the Federal Election Commission has been officially appointed by the Commission as coordinator of State and local relations. State and local election offices have been receiving the *FEC Record*, Federal campaign financing information and Clearinghouse reports on a regular basis. Commissioners and various staff members have been invited to address numerous organizations of State and local election officials including the National Association of Secretaries of State, the National Association of Counties, the International Institute of Municipal Clerks and Recorders, and the International Association of County Recorders, Election Officials and Treasurers. The Commission has also encouraged State and local election officials to attend and participate in its regional seminar program. Finally, the Commission has encouraged State and local election officials to visit the Commission and attend its meetings here in Washington. So far, officials from 20 States have visited the Commission. The Commission has received a large volume of correspondence with personal comments indicating that State and local election officials are very receptive to this information transfer function.

FEC Questionnaire In October of 1975, the Commission sent a questionnaire to all 50 State election offices requesting information on their experiences in handling Federal campaign finance reporting requirements. Under 2 U.S.C. 439, Federal candidates must file a copy of all Federal campaign finance reports

with their State election office, which must maintain such copies and make them available for public inspection. As of March 1, 1976, 45 States had responded to the questionnaire and provided valuable information on their filing procedures and office operations, copying and viewing facilities and, most importantly, made numerous suggestions to improve this reporting system. A compilation and analysis of these comments and suggestions will be made available to the Commission and all appropriate State officials.

Clearinghouse Research Studies

During 1975, the Commission through its clearinghouse function, has published and distributed five major research reports originally prepared for the General Accounting Office.

An Analysis of Laws and Procedures Governing Absentee Registration and Absentee Balloting in the United States:

Produced under contract with Indiana University's School of Public and Environmental Affairs, this study analyzes the legal and procedural aspects of absentee registration and absentee voting in each of the fifty States. Volume I describes the problems and provides a brief history of absentee voting from the national perspective. The core of the volume is a detailed, step-by-step description and discussion of the absentee process (complete with State summary tables). The analysis targets on problems in the process as they appear variously in the fifty State systems. The volume concludes with an analysis of Federal legislation affecting absentee voting and 33 specific recommendations for improving the absentee system.

Volume II of the report is a set of detailed legal memoranda describing the absentee law in each State with references to the respective State election codes.

Federal-State Election Law Survey: An Analysis of State Legislation, Federal Legislation, and Judicial Decisions:

A recurring report issued under agreement with the American Law Division of the Library of Congress' Congressional Research Service. These surveys compile and summarize all Federal and State legislation and litigation relating to elections. Each volume contains a State-by-State review and brief analysis of legislation passed in State assembly sessions; a review, analysis, and status report of Federal election-related legislation; a review and brief description of State supreme court, Federal court, and Supreme Court cases; and a digest of relevant Department of Justice rulings, Internal Revenue Service rulings, and State Attorney General opinions.

Government Expenditures for Election Administration: Fiscal Years 1970 to 1973:

A compilation of State and national statistics on the administration costs of elections in the United States during fiscal years 1970 through 1973. These years included one Presidential election, two Congressional elections, and most State and local general elections. The purpose of this report is to provide a reliable estimate of the public expenditure for conducting elections.

It has long been suspected that it costs a great deal more than expected for any single jurisdiction to conduct its elections. The results of this survey provide supporting evidence. During the four fiscal years 1970 through 1973, State and local governments directly expended an estimated \$813 million for administering elections. It is interesting to note that in most cases local governments spent considerably more money for election administration than did State governments. Only in Alaska, Delaware, and Hawaii was more money expended by State than by local governmental units.

Analysis of Federal and State Campaign Finance Law:

A two-volume document issued under contract with the American Law Division of the Library of Congress' Congressional Research Service. The first volume presents an overview of Federal and State campaign finance regulations followed by summaries of the campaign finance laws of the United States, each of the fifty states, the District of Columbia, and the Commonwealth of Puerto Rico.

The second volume contains five quick-reference charts highlighting significant provisions of Federal and State campaign finance law. Statutory provisions for the District of Columbia, and the Commonwealth of Puerto Rico are also covered.

As a consequence of the recently enacted campaign finance laws throughout the Nation, this publication has attracted widespread interest and is in great demand.

Effective Use of Computing Technology in Vote-Tallying:

The first comprehensive attempt to analyze the use of computers in the vote-counting process. Included in the report are descriptions of hardware, software, and administrative problems encountered in fourteen elections in which electronic computing technology was utilized as well as suggested methods of assuring more confidence in the accuracy and security of the vote-tallying process. These methods include aids to audits of calculations, physical controls over ballots and computer records, and guidelines for the use of computer programs, computer facilities and teleprocessing. Methods of improving the election preparation process also are included and described. Institutional factors are also discussed which should be

considered if improved accuracy and security controls and more effective election preparations are to be implemented. Finally, recommendations for additional research and other activities are provided.

Written reactions to Clearinghouse contract reports, by State and local election legislators and administrators, have been highly favorable. Since June of 1975, hundreds of State and local election administrators have cited the value of the above reports both in terms of providing information and in money saved for their operations. In addition to publishing and making available these required studies on election administration, the three-person Clearinghouse staff also carries on extensive telephone and letter correspondence with State and local election administrators in ever-increasing numbers. Since June of last year, we estimate that over 500 non-routine telephone inquiries on election administration were received and handled while over 500 non-routine letters were received and answered in addition to the thousands of routine inquiries handled by the Clearinghouse.

Clearinghouse Advisory Panel

Information Exchange

As noted earlier the Clearinghouse serves as a central information exchange for the 50 States and the over 6,000 local election boards. In fulfilling this role, it is essential that the Clearinghouse maintain a close liaison with State and local election administrators for at least three reasons:

- to define the problems and issues facing election administrators in order to ensure that contracted research projects are of maximum usefulness at the State and local levels;
- to identify and collect any State or local research reports, experiences, or other useful information so that jurisdictions may benefit from the experience of others;
- to keep abreast of the "state of the art" of election administration in order to provide timely information to the Congress, the Commission, State legislators and executives, and to the general public.

To accomplish this liaison task, the Clearinghouse has identified all the State and local election administrators and established contact with them — itself a major undertaking. Since it is hardly possible to hold a national discussion of problems and research priorities among six or seven thousand people, the Clearinghouse, with the approval and encouragement of the Commission, developed a channel of communications fairly unique among Federal regulatory agencies: a State and local government advisory panel.

Composition

The Clearinghouse Advisory Panel is presently comprised of twenty State election officials, county and local election administrators and State

legislators who are distinguished by their knowledge, interest, and activity in the area of elections. The Panel serves in an advisory capacity to the Commission in establishing research needs and priorities and, to a great extent, in defining the role of the Clearinghouse.

The three-tier, bi-partisan character of the Panel provides a kind of stereoscopic view of the state of election administration and offers the first national forum for a full discussion of the problems in planning and managing elections.

The Advisory Panel held its first meeting in Washington, D.C. on the 6th and 7th of January, 1976, and attracted an audience of noted election experts, Commission members and Congressional staff. Their discussion focused on specific issues and problems in a range of general topics including:

Issues and Problems

1. State and local election planning, management, budgeting, and personnel training;
2. Voter registration systems;
3. The administrative aspects of candidate certification, campaign ethics and campaign financing regulations;
4. Voter balloting system;
5. Vote tabulation, reporting, recording, contested elections and re-count procedures; and
6. The causes of non-voting, institutional barriers to voter participation, and voter information services.

Project Ideas

The discussion stressed the need for the Clearinghouse to serve even more actively as an information center. Over 20 specific project ideas emerged with priorities attached to guidance in formulating election office budgets; analyses of alternative voter registration systems; guidance in developing standards and specifications for automating voting devices; an analysis of laws and procedures for managing contested elections and re-counts; and an analysis of institutional barriers to voter participation.

**Legislative
Recommendations**

Legislative Recommendations

Introduction

In any area as novel and complex as election law, comprehensive legislation will invariably contain flaws and omissions. Congress enacted, in only three years, three major, landmark pieces of legislation – the Presidential Election Campaign Fund Act, the Federal Election Campaign Act of 1971, and the Federal Election Campaign Act Amendments of 1974. Other, somewhat less comprehensive legislation was also passed, including a bill which substantially overhauled many of the provisions of the tax code relating to elections.

Congress has anticipated the need to continually modify, renew and update election legislation. The 1974 Amendments contained provisions requiring or instructing the Commission to submit legislative recommendations to the Congress and the President.¹ Since its inception, the Commission has kept an inventory of possible amendments to the law. The list which follows is a condensation of the Commission's inventory representing those areas where possible legislative remedies are needed to assure the smooth functioning of the law. The Commission has not attempted to arrive at a consensus as to which provisions of the law should be amended, but rather submits the following list of possible areas which the Congress may wish to consider for amendment. Individual Commissioners may disagree as to the advisability and necessity of some of the amendments on the list.

At the time of submission of these legislative recommendations, Congress is working on the Federal Election Campaign Act Amendments of 1976. Some of the Commission's proposed legislative changes are included in the bills

¹ 2 USC 437d(d) and 2 USC 437e.

being marked up by the Congressional committees responsible for election legislation. Due to the uncertain status of these bills, the Commission has decided to submit its recommendations in their original form.

The Commission has divided these recommendations into eight categories: 1. Simplification, 2. Clarification, 3. Judicial Determinations, 4. Consolidation, 5. Compliance and Enforcement, 6. Presidential Elections, 7. Miscellaneous, 8. Technical and Conforming.

Simplification

One of the major concerns of the Commission is simplifying the law and reducing the burdens on candidates and committees. As presently written, the law frequently applies indiscriminantly to large Presidential committees, multicandidate committees, medium-size Senate committees and small House and political party committees. Both the Commission and the Congress must continually seek ways to simplify the law in order to reduce the burden on candidates and committees and to make procedures less cumbersome. Specifically:

Threshold for Record- keeping

The threshold for keeping records of the identification of contributors could be raised from \$10 to \$25 or \$50.² While almost all candidates and committees keep these records for fundraising purposes, the present threshold can be raised to reduce the legal burdens on candidates and committees without thwarting the purposes of the Act. The Supreme Court found in *Buckley v. Valeo* that:

[t]he \$10 and \$100 thresholds are indeed low. Contributors of relatively small amounts are likely to be especially sensitive to recording or disclosure of their political preferences. These strict requirements may well discourage participation by some citizens in the political process, a result that Congress hardly could have intended. Indeed, there is little in the legislative history to indicate that Congress focused carefully on the appropriate level at which to require recording and disclosure. Rather, it seems merely to have adopted the thresholds existing in similar disclosure laws since 1910. [Footnote omitted.] But we cannot require Congress to establish that it has chosen the highest reasonable threshold. The line is necessarily a judgmental decision, best left in the context of this complex legislation to congressional discretion. We cannot say, on this bare record that the limits designed are wholly without rationality.

Thus, while it is not immediately necessary for Congress to revise its minimum recordkeeping requirements, it may wish to do so, in view of the Supreme Court's belief that the recordkeeping thresholds are low.³

²See 2 USC 432 (c)(2)

³*Buckley v. Valeo*, 44 USLW 4127, 4151-4152 (U.S., January 30, 1976).

Oral Contracts There is considerable merit to amending the law to provide that a contract, promise, or agreement must be written in order to constitute a contribution or an expenditure.⁴ Thus, oral contracts and promises would no longer be covered by the Act's definition of contribution and expenditure. The existing language presents severe enforcement problems for the Commission and causes needless confusion on the part of candidates and political committees.

Amended Registration The requirement that multicandidate committees file an amended registration statement each time they contribute to (i.e., "support") a Federal, state, or local candidate could be repealed or amended to require only the reporting of various categories of Federal candidates supported. This registration requirement can be both cumbersome and duplicative. The periodic reports by multicandidate committees also contain a listing of candidates and committees supported. The additional registration requirement is particularly burdensome for multicandidate committees who must file dozens, even hundreds of amended registration statements during each election year.⁵

Local Filing The requirement that each committee include in its registration statement a listing of all reports required to be filed by the committee with state or local officers should be repealed. This requirement is no longer necessary, because of the provision in the 1974 Act Amendments which pre-empts state reporting requirements.⁶

Point of Registraton An amendment could be made to clarify that multicandidate and party committees register and report to the Commission and not to the candidates they support.⁷

Quarterly Reporting The threshold for the waiving of candidate or committee quarterly reports could be increased. The law now exempts from the quarterly reporting requirements any committee which receives contributions of \$1,000 or less and makes expenditures of \$1,000 or less. The \$1,000 figure could be increased to \$2,500 or \$5,000 in non-election years.⁸

The waiver of quarterly reporting requirement period could be extended to include the period from 20 days before the election to 40 days after the election. Under the present law, when the last day for filing a quarterly report occurs within 10 days of an election, the filing of the quarterly report is waived and superceded by the pre-election report. Extending this waiver to

⁴ See 2 USC 431(e)(2) and (f)(2); 18 USC 591(e)(2) and (f)(2).

⁵ See 2 USC 433(b)(6)

⁶ See 2 USC 433(b)(10)

⁷ See 2 USC 432(f)(2), USC 433 (e), 2 USC 434(a)(1), (2), but contra 2 USC 433(a), 2 USC 435(b), 2 USC 434(e).

⁸ See 2 USC 434(a)(1)(C).

quarterly reports required to be filed immediately after the election would reduce the number of reports without thwarting the purposes of the Act.⁹

Itemized Transfers

Transfers aggregating less than \$100 per calendar year could be exempted from the requirement that they be itemized on candidate and committee reports. Presently, all transfers by candidates and political committees must be itemized and reported.¹⁰

Consolidated Reports

Additional time should be provided for the consolidation and filing of pre-election reports. Authorized committees of a candidate now file their reports with the principal campaign committee on the same day which the principal campaign committee must consolidate and file those reports with the Commission. Alternatively, a different mechanism could be developed for the filing of reports. For example, the principal campaign committee could be required to file only a summary sheet on the 10th day, and a complete consolidated report several days thereafter.¹¹

Clarification

The Presidential Election Campaign Fund Act, the Federal Election Campaign Act of 1971 and the 1974 Amendments represent a comprehensive effort by Congress to regulate campaign financing. Any initial, wide ranging effort to regulate a political system as complex and diverse as ours will inevitably have some arbitrary distinctions and tend to treat factors and matters which are different as being alike. Some of these disparities are inherent in any system of regulating elections, but others can be remedied by legislation. There are several changes needed in the present statutory scheme in order to take into account the diverse elements of the political system.

Proliferation

The law could be amended to stipulate that political committees under the direction or control of another person, including any parent, subsidiary, branch, division, department, local or affiliate unit of that person would be considered as a single political committee for purposes of the contribution limitations. Political parties should be exempt from this restriction, although they would still be subject to the test which prohibits political committees under the direction or control of another person from having a separate contribution limitation.

Multicandidate Committee

In order to attain qualified multicandidate committee status (i.e., to be eligible to give \$5,000 per election to Federal candidates), political

⁹ See 2 USC 434(a)(1)(b).

¹⁰ See 2 USC 434(b)(4).

¹¹ See 2 USC 434(a)(1)(A)(i).

committees could be required to make contributions of \$100 or some other specified sum to five Federal candidates. Under the 1974 Act Amendments, a political committee need only give \$1 to five candidates to be eligible to give \$5,000 to the sixth candidate.

In addition, political committees could be required to make contributions to five or more Federal candidates every two or four years in order to retain their eligibility to give \$5,000 per election per candidate. Currently, once a political committee meets the \$5,000 test, it can give \$5,000 to only one or two candidates each election.

**Draft
Movements**

Thought should be given to amending the law to make the contribution limitations applicable to draft movements. Under the present law, an individual is not a candidate unless he takes the action necessary to get on the ballot, makes or raises or authorizes a person to make or raise contributions or expenditures on his behalf or takes other affirmative action to become elected to Federal office. Thus, draft movements on behalf of individuals (who are not candidates under the definition contained in the Act) may accept contributions up to \$25,000 from individuals and of unlimited amounts from political committees. The existing disclosure requirements for draft movements should be retained.

**Dual
Candidacies**

Amendments to the law are needed to delineate the status of dual candidacies, and in particular, the applicability of the disclosure provisions and contribution and expenditure limitations to dual candidacies for:

- (a) President and Senate,
- (b) President and House of Representatives,
- (c) House and Senate,
- (d) Delegate and Congress,
- (e) Federal and state or local office.

For example, if an individual is simultaneously a candidate for the Senate (where there is no expenditure limitation) and for the Presidency (where there is an expenditure limitation for those candidates accepting public funds) in the same state, are both of his or her campaigns subject to the Presidential spending ceiling for that state or may his or her senatorial campaign spend unlimited amounts of money? Also, if a candidate for Congress (who may not accept contributions in excess of \$1,000 per election — \$5,000 for a multicandidate committee) is simultaneously an unauthorized delegate-candidate (who has no contribution limitations), may he or she accept contributions of \$25,000 from individuals or of unlimited amounts from other persons for the delegate-candidacy or are both campaigns subject to the Congressional ceilings?

Minor and Independent Parties

The Congress may wish to consider granting the Commission specific statutory authority to waive candidate and committee disclosure requirements particularly with regard to minor and independent parties. A recent court decision construed the District of Columbia campaign finance law (which closely parallels the Federal law) as necessarily embracing such waiver authority. *Doe v. Martin*, 404 F Supp. 753, 757 (D.C., 1975).

Judicial Determinations

Although the Federal Election Campaign Act of 1971, as amended (hereinafter "the Act") only became generally effective on January 1, 1975, already there has been significant judicial reaction to this and similar statutes. The courts have upheld most of the key provisions of the Act, but have found certain statutory provisions to be unconstitutional and in other instances have narrowly construed certain provisions in order to avoid a finding of unconstitutionality. While the judiciary's holding on the constitutionality of the Act is the law of the land, it remains solely the province of Congress to further facilitate the use of the Act by making conforming revisions so that the law on its face reflects the Courts' holdings. In order to aid Congress in implementing the judiciary's rulings, the Commission makes the following recommendations and observations concerning possible legislative changes.

Definition of "Contribution"

It is recommended that the definition of contribution be amended to specifically include, not only contributions made directly or indirectly to a candidate, political party, or campaign committee, and contributions made to other organizations or individuals but earmarked for political purposes, but also all expenditures placed in cooperation with or with the consent of a candidate, his agents, or an authorized committee of the candidate. The definition of 'contribution' *** for disclosure purposes parallels the definition in Title 18 almost word for word, and we construe the former provision as we have the latter. So defined, "contributions" have a sufficiently close relationship to the goals of the Act, for they are connected with a candidate or his campaign.^{1 2}

Unauthorized Activities Notice

The Supreme Court held in *Buckley v. Valeo* that the governmental interest in preventing corruption and the appearance of corruption is inadequate to justify a ceiling on independent expenditures,^{1 3} but also held that the disclosure of persons making independent expenditures for the purpose of expressly advocating an election result is permissible.^{1 4}

^{1 2}44 USLW, at 4150.

^{1 3}44 USLW, at 4140.

^{1 4}44 USLW, at 4149-4151.

The Congress may wish to extend the requirement that unauthorized or independent activities by political committees include a notice that such activities are not authorized by the candidate to include all persons making unauthorized expenditures.

**Reporting
Independent
Expenditures**

It is recommended that the provision requiring the reporting of independent expenditures [2 U.S.C. § 434(e)] be amended to clearly conform with the Supreme Court's opinion.

In summary § 434(e) as construed imposes independent reporting requirements on individuals and groups that are not candidates or political committees only in the following circumstances: (1) when they make contributions earmarked for political purposes or authorized or requested by a candidate or his agent, to some person other than a candidate or political committee, and (2) when they make an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate.^{1 5}

Consolidation

Congress may wish to consider consolidating the various titles presently under the jurisdiction of the Commission in order to avoid the inherent overlapping, duplication and conflicts which now exist. Consolidation could afford a means of diminishing the confusion and misunderstanding that now may result in a person being inadvertently in non-compliance with the Act.

Definitions

Instead of four separate sets of definitions, there should be one single set with the same term having the same meaning for all provisions. A term which is used to require disclosure generally is also used to limit contributions and expenditures and to provide public funds and thus, as a rule, these terms should be defined in a stylistically and substantively identical fashion. Where a difference in definition is required in order to implement a policy distinction, such a distinction should be explicitly noted.^{1 6}

^{1 5} 44 USLW, at 4151.

^{1 6} Examples of the confusion which can result from a lack of parallelism in the Act are:

(a) The \$500 limit to the exceptions to the definitions of "contribution" and "expenditure" appears at the end of the paragraph in 2 U.S.C. § 431(e)(5), 18 U.S.C. § 591(e)(5), and 18 U.S.C. § 591(f)(4), but appears at the end of each subparagraph in 2 U.S.C. § 431(f)(4).

(b) The phrase "to the extent that the cumulative value" appears in 2 U.S.C. § 431(e)(5), 18 U.S.C. § 591(e)(5), and 18 U.S.C. § 591(f)(4), but the phrase "if the cumulative value" appears in 2 U.S.C. § 431(f)(4).

(c) An exception is provided to the definitions of "contribution" and "expenditure" in 2 U.S.C. § 431(e)(5)(F) and (f)(4)(H), but this exception does not appear in 18 U.S.C. § 591(e)(5) and (f)(4).

(d) The word "individual" is used in the \$500 limit to the exceptions to the definitions of "contribution" and "expenditure" in 2 U.S.C. § 431(e)(5), 2 U.S.C. § 431(f)(4), and 18 U.S.C. § 591(e)(5), but the word "person" is used in 18 U.S.C. § 591(e)(5).

**FEC
Authority
and
Powers**

The Commission's authority and powers should be the same with respect to each provision under its jurisdiction. The Commission should be specifically granted the power to write regulations for Title 18. The Commission is presently confronted with a paradox whereby it is required to answer any and all requests for Advisory Opinions relating to Title 18, often involving major policy decisions of general applicability, but is not granted the authority to reduce these important policy decisions to regulations.

Each Commission power, duty, responsibility and obligation should be cited uniformly in only one place in the Code.

**Other
Election
Provisions**

The Congress should conduct a thorough review of all election-related provisions not under the Commission's jurisdiction. Some of these provisions are outmoded, vague, or overly broad and could be amended or repealed. Others could be placed under the Commission's jurisdiction, in particular, 18 U.S.C. 612.

Compliance

Compliance with the law is the Commission's most important goal and responsibility. There are several amendments which could be made to streamline and facilitate compliance with the law.

Penalties

The penalty provisions could be more consistent so that the severity of the penalty is commensurate with the seriousness of the violation.

The penalty provisions could be amended to specifically make it an offense to knowingly submit false, erroneous or incomplete information to the Commission.

**Legal
Responsibility**

The statute places sole responsibility for filing reports of campaign receipts and expenditures on the treasurer of a political committee. This approach tends to focus the law's requirement on a campaign official who may not be an important figure in the committee hierarchy. Under the current law, a committee chairman might attempt to avoid responsibility for his committee's reporting violations by claiming that the statute imposes no reporting duty on him. While the "aiding and abetting" provisions of the Federal criminal law can be used under many circumstances, the raising of this false issue can mislead a court or jury. The statute could be amended to place equal reporting responsibility on the chairman and the treasurer of a political committee.

Presidential Elections

Delegate Candidate

The law should clarify the status of delegate candidates and the applicability of the disclosure provisions and contribution and expenditure limitations to their activities.^{1 7}

State Filing

Read literally, the law would require Presidential candidates to file a copy of each statement filed with the Commission with the Secretary of State in each state where the candidate makes an expenditure, regardless of whether that expenditure is made during the reporting period. The Act should be amended to require reports for Presidential candidates to be filed with the Secretary of State only during those periods when an expenditure is made in the state.^{1 8}

Written Instruments

All written instruments representing contributions submitted to the Commission for matching purposes should be required to specifically designate the individual whose candidacy they are intended to support.

Miscellaneous Amendments

Political Parties

The law should make greater recognition of the role of the political parties in the political process. While the Act does make some distinctions between party and special interest activities, those distinctions do not fully reflect the political parties' different function and purpose. Broad based permanent, on-going political party activities are healthy for the political system and should be exempt from many of the restrictions imposed on other multicandidate committee activities. For example, when read literally, the Act might count as an expenditure or contribution in-kind the mere mention of a candidate in a party newsletter, even though this is a traditional function of the political party and does not generally represent any real evil.

Private Benefit

Campaign Activities for Private Benefit/Conversion of Campaign Funds. Prior to 1972 the law prohibited the purchase of goods or articles the proceeds of which inured to the benefit of a Federal candidate or political committee. (18 USC § 608(b), repealed by the 1971 FECA.) Congress may wish to consider reinstating some controls on campaign activities conducted for the private profit of the candidate or committee and/or the conversion of political funds to personal use.

State Filing

Although the state election commissions are frequently the most logical place to have Federal reports filed, all such reports must currently be filed

^{1 7}The Commission has already submitted recommendations to the Congress for a statutory scheme to regulate this process.

^{1 8}See 2 USC 439.

with the Secretary of State. An amendment could be offered to give discretion to the states to decide where reports should be filed.¹⁹

All reports and statements required to be filed with both the Commission and the Secretary of State or other appropriate state agency should be filed simultaneously. Presently, there is no date or deadline for the filing of reports and statements required to be filed with the Secretary of State or other appropriate state agency.

Each multicandidate committee should file only with the Secretary of State or other appropriate state agency in the state in which it is headquartered. Committees which make one contribution to a Presidential candidate or contributions to several congressional candidates should not have to file in every state in which the Presidential candidate files or in every state in which the congressional candidates file.

**Review
of
Regulations**

The definition of "legislative days" for the review of regulation provision should be clarified as to whether it includes only days on which both Houses are in session or days on which either House is in session.

Technical and Conforming Amendments

- The limitations on expenditures relative to a clearly identified candidate (18 U.S.C. 608(e)) should be repealed. The Supreme Court has held this provision to be unconstitutional.
- The provisions requiring reports by certain persons (2 U.S.C. 437a) should be repealed. The Court of Appeals held this section to be unconstitutionally vague and overbroad.²⁰ The Court of Appeals' ruling was not appealed.²¹
- The provision relating to judicial review (2 U.S.C. 437h) should be amended to include the definitional section (18 U.S.C. 591). As stated by the Court of Appeals:

Poor draftsmanship does, in fact, exist. For example, 2 U.S.C. § 437h, the provision establishing review on constitutionality by certification to this court and appeal to the Supreme Court does not include among its list of reviewable criminal sections, 18 U.S.C. § 591, the section which sets forth the definitions underlying those sections which are deemed reviewable.²²

¹⁹ See 2 USC 439.

²⁰ *Buckley v. Valeo*, __U.S. App. D.C. __, 519 F 2d 821, 869-878(1975).

²¹ 44 USLW at 4145 n 70.

²² 519 F 2d, at 907, n. 2.

- In 2 U.S.C. 437b(a)(1) “Chapter 97” should read “Chapter 96”.
- 2 U.S.C. 437d(a)(10) should be amended by striking “subsection (a)(1) of this section” and inserting in lieu thereof “section 438(a)(1) of this chapter.” This cross reference is incorrect.
- 2 U.S.C. 455 and 2 U.S.C. 456 have been improperly codified and should be amended by striking out “title III of this Act” each place it occurs and inserting “this chapter.”

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Appendix

A. Biographic Data on Commissioners and Statutory Officers

Thomas B. Curtis

Mr. Curtis, the Commission chairman, is a 64-year-old Republican from Missouri, who served in the House from 1951-69. He was an unsuccessful candidate for the Senate against Democrat Thomas F. Eagleton in 1968 and 1974. A former vice president and general counsel for the *Encyclopedia Britannica*, Curtis has chaired the Federal Rent Advisory Board (1971-73), the Corporation for Public Broadcasting (1972-73) and the Twentieth Century Fund's Task Force on Financing Congressional Campaigns (1970). He was graduated from Dartmouth College in 1932 and received his law degree from Washington University in St. Louis in 1935. He was originally appointed for six years.

Neil O. Staebler

The vice chairman, 71, has been chairman of the Michigan Democratic State Central Committee (1950-61), a member of the National Democratic Committee (1965-68 and 1972-75) a one-term Member of the House (1963-65) and a gubernatorial candidate in 1964 against former Gov. (1963-69) George W. Romney, the incumbent. He served on President Kennedy's Commission on Campaign Financing in 1961 and was vice chairman of the 1970 Twentieth Century Task Force on Financing Congressional Campaigns. Currently the owner of a land development company, Staebler was graduated from the University of Michigan in 1926. He was originally appointed for three years.

Joan D. Aikens

At the time of her appointment, Joan Aikens was a vice president and account executive for LH/C (Lew Hodges/Communications) in Valley Forge, Pa. Aikens, 46, was president of the Pennsylvania Council of Republican Women while also a member of the board of directors of the National Federation of Republican Women from 1972-74. She was graduated from Ursinus College, Collegeville, Pa., in 1950. She was originally appointed for one year.

Thomas E. Harris

Mr. Harris was associate general counsel to the AFL-CIO in Washington, D.C. from 1955-75. He had held the same position with the CIO from 1948 until it merged with the AFL in 1955. Prior to that he was an attorney in private practice and with various government agencies. Harris, 63, was appointed to

the Commission by the President Pro Tempore of the Senate. Mr. Harris is a native of Little Rock and a 1932 graduate of the University of Arkansas. He is a 1935 graduate of Columbia University Law School, where he was on the *Law Review* and was a Kent Scholar. After graduation, he clerked one year for Supreme Court Justice Harlan F. Stone. He was originally appointed for four years.

Vernon W. Thomson

Mr. Thomson, 69, was a Republican Member of Congress from Wisconsin from 1961-75. Before that, he was his State's Governor (1957-59), attorney general (1951-57) and a member of the State legislature (1935-49). He holds a B.A. from the University of Wisconsin and is a graduate of its law school. He was originally appointed for five years.

Robert O. Tiernan

Mr. Tiernan served as a Democratic member of Congress from Rhode Island for eight years, and prior to that as a State legislator for seven years. An attorney, he was born in Providence, Rhode Island, and is a graduate of Providence College and Catholic University Law School. Mr. Tiernan has been admitted to practice in all Federal courts, the State of Rhode Island, and the District of Columbia. He has held various national and State party positions. He was originally appointed for two years.

Ex Officio Members of the Commission

Edmund L. Henshaw, Jr.

Mr. Henshaw, an Ex Officio Member of the Commission, is currently serving as Clerk of the U.S. House of Representatives. He was elected Clerk on December 17, 1975, after serving as appointed Acting Clerk as of November 17, 1975. Prior to that he served as Director of the Democratic National Congressional Committee, from 1972-1975, and Research Director of the Democratic National Congressional Committee from 1955-1972. He received a B.S. degree from the University of Maryland in 1954, attended George Washington University Law School from 1955-56.¹

Francis R. Valeo

Mr. Valeo, an Ex-Officio Member of the Commission, was elected Secretary of the Senate in October 1966, and previously served as Secretary of the

¹ Appointed in November 1975 to replace Pat Jennings.

Senate Majority. In the 1950's, he was both Chief of the Foreign Affairs Division of the Library of Congress, and the Senior Specialist for the Library of Congress on International Relations, on loan to the Senate Foreign Relations Committee. He is a native of Brooklyn, New York, and holds A.B. and M.A. degrees in Political Science from New York University. He is a co-author, with Ernest S. Griffith, of the 5th Edition of *CONGRESS: Its Contemporary Role* (1975). Secretary Valeo was one of three Supervisory Officers under the Federal Election Campaign Act of 1971.

Statutory Officers

Orlando B. Potter – Staff Director

Before joining the Commission, Mr. Potter was consultant to the Secretary of the U.S. Senate in the administration of campaign disclosure laws. Prior to that he was legislative assistant to U.S. Senator Claiborne Pell, and in 1968 was a candidate for the U.S. House of Representatives from New York. Mr. Potter previously was a Washington correspondent and editorial writer for the Providence (R.I.) *Journal Bulletin*. A 1950 graduate of Hamilton College, Mr. Potter also holds a Masters Degree from Yale University. He received a Congressional Staff Fellowship from the American Political Science Association in 1970, and did graduate work in computer science at American University.

John G. Murphy, Jr. – General Counsel

Mr. Murphy came to the Commission from the Georgetown University Law Center where he is a tenured Professor specializing in constitutional law. While on leave from Georgetown, Mr. Murphy advised the Faculty of Law of the Lebanese National University in Beirut for the Ford Foundation. Earlier he served as a consultant to OEO and HEW on developing legal services programs. The General Counsel graduated from Harvard in 1958 and from the Georgetown University Law Center in 1961. He served as editor of the *Georgetown Law Journal* and, later, as law clerk to the then U.S. District Court of Appeals Judge Warren E. Burger.

B. FEC Code of Ethics

The Commission adopted a Code of Ethics on October 30, 1975. The Code is based on standards generally applicable to Federal Government agencies as well as input from the Commissioners and the staff. In several respects the Code is stricter than the standard Civil Service Code of Ethics. The Commissioners, for example, have restricted themselves from participating in all political campaigns, and contributing to candidates even at the State and local level. Similarly, although the Commission is not subject to the Hatch Act, the Code prohibits Commissioners and employees from participating in activities prohibited by that statute and goes even further in forbidding most employees from publicly supporting candidates for Federal office. In order to minimize the possibility of financial conflicts of interest, the Code requires most professional employees to submit detailed financial disclosure statements.

Subpart A – General Provisions.

1. Purpose.

Public trust in the fairness and integrity of the elections process is vital in a free, democratic society. The Federal Election Commission is committed to honest, independent and impartial monitoring and enforcement of Federal election law. Members and employees shall adhere to and observe the highest standards of conduct in all their official activities.

Members and employees of the Commission shall use full energies and powers to:

- Facilitate public confidence in the election process;
- Encourage citizen participation and involvement in the political process;
- Judiciously, expeditiously and vigorously enforce the law;
- Promote general understanding of the laws under the Commission's jurisdiction.

Attainment of these goals necessitates strict and absolute fairness and impartiality in the administration of the law, including:

- **Nonpartisanship.** The Commission's conduct, deliberations, and decisions shall be made without regard to partisan or political

considerations. No preferential or other favorable treatment shall be granted to any organization, individual or person.

- **Freedom from Conflicts of Interest.** No action by the Commission, its members, or employees shall be based on self-interest, personal friendship or prior political associations. Members and employees shall limit their outside activities so as to avoid a conflict of interest or appearance thereof.
- **Political Activity.** Members of the Commission shall refrain from participating in all political campaigns, including actively supporting, working for, or contributing to a candidate, committee or party, or in any way publicly exhibiting or advocating a partisan choice.
- **Gifts, Entertainment.** No Member or employee shall solicit or accept any gift, gratuity, favor, entertainment, loan or any other thing of monetary value from any person, organization or group made with the intent to directly or indirectly affect Commission actions or decisions.
- **Commission Deliberations.** To the greatest extent practicable, all Commission deliberations will be open to the widest possible public view and all proceedings shall be fully accessible to the general public.

2. Definitions.

- "Commissioner" means a voting member of the Federal Election Commission.
- "Conflict of interest" means a situation in which an employee's private interest is inconsistent with the efficient and impartial conduct of his official duties and responsibilities. The conflict is of concern whether it is real or only apparent.
- "Employee" means an employee of the Federal Election Commission.
- "Official responsibility" means "the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action." (18 U.S.C. 202(b))
- "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other group, organization or institution.

- “Special Government employee” means a special Government employee as defined in section 202 of Title 18 of the United States Code, who is employed by the Commission:

*The term “special Government employee” shall mean an officer or employee of *** any independent agency of the United States *** who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a fulltime or intermittent basis, **. (18 U.S.C. 202(a).)*

Subpart B – Ethical and Other Conduct and Responsibilities of Employees.

1. Gifts, entertainment, and favors.

- (a) A Commissioner or employee of the Federal Election Commission shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:
- Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;
 - Conducts operations or activities that are regulated or examined by the Commission;
 - Has interests that may be substantially affected by the performance or nonperformance of the Commissioner or employee’s official duty.
- (b) Paragraph (a) of this section shall not apply:
- Where obvious family or personal relationships govern when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;
 - To the acceptance of food, refreshments, and accompanying entertainment of nominal value in the ordinary course of a social occasion or a luncheon or dinner meeting or other function where a Commissioner or an employee is properly in attendance;
 - The acceptance of lodging on rare or infrequent occasions where a Commissioner or an employee is properly in attendance and circumstances thereof are reported to the Commission;

- To the acceptance of unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value; and
 - To the acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans.
- (c) A Commissioner or an employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

2. Outside Employment.

- (a) **Definition.** As used in this part, the term "outside employment or other outside activity" refers to any work, service, or other activity performed by an employee, but not a Commissioner, other than in the performance of his official duties. It includes such activities as writing and editing, publishing, teaching, lecturing, consulting services, self-employment, and other work or services, with or without compensation. Commissioners shall comply with this section by devoting such portion of their time as is necessary to assure that their duty to administer the programs of the Federal Elections Campaign Act of 1971, as amended, is fully and faithfully discharged.
- (b) **Policy.**
- (1) Employees may be permitted to engage in outside employment or other outside activity that is compatible with the full and proper discharge of the duties and responsibilities of their Government employment. Guidelines for determining compatibility are set forth in (c). An employee who intends to engage in outside employment shall obtain the approval, through his official superior, of the Staff Director. A record of each approval under this paragraph shall be filed in the employee's official personnel folder.
 - (2) Employees are encouraged to participate as private citizens in the affairs of their communities: **Provided**, that the limitations prescribed below, and otherwise by these regulations, are observed. Among these activities may be the following:

(A) Speaking, writing, editing and teaching.

(B) Participation in the affairs of charitable, religious, professional, social, fraternal, non-profit educational and recreational, public service, or civic organizations, and the acceptance of an award for a meritorious public contribution or achievement from any such organization.

(c) **Guidelines and Limitations.** Outside employment or other outside activity is incompatible with the full and proper discharge of an employee's duties and responsibilities, and hence is prohibited, if:

- It would involve the violation of a Federal or State statute, a local ordinance, Executive order, or regulation to which the employee is subject.
- It would give rise to a real or apparent conflict of interest situation even though no violation of a specific statutory provision was involved.
- It would involve acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance might result in, or create the appearance of, a conflict of interest.
- It might bring discredit upon the Government or the Commission or lead to relationships which might impair public confidence in the integrity of the Government or the Commission.
- It would involve work with any contractor or subcontractor which is connected with any work being performed by that entity for the Commission or would otherwise involve work for any person or organization which may be in a position to gain advantage in its dealings with the Government through the employee's exercise of his official duties.
- It would identify the Commission or the employee officially with any organization or individual whose activities are subject to the Commission's jurisdiction, or would create the false impression that it is an official action of the Commission, or represents an official point of view. In any permissible outside employment, care shall be taken to ensure that names and titles of employees are not used to give the impression that the activity is officially endorsed or approved by the Commission or is part of the Commission activities.

- It would involve use of the employee's time during his official working hours.
- It would involve use by the employee of official facilities, e.g., office space, office machines or supplies, or the services of other employees during duty hours.
- It would be of such extent or nature as to interfere with the efficient performance of the employee's Government duties, or impair his mental or physical capacity to perform them in an acceptable manner.
- It would involve use of information obtained as a result of Government employment which is not freely available to the general public in that it either has not been made available to the general public or would not be made available on request. However, written authorization for the use of any such information may be given when the Commission determines that such use would be in the public interest.

3. Prohibited Financial Interests.

A Commissioner or employee shall not:

- Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.
- Have a financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities, except in cases where the employee makes full disclosure in accordance with § 11 hereof, and the employee disqualifies himself from participating in any decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding of the Commission in which the indirect financial interest is or appears to be affected.
- A Commissioner or employee should disqualify himself from a proceeding or matter in which his impartiality might reasonably be questioned where he knows that he or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding.

4. Use of Government Property.

A Commissioner or employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property including equipment, supplies, and other property entrusted or issued to him.

5. Misuse of Information.

A Commissioner or employee is prohibited from directly or indirectly using or allowing the use of official information obtained through or in connection with his Government employment which has not been made available to the general public, for the purpose of furthering a private interest.

6. Political and Organization Activity.

(a) Although the Commission is not subject to the Hatch Act (18 U.S.C. 602, 603, 607 and 608) it is the policy of the Commission that the Commissioners and all Commission employees shall refrain from political activities forbidden by that Act, as heretofore or hereafter amended and as interpreted by the Civil Service Commission from time to time.

(b) The Commission has further concluded that because of its peculiarly delicate role in the political process the following additional restrictions are necessary:

- No Commissioner or employee paid at the rate of GS 11 or above or auditor or investigator shall publicly support a candidate, political committee subject to the jurisdiction of the Commission.

Employees should be aware that contributing to candidates, political parties, or political committees subject to the jurisdiction of the Commission is likely to create a conflict of interest or an appearance of a conflict of interest. Further, the making of such contributions could give rise to violations of 18 U.S.C. § 208, which prohibits certain acts affecting a personal financial interest. For these reasons, such contributions are strongly discouraged.

- No Commissioner or employee shall display partisan buttons or badges or other insignia on Commission premises.

- (c) Special employees are subject to the restrictions contained in this section when in active duty status only and for the entire 24 hours of any day of actual employment.
- (d) Employees on leave, on leave without pay, or on furlough or terminal leave, even though the employees' resignations have been accepted are subject to the restrictions. A separated employee who has received a lump-sum payment for annual leave, however, is not subject to the restrictions during the period covered by the lump-sum payment or thereafter, provided he does not return to Federal employment during that period. An employee is not permitted to take a leave of absence to work with a political candidate, committee, or organization or become a candidate for office with the understanding that he will resign his position if nominated or elected.
- (e) An employee is accountable for political activity by another person acting as his agent or under the employee's direction or control if he is thus accomplishing indirectly what he may not lawfully do directly and openly.

7. Miscellaneous Statutory Provisions.

Each employee shall acquaint himself with each statute that relates to his ethical and other conduct as an employee of his agency and of the Government. In particular, attention of employees is directed to the following statutory provisions:

- Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned (see §§ 203.9, 203.10, and 203.11).
- The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).
- The prohibition against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).
- The prohibition against the employment of a member of the Communist organization (50 U.S.C. 784).
- The prohibition against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783) and (2) the disclosure of confidential business information (18 U.S.C. 1905).

- The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).
 - The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).
 - The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).
 - The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).
 - The prohibition against fraud or false statements in a Government matter (18 U.S.C. 2071).
 - The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).
 - The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).
 - The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).
 - The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).
 - The prohibition against an employee acting as the agent of a foreign principal registered under Foreign Agents Registration Act (18 U.S.C. 219).
 - The prohibition against certain activities of departing and former employees (18 U.S.C. 207).
 - The prohibition against certain acts affecting a personal financial interest (18 U.S.C. 208).
8. **Reporting of Employment and Financial Interests – Regular Employees.**
- (a) Not later than 30 days after the effective date of this part, an employee designated in paragraph (d) of this section shall submit through his or her supervisor to the Staff Director or his designee

or, in the case of the Staff Director, to the Chairman of the Commission, a statement (Appendix A to this part) and a supplemental questionnaire (Appendix C to this part), setting forth the following information:

- A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, non-profit organizations, and educational or other institutions with or in which he, or, if he has constructive control over their assets, his spouse, minor child or other member of his immediate household has –
 - (A) Any connection as an employee, officer, owner, director, member, trustee, partner, advisor, or consultant including an offer for future employment or a temporary absence from employment, such as a leave of absence; or
 - (B) Any continuing financial interest, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or
 - (C) Any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts.
 - A list of the names of his creditors and, if he has constructive control over their assets, the creditors of his spouse, minor child or other member of his immediate household, other than those creditors to whom they may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom they may be indebted for current and ordinary household and living expenses such as those incurred for household furnishings, an automobile, education, vacations, or the like.
 - A list of his interests and, if he has constructive control over their assets, those of his spouse, minor child or other member of his immediate household in real property or rights in lands, other than property which he occupies as a personal residence.
- (b) For the purpose of this section "member of his immediate household" means a full-time resident of the employee's household who is related to him by blood.
- (c) Before a final offer of employment may be made to an applicant for employment with the Commission,

- The Commission supervisor to whom the applicant would report shall obtain and review a Confidential Statement of Employment and Financial Interest from the applicant;
 - The supervisor to whom the applicant would report shall certify that there is no conflict, appearance of conflict or potential conflict of interest between the interests disclosed on the statement and the proposed duties of the applicant; and
 - The Staff Director or his designee shall make a determination that there is no conflict, appearance of conflict or potential conflict of interest between the interests disclosed on the statement and the proposed duties of the applicant.
- (d) Statements of employment and financial interests are required of the following:
- Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of Title 5, United States Code.
 - Employees paid at the rate of GS 11 or above.
- (e) Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this paragraph, each employee shall at all times comply with the provisions of 18 U.S.C. 208.
- (f) Paragraph (a) of this section does not require an employee to submit any information relating to his connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.
- (g) The Commission shall hold each statement of employment and financial interests and each supplemental questionnaire in confidence. Each person designated to review statements of employment and financial interests and supplemental questionnaires under § 203.27 is responsible for maintaining the statement in

confidence and shall not allow access to, or allow information to be disclosed from, a statement or a questionnaire except to carry out the purpose of this part.

- (h) The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.
- (i) An employee who believes that his position has been improperly included as one requiring the submission of a statement of employment and financial interests is entitled to obtain a review of his complaint under the Commission's grievance procedure.
- (j) This section does not apply to special Government employees, who are subject to the provisions of subpart C.
- (k) The Staff Director or his designee shall retain the Confidential Statements of employees.

Subpart C – Ethical and Other Conduct and Responsibilities of Special Government Employees.

1. Use of Commission Employment.

A special Commission employee shall not use his or her Commission employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

2. Use of Inside Information.

- (a) A special Commission employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Commission authority which has not become part of the body of public information.
- (b) A special Commission employee may teach, lecture, or write in a manner not inconsistent with Subpart A in regard to employees.

3. Coercion.

A special Commission employee shall not use his Commission employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

4. Gifts, Entertainment, and Favors.

- (a) Except as provided in paragraph (b) of this section, a special Commission employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with this Commission anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.
- (b) Exemptions to paragraph (a) of this section are the same as those authorized to employees under Subpart A.

5. Miscellaneous Statutory Provisions.

Each special Commission employee shall acquaint himself with each statute that relates to his ethical and other conduct as a special Commission employee of the Commission and of the Government. In particular, attention of special Commission employees is directed to the statutory provisions listed in Subpart B § 7.

6. Reporting of Employment and Financial Interest – Special Government Employees.

- (a) A special Government employee shall submit through his supervisor to the Staff Director or his designee a statement of employment and financial interests (Appendix B to this part) and a supplemental questionnaire (Appendix C to this part), which reports
 - all current Federal Government employment,
 - the names of all corporations, companies, firms, State or local governmental organizations, research organizations, and educational or other institutions in or for which he is an employee, officer, member, owner, trustee, director, advisor, or consultant, with or without compensation,

- any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts, and
- the names of all partnerships in which he is engaged.

(b) The statement and supplemental questionnaire required under this section shall be submitted at the time of employment and shall be kept current throughout the term of a special Government employee's service with the Commission. A supplementary statement shall be submitted at the time of any reappointment; a negative report will suffice if no changes have occurred since the submission of the last statement.

Subpart D – Reviewing Statements of Employment and Financial Interests

1. Determination of Conflict of Interest

- (a) The Staff Director or his designee in cooperation with the employee's supervisor shall review the statements required by Subpart B and Subpart C to determine whether there exists a conflict, appearance of conflict, or potential conflict, between the interests of the employee or special Government employee concerned and the performance of his service for the Government. The Chairman of the Commission shall review the statement submitted to him by the Staff Director. If the Staff Director or designee determines that such a conflict or appearance of conflict exists, he shall discuss with the employee possible ways of eliminating the conflict or appearance of conflict. If he concludes that remedial action should be taken, he shall refer the statement to the Commission with his recommendation for such action. The Commission, after consideration of the employee's explanation and such investigation as it deems appropriate, shall direct appropriate remedial action if it deems it necessary.
- (b) Remedial action pursuant to paragraph (a) of this section may include, but is not limited to:
- Changes in assigned duties.
 - Divestment by the employee of his conflicting interest.
 - Disqualification for a particular action.
 - Disciplinary action.

2. Membership in Associations.

All Commission personnel who are members of nongovernmental associations or organizations must avoid activities on behalf of the association or organizations that are incompatible with their official government positions.

3. Reporting Suspected Violations.

Personnel who have information which causes them to believe that there has been a violation of a statute or policy set forth in this part will promptly report such incidents to their immediate superiors. If the superior believes there has been a violation, he will report the matter to the Staff Director. Any question or doubt on the part of the immediate superior will be resolved in favor of reporting the matter.

C. Development of FEC Regulations and Interim Guidelines

Regulations

The regulations promulgated by the Commission, as with any regulation promulgated by an agency under the Administrative Procedure Act, have the force and effect of law as they interpret the statutes under the Commission's jurisdiction.

The procedures developed for the preparation of FEC regulations include:

1. Initial **draft** by a regulation writing team and staff review within the Office of the General Counsel;
2. Presentation for Commission **review and approval**;
3. **Publication** in the *Federal Register*;
4. Commission **hearings** with public and private witnesses for receipt of written and oral comments from the public (Hearings for the disclosure regulations ran three days in October, 450 pages of oral testimony were taken, and 40 additional written submissions were received running to 500 pages of material);
5. **Redraft** based on the hearings, public comments received and further in-house review;
6. **Adoption** by the Commission and **transmittal** to Congress;
7. Congressional **hearings**;
8. **Promulgation** in final form after 30 legislative days if neither House has objected (this step is prescribed by the statute, 438(c)).

Regulations covering the following areas have been adopted and transmitted to the Congress, or will be adopted in the near future:

Subject of Regulation	Current Status (as of 1/31/76)
1. Disclosure , covering the reporting requirements under Title 2 of the U.S. Code;	1. Final FEC approval 11/25/75

Subject of Regulation (Continued)**Current Status (Continued)**

- | | |
|--|--|
| 2. Document filing , covering the Title 2 provisions relating to where statements and reports are filed; | 2. Rejected by House 10/22/75
2nd Final FEC approval 11/25/75 |
| 3. Office accounts , covering the reporting of activities under statute 439(a) of Title 2; | 3. 1st & 2nd version rejected by Senate 10/8/75
3rd Final FEC approval 11/25/75 |
| 4. Presidential primary matching funds , covering those parts of Title 26 of the U.S. Code relating to the matching of primary contributions; | 4. FEC Final approval 12/18/75 |
| 5. Convention financing , relating to those parts of Title 26 covering the Federal contribution to party convention activities; | 5. FEC Final approval 1/8/76 |
| 6. Allocation , covering the allocation by Presidential, senatorial and House candidates of contributions, expenditures, and travel activities; | 6. FEC Final approval 12/23/75 |
| 7. Advisory opinion procedures , covering the Commission's process for considering and adopting advisory opinions; | 7. FEC Final approval 12/23/75 |
| 8. Compliance procedure , covering the Commission's process in accepting, reviewing and making the final determination on complaints regarding a candidate or committee's failure to comply with the statute regulations; | 8. Publication in <i>Federal Register</i> 1/15/76 |
| 9. Subpoenas , covering the Commission's authority to subpoena witnesses and material. | 9. Publication in <i>Federal Register</i> 10/09/75 |

Case Study of Disclosure Regulations

The amount of Commission time spent on developing regulations obviously varies substantially, depending on the subject matter involved. The Commission's disclosure regulations, covering Title 2 reporting by candidates and committees, is the most comprehensive and detailed of the Commission's regulations and a description of its evolution will provide an excellent overview of the procedures and time involved.

In early July, the General Counsel designated three staff attorneys to form a regulation drafting team to prepare the initial draft of the disclosure regulations. This initial draft was completed within approximately three weeks. The three staff attorneys worked virtually full-time on this first draft. It was then circulated to a larger group of members of the General Counsel's staff, who met in several sessions to review the drafts line-by-line, making changes throughout the first draft. This revised version was finalized and circulated to the Commission and the rest of the staff the week of August 4.

Throughout the month of August, the General Counsel's office conducted a series of in-house discussions of the August 4 version, to review it part by part, line by line. These sessions were attended by Commissioners, their assistants and other staff members, particularly those from the Audit and Investigation Division, which would be directly concerned with the enforcement of the disclosure provisions. These sessions, and continuing review by the General Counsel's office, produced a second formal version which was distributed to the Commissioners and staff the week of September 12. This draft was subject to comments from the staff and then a final acceptable version was completed, which was approved by the Commission for publication on September 17. This version was published in the *Federal Register* on September 29 for a 30-day public comment period.

At this point, the Commission scheduled public hearings on the published regulations, which were held on October 21, 22 and 24. Twenty-two public witnesses were heard, and written comments were received from approximately 50 individuals and organizations. 405 pages of testimony was taken during the public hearings, in addition to the prepared statements offered by most of the public witnesses.

Prior to the public hearings, a briefing was held by the Commission for Members of Congress and their staffs from the committees which have jurisdiction over the Commission's activities. These briefings included a presentation of the substance of the regulation and extensive discussions between the staff members from the Congress and the Commission in an attempt to fully explain and understand the proposed regulation.

Following the close of the public comment period on October 29, each of the written comments received and the relevant pages of the hearing

transcript were indexed and broken down by regulation section and subsection. At this point, the Office of General Counsel regulation drafting team began the final redraft of the regulations, taking into account, section by section, the comments and testimony received.

A revised draft was prepared and circulated to the Commissioners and staff for additional comments. A series of in-house sessions, again covering the regulation section by section, line by line, were held to fine-tune this draft. The result of this procedure was a final draft presented to the Commission on November 21. The Commission held a special meeting on November 25, considered the disclosure regulation section by section, and approved it in a six-hour-plus meeting. Following this final approval, the regulation drafting team prepared the explanation and justification which the statute requires to accompany each proposed regulation when it is transmitted to the Congress. The final approved version of the regulation, along with the explanation and justification, was formally transmitted to the Congress on December 4.

Following transmission to the Congress, individual Commissioners and Commission staff have been available to explain and describe the regulations, and the Commission's rationale behind specific provisions. At the request of Members of Congress and staff members of the appropriate committees, individual Commissioners and staff members from the Commission have met and explained the regulations.

The Committee on House Administration held public hearings on January 27, at which Commissioners and public witnesses presented their views to the Committee.

Interim Guidelines

The Commission has from time-to-time used the device of an interim guideline to state Commission policy in an area where regulations have either not yet been promulgated, or will not be, because of the subject matter. In general, interim guidelines are drafted using procedures similar to that for regulations. An initial draft is prepared by the Office of General Counsel, considered by the General Counsel's staff, circulated to the Commission for comments, and a final draft is prepared. A significant difference, of course, is that guidelines are not published for comment prior to final adoption. Also, unlike regulations, the guidelines do not have the force and effect of law, but do state the Commission's policy in various areas. *Interim guidelines have been issued in the following areas:*

Interim Guidelines	Federal Register Date	Federal Register Notice Number
1. Reporting	June 2, 1975	1975-1
2. Addendum to interim guidelines	June 16, 1976	-3
3. Multi-Candidate committees	June 26, 1975	-6
4. Complaint procedure	July 7, 1975	-9
5. Reporting old debts and obligations	August 5, 1976	-20
6. Records to be maintained for certification for pri- mary matching funds	August 11, 1975	-22
7. New Hampshire election	September 3, 1975	-34
8. Disbursement procedures for public financing	September 3, 1975	-36
9. Presidential primary matching funds	September 9, 1975	-40
10. Tennessee special election	September 22, 1975	-47
11. October 10 quarterly report	September 29, 1975	-53
12. Reporting requirements	October 9, 1975	-58

D. Development of Advisory Opinions and Opinions of Counsel

Advisory Opinions

Prior to the effective date of the 1974 Federal Election Campaign Act amended, it was often difficult for candidates and political committees to determine whether they were in compliance with an existing Federal election statute, particularly when a statute did not directly address the legality of the campaign activity which concerned the candidate or committee. On occasion, informal advice could be obtained from the Department of Justice and the General Accounting Office, but this advice did not have the same force and effect as a legally binding ruling from an appropriate administrative agency.

Thus, to remedy this deficiency, when Congress created the Federal Election Commission it specifically granted to the Commission the power to issue Advisory Opinions. The Act provides that on the request of any Federal officeholder, any candidate for Federal office, or any political committee, the Commission shall render an Advisory Opinion as to whether any specific transaction or activity by that individual or committee constitutes a violation of the Act. Any person who receives an Advisory Opinion and acts in accordance with the provisions and findings of such Opinion, will be presumed to be in compliance with the Act.

The Commission has adopted a number of Advisory Opinion guidelines for persons submitting a request which have also been formulated as regulations and submitted to Congress for consideration. Under these procedures:

- (a) an agent may request an Opinion on behalf of a principal, provided that the agent discloses the identity of the principal;
- (b) requests are required to include all relevant facts; requests are directed to be sent to the Federal Election Commission, Office of the General Counsel, Advisory Opinion Section, 1325 K Street, N.W., Washington, D.C. 20463; and
- (c) an Advisory Opinion Request (AOR) is assigned an AOR number for reference purposes on receipt by the Commission.

The internal procedure for developing Advisory Opinions stresses maximum Commission involvement and also provides for public comment. These steps are:

1. Preliminary Commission discussion of Advisory Opinion Request.

2. **Publication** of Request in the Federal Register with 15-day period for public comment.
3. Research and writing of draft of Advisory Opinion by legal staff.
4. **Review** by Office of Disclosure and Compliance.
5. **Submission for Commission consideration.**
6. **Formal Commission discussion** and adoption of necessary amendments.
7. **Adoption** by the Commission by a majority of those present and voting.
8. **Publication** of the Opinion in the *Federal Register*.
9. **Transmittal** of Opinion to the requestor.
10. Provision is also made for **reconsideration** on written request of original requestor of a Commissioner who voted with the majority on the Opinion.

Opinions of Counsel

Pursuant to its obligation to elaborate on and clarify the meaning of the Act, the Commission has authorized its Office of the General Counsel to issue Opinions of Counsel. These opinions are issued in response to inquiries from persons who do not have standing under the Act to request an Advisory Opinion, or to persons who have such standing but who have posed a question about a transaction or activity which would not violate provisions of the law. Opinions of Counsel are used to respond only to inquiries from persons who are subject to the sanctions of the Act.

Opinions of Counsel should be understood as being in general, no more than their title suggests, a statement of the current view of the Office of General Counsel with respect to the issues in question. These opinions stress that the presumption of compliance which would normally attach in connection with an Advisory Opinion does not attach to an Opinion of Counsel.

The Commission's procedure for issuing an Opinion of Counsel is simpler than the procedure for Advisory Opinions. Opinions of Counsel are circulated to the full Commission and unless a Commissioner objects to the content of the circulated Opinion, the Opinion will issue over the General Counsel's signature at the close of the second full working day following circulation. In the event that any Commissioner objects to an Opinion of Counsel, the Opinion is put on the agenda for the next meeting of the full Commission.

When appropriate, the Commission will direct that Opinions of Counsel be printed in the *Federal Register* and elsewhere to assure the widest possible circulation. For example, see OC 1975-12, 41 FR 3990 (January 27, 1976).

Monthly Production

Through the month of December, the Commission and the Office of the General Counsel have issued the following number of Advisory Opinions (AO's) and Opinions of Counsel (OC's):

	AO's	OC's
July	4	3
August	10	6
September	7	11
October	12	7
November	18	10
December	<u>25</u>	<u>11</u>
Totals	76	48

Copies of all Advisory Opinion and Opinion of Counsel requests, all comments received on these requests, and all public memoranda prepared by the Commission are maintained for public inspection during normal office hours at the Commission's Public Records Office.

Case Study of Advisory Opinion 1975-15

The preparation and consideration of an Advisory Opinion issued in response to a request from the Wallace Campaign is illustrative of the time and effort expended in producing an Advisory Opinion. Initial work on this AOR began in early August, and thereafter consumed a good deal of the time and attention of five attorneys, including the General Counsel, and the Commissioners for a period of five weeks until September 18, 1975 when it was approved and issued by the Commission. On its face the request appeared simple enough. The Wallace Campaign asked:

"May the Wallace Campaign, a nonprofit corporation, enter into a contract with George C. Wallace, which contract grants the campaign exclusive rights to use Mr. Wallace's photograph, facsimile signature,

photo-biograph and minted likeness in books or on watches, minted medallions and coin-like replicas. In return for this use the campaign would set aside a specified portion of sales proceeds realized as a result of the sale for these items as a royalty for Mr. Wallace, would keep an account of these royalties, and would disburse royalties to Mr. Wallace upon his demand but not to exceed an amount of \$15,000 per year. The contractual period was 10 years with a right of extension by mutual consent for an additional 5 years. At termination of the contract, any funds remaining in the royalty account would be paid to Mr. Wallace."

At the outset the issues raised in the request appeared to fall into four general areas. First, what disclosure requirements, if any, applied to expenditures by the campaign to acquire the described items, to disburse royalty payments to Mr. Wallace, and to record and disclose proceeds received as a result of the sale of the items. A second issue raised was whether the purchase price paid for any of the items sold was required to be counted in whole or in part as a contribution by the purchaser to the Wallace campaign and counted against the individual contribution limit of \$1,000. Thirdly, the request raised an issue as to whether the amounts disbursed by the Wallace campaign as royalties to Mr. Wallace and the amounts disbursed to purchase the various items were subject to the applicable spending limits. A fourth issue that proved difficult for the Commission and its staff, was whether the royalty arrangement between Mr. Wallace and the Wallace Campaign, Inc., was an arms-length transaction permitting Mr. Wallace to realize royalty income derived from his status as a Presidential candidate.

The disclosure issues raised by the various transactions — sale and purchase of the items and royalty payments — were readily resolved. However, the limitation questions and the propriety of Mr. Wallace receiving royalties as a result of campaign activity proved more troublesome. In its initial consideration of a draft opinion presented by the General Counsel, approximately one month after the public comment period ended, considerable discussion focused on whether the described items were "campaign" items or simply items that the campaign was selling in a commercial venture to provide income to Mr. Wallace.

Following the receipt of clarification from the requestor, the General Counsel proposed, and the Commission agreed, that funds received to "purchase" any of the items should be regarded as contributions without regard to the actual profit realized by the Wallace campaign from the "sale" of any of the described items. The conclusion then followed that expenditures for those materials, including royalty payments to Mr. Wallace under the contract, were expenditures to influence his nomination or election, since they were necessary in order for the campaign to acquire the items and sell them to raise campaign funds.

The Commission's consideration of this issue proceeded simultaneously with its review of the important question whether the amounts paid by contributors to "purchase" campaign items and paraphernalia were gifts of money that would count in determining the eligibility of a Presidential candidate for matching funds, or that could be matched in whole or in part with Federal funds. The Commission decided that any amount paid for campaign items of "significant intrinsic and enduring value" could not be matched with Federal funds.

There remained the essential question of whether the royalty contract with Mr. Wallace was in violation of Federal statutes within the advisory opinion jurisdiction of the Commission. During the Commission meeting in which this opinion was discussed for the third time, it was eventually decided that the contract was not unlawful. Finally, after several intervening hours of staff time preparing several drafts reflecting developments from Commission discussion, the Advisory Opinion responding to this request was approved and issued to the Wallace Campaign.

As a result of increased familiarity with the statute by the Commission and its staff, very few opinions have required as much time as was needed in preparing and deliberating on the opinion just described. Generally, they have been approved at the same meeting when initially presented by the General Counsel for Commission consideration. Others, involving in some cases issues of greater complexity and controversy, required several Commission meetings and concomitant preparation time and effort by the Commission staff.

c. Subject Index and Summaries of Advisory Opinions

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Summary Descriptions of Advisory Opinions

This chart represents a listing and brief description of all Advisory Opinions issued by the Commission through mid-January. Advisory Opinions are not necessarily approved in sequential order. Reference following each description is the publication date and page number in the Federal Register. Those persons reading this chart are advised that—pending promulgation of Rules and Regulations — the Opinions apply only to the requesting parties and are published for informational purposes only.

AO 1975-1 NATIONAL PARTY CONVENTIONS. Corporations may not make contributions to assist national party conventions except under limited circumstances. (7/15/75-29791)

AO 1975-2 MICHIGAN COMMITTEES. State Committee and subordinate local party organizations may allocate expenditures among each other for purposes of the party spending limits. (8/18/75-36092)

AO 1975-3 REPUBLICAN CONGRESSIONAL COMMITTEE. Costs of printing or preparing matter sent under Congressional frank are not covered by contribution and expenditure limits. (8/18/75-36092)

AO 1975-4 DEMOCRATIC PARTY TELETHON. Endorsers or guarantors of loans to Democratic National Telethon are "contributors" subject to limits. (7/15/75-29791)

AO 1975-5 PRE-1973 DEBTS. Contribution and expenditure limits do not apply to cancellation of pre-1973 debts. (7/25/75-31315)

AO 1975-6 1973-1974 CAMPAIGN DEBTS. Only the limitation on expenditures from a candidate's personal funds applies to cancellation of 1973-1974 campaign debts. (7/25/75-31315)

AO 1975-7 CONGRESSIONAL OFFICE ACCOUNTS. Contributions and expenditures from office accounts are subject to limitations but contributions and expenditures from franking accounts are exempt. (9/3/75-40673)

AO 1975-8 HONORARIUMS. Designating honorariums to charity counts against limit on honorariums. (8/21/75-36746)

AO 1975-9 UNOPPOSED PRIMARY CANDIDATE. An unopposed primary is defined as an "election" for contribution/expenditure limitations. (8/19/75-36242)

AO 1975-10 INTERNAL TRANSFER OF CAMPAIGN FUNDS. Answers a series of questions on transfers between committees, either Federal or non-Federal. (9/3/75-40674)

AO 1975-11 DUAL CANDIDACIES. Defines applicability of limits of candidates running for two Federal offices simultaneously. (9/16/75-42839)

AO 1975-12 DELEGATE SELECTION. Application of the law to the delegate selection process. (11/28/75-55596)

AO 1975-13 CHAMBER OF COMMERCE MONIES. Corporations cannot provide travel expenses to candidates. (8/21/75-36746)

AO 1975-14 CONTRIBUTIONS TO DEFRAY CONSTITUENT SERVICE EXPENSES. Corporations, national banks, and unions may not contribute to office accounts. (8/13/75-34084)

AO 1975-15 WALLACE CAMPAIGN ROYALTIES. Candidate George Wallace can receive royalty payments. (9/24/75-44040)

AO 1975-16 INCORPORATED ASSOCIATIONS. Incorporated associations cannot contribute to campaigns. Numerous campaign committee requirements explained. (8/19/75-36242)

AO 1975-17 PARTNERSHIP CONTRIBUTIONS. Partnerships are limited to \$1,000, and each partner's share counts against his limit. (9/3/75-40673)

AO 1975-18 CONTINUOUS REPORTING OF PAST DEBTS. Committees with outstanding debts must continue to report. (9/16/75-42838)

AO 1975-20 POLITICAL EDUCATION COMMITTEES. Political committees may perform certain non-candidate-oriented activities without incurring contributions or expenditures. (10/1/75-85292)

AO 1975-21 LOCAL PARTY COMMITTEE ACCOUNTS. Sets forth an allocation formula to be used in determining the portion of expenses that may be paid from non-corporate sources and expenses that may be paid from corporate funds in States where such contributions are permitted. (11/12/75-52794)

AO 1975-22 TRANSFERS OF FUNDS. Transfers of funds from a Senatorial committee to a party organization are expenditures. **AUTHORIZED EXPENDITURES.** A person cannot be authorized to receive contributions but not be authorized to make expenditures. (10/1/75-45295)

AO 1975-23 CORPORATE POLITICAL ACTION COMMITTEE. Establishes procedures for administering and soliciting contributions to a corporate political action committee. (12/3/75-56584)

AO 1975-26 EARMARKED CONTRIBUTIONS. Application of contribution limitations to earmarked campaign funds deposited with Senatorial campaign committees. (11/4/75-51351)

AO 1975-27 ATTORNEY AND ACCOUNTANT FEES. Attorney and accountant fees must be charged against expenditure limits. (8/20/75-36532)

AO 1975-28 STATUS OF POLITICAL COMMITTEES. Clarifies the status of political committees supporting a former candidate for the Presidency. (11/4/75-51352)

AO 1975-29 POLITICAL PARTIES. Applicability of contribution limits to county committees. (11/4/75-51353)

AO 1975-30 OFFICE ACCOUNTS AND CONSTITUENT SERVICES FUNDS. A principal campaign committee may make expenditures to purchase newspaper subscriptions and to reimburse the candidate for travel expenses. (11/4/75-51353)

AO 1975-31 GOVERNMENT CONTRACTORS. Contributions by individuals and their spouses who are connected with Government contractors. (11/28/75-55598)

*These Opinions are affected by the Supreme Court decision, *Buckley v. Valeo*, 44 USLW 4127 (U.S. January 30, 1976)

- **AO 1975-32 MULTI-CANDIDATE COMMITTEE CONTRIBUTIONS.** A multi-candidate political committee is prohibited from contributing more than \$5,000 per candidate per election, but may contribute without limitation to a national committee of a political party or other political organization provided such contributions are not earmarked to a particular candidate. (11/28/75-55599)
- **AO 1975-33 FUNDRAISING COSTS.** Attribution of Presidential fundraising costs on a State-by-State basis. (1/12/76-1862)
- AO 1975-35 ORGANIZATION OF POLITICAL COMMITTEES.** Individuals may serve as officers of more than one political committee. (9/24/75-44040)
- AO 1975-36 PAYMENT OF ADMINISTRATIVE COSTS.** Payment of administrative costs incurred by a corporation on behalf of a political action committee operating as a separate segregated fund is not prohibited. (12/18/75-58802)
- AO 1975-37 INCORPORATED POLITICAL COMMITTEES.** Committees organized solely for political purposes may incorporate. (9/11/75-42303)
- AO 1975-39 CAMPAIGN DEBTS.** Settlement of campaign debts owed to corporations. (12/31/75-60162)
- AO 1975-40 REPORTING OF POLITICAL CONTRIBUTIONS.** Political committees and candidates must report all contributions from all political committees no matter how small the amount. (10/9/75-47691)
- AO 1975-41 INVESTMENT OR DEPOSIT OF CONTRIBUTIONS INTO SAVINGS ACCOUNTS.** Committees may make internal transfers of funds between checking and savings accounts without listing transactions on the report. (10/9/75-47691)
- AO 1975-45 MULTI-CANDIDATE COMMITTEES.** Application of contribution limitations to multi-candidate committees. (11/19/75-53722)
- AO 1975-46 DISTINGUISHES "HONORARIUM" FROM "STIPEND."** Distinguishes between an "honorarium"—accepted for a single event or transaction, and a "stipend"—accepted as fixed or regular compensation for services rendered. (12/11/75-57756)
- AO 1975-47 CLARIFICATION OF AO 1975-1.** Enumerates the purposes for which national convention host committees may make expenditures and sets forth the application of convention spending limitations to such expenditures. (10/24/75-49883)
- AO 1975-48 CONTRIBUTIONS TO MULTI-CANDIDATE COMMITTEES.** Contributions by an individual to a multi-candidate committee which financially supports the same candidate(s) as the individual contributor are permissible under certain conditions. (11/28/75-55600)
- AO 1975-49 REPORTING OF TICKET PURCHASES FOR FUNDRAISING EVENT.** When the aggregate of ticket purchases for a fundraising event by one person exceeds \$10, records must be kept. Purchases over \$100 must be reported along with the occupation and principal place of business of the purchaser. The portion of the donation which covers the actual costs of a fundraising event must be reported as a contribution and charged against the contribution limits. (11/28/75-55600)
- AO 1975-50 CORPORATION DEBTS.** Corporations may not settle/forgive debts incurred by candidates in a commercially reasonable manner, except under extenuating circumstances. (12/16/75-58392)
- AO 1975-51 OFFICE ACCOUNTS.** Use of excess campaign funds to purchase Congressional office equipment or for computer terminal to aid in handling of Congressman's constituent mail. (11/5/75-51611)
- AO 1975-52 STATE COMMITTEE AID TO RETIRE DEBTS.** Extent to which a State committee may assist a successful Federal candidate in retiring a 1974 election campaign debt. (11/12/75-52794)
- AO 1975-53 NOMINATION BY PETITION EFFORT.** Application of limitations on contributions and expenditures to nomination by a petition effort. (12/16/75-58392)
- AO 1975-54 CAUCUS/CONVENTION PRIOR TO PRIMARY ELECTION.** A caucus or convention held prior to a primary election but which does not select a nominee is not a separate election and will be considered part of the primary election. (12/18/75-58802)
- AO 1975-55 HONORARIUM LIMITATIONS.** Donation of money to charity by an organization is not subject to honorarium limitations when such donation is not a condition for a speech. (12/31/75-60162)
- **AO 1975-57 REPAYMENT OF LOANS.** Contributions to repay loans made before Jan. 1, 1975, which were received prior to issuance of the Commission's Interim Guideline on retiring past debts need not adhere to that Guideline. (11/5/75-51611)
- AO 1975-59 CORPORATE CONTRIBUTIONS.** A multi-candidate committee may accept corporate contributions (permitted under State law) in connection with a fundraising event and deposit such contributions in a separate bank account to be used only for State candidates. (11/19/75-53729)
- AO 1975-60 FUNDRAISING EVENTS.** Fundraising for Federal candidate. (12/18/75-58802)
- AO 1975-61 ALLOCATION OF SALARIES.** Allocation of accountants' salaries in dual candidacy situation. (1/12/76-1863)
- **AO 1975-62 CONTRIBUTIONS TO DEFRAY FUNDRAISING COSTS.** The portion of a donation which covers the actual costs of a fundraising dinner must be counted as a contribution. (11/12/75-52795)
- AO 1975-63 PAYMENT OF HONORARIUM BY POLITICAL COMMITTEE.** An honorarium paid by a political committee to a Federal officer is not a contribution when the audience addressed is not part of the electorate with respect to which he/she is a candidate. (12/16/75-58397)
- AO 1975-64 FUNDRAISING EVENTS TO RETIRE DEBTS.** A single fundraising function may be held to retire a 1972 campaign debt and a 1973-74 office account deficit. (11/12/75-52795)
- **AO 1975-65 CONTRIBUTIONS BY FAMILY MEMBERS.** A member of a candidate's immediate family may contribute more than \$1,000 per election, provided the member does not exceed the \$25,000 aggregate ceiling on all contributions in a calendar year by an individual, or the limitation on expenditures/contributions from the candidate's personal funds and those of his immediate family. (12/16/75-58393)
- AO 1975-66 TRANSFERS FROM STATE COMMITTEES.** Transfers from a candidate's State committee to his Federal committee are permissible except when funds are from prohibited sources. (11/19/75-53722)

AO 1975-67 CAMPAIGN BILLBOARDS. Use of name of campaign committee chairman and treasurer on billboard signs is not required under 2 U.S.C. §435(b). (11/12/75-52795)

AO 1975-68 PRE-1975 CAMPAIGN DEBTS. A fundraising dinner to retire a 1974 campaign deficit, held before publication of the Commission's Interim Guideline on Pre-1975 Campaign Debts, is not retroactively subject to that Guideline. (11/28/75-55601)

AO 1975-69 LOANS AS CONTRIBUTIONS. A loan that is extinguished or retired no longer counts against the contribution limitations. (12/11/75-57756)

AO 1975-72 TRAVEL RELATED TO PARTY-BUILDING ACTIVITIES. A national party committee may pay for expenses incurred by Presidential candidates who are engaged in party-building activities before Jan. 1 of a Presidential election year. (12/3/75-56589)

AO 1975-74 CONTRIBUTION IN NON-ELECTION YEARS. A contribution made to a multi-candidate committee in a non-election year is not presumed to count against the contributor's \$25,000 aggregate limit for the election year. (11/4/75-51353)

AO 1975-75 CONTRIBUTIONS BY NON-PROFIT ORGANIZATION. A non-profit organization whose exclusive function is the support of candidates for political office, which is incorporated for liability purposes only, may make contributions to and independent expenditures on behalf of Federal candidates under certain conditions. (12/16/75-58398)

AO 1975-77 ROYALTIES. Royalties from publication of a book are not an honorarium. (11/4/75-51611)

AO 1975-78 FUNDRAISING EXEMPTION. The 20% fundraising exemption applies broadly to fundraising costs, not just to actual solicitation of contributions. (11/19/75-53722)

AO 1975-82 SOLICITATION TO RETIRE 1974 CAMPAIGN DEBT. Except for the limitations on the candidate's use of his own funds and those of his immediate family, the contribution and expenditure limitations do not apply to fundraising activities in 1976 which are solely for the purpose of retiring a 1974 campaign debt. (12/11/75-57757)

AO 1975-84 AGENT'S FEES. Payment of agent's fees cannot be deducted from an honorarium for purposes of limitations. (12/31/75-60163)

AO 1975-85 CLARIFIES "HONORARIUM." Establishes guidelines for definition of an "award" that is not considered an "honorarium." (12/11/75-57757)

AO 1975-87 MULTI-CANDIDATE COMMITTEE COSTS. Organizational costs of forum for candidates sponsored by multi-candidate committees are not chargeable against spending limits of attending candidates. (1/20/76-2940)

AO 1975-88 EXCESS FUNDS SOLICITED TO RETIRE 1974 DEBT. Clarifies what may be done with excess funds solicited to retire 1974 campaign debts. (12/11/75-57757)

AO 1975-89 HONORARIUMS. Honorarium treated as accepted in year when obligation to pay honorarium arose. (1/12/76-1863)

AO 1975-93 1974 HONORARIUM. Acceptance of a \$2,000 honorarium for a speech given in 1974 which was not actually received until 1976, is not in violation of 18 U.S.C. §616. (12/16/75-58394)

AO 1975-95 SEPARATE COMMITTEES. State Party Committee establishes separate committees for State and Federal election campaign purposes. (12/31/75-60163)

AO 1975-97 VOLUNTEER SERVICES. An entertainer's time and talent can be volunteered on behalf of a candidate for a fundraising event without attribution of the value of his services to the \$1,000 contribution limit. Out-of-pocket expenses for travel and subsistence will be attributable to the entertainer's contribution ceiling, to the extent that the cumulative value of these activities exceeds \$500. (11/28/75-55601)

AO 1975-99 GOVERNMENT CONTRACTORS. The prohibition of contributions by government contractors does not apply to State and local elections. (12/31/75-60163)

AO 1975-105 NOMINATING CONVENTION. Pre-primary nominating convention is part of the primary election process. (12/31/75-60164)

AO 1975-106 1974 DEBTS. Repayment of 1974 debts not attributed to limits in 1980 election. (12/31/75-60165)

AO 1975-107 ATTRIBUTION OF COSTS. Attribution of costs of a brief television show describing the "legislative business" of a Congressman. (12/31/75-60165)

F. FEC and the Privacy and Freedom of Information Acts

The Privacy Act

The stated purpose of the Privacy Act of 1974 (P.L. 93-579) is to safeguard individuals against an invasion of privacy by Federal Government agencies. Under the provisions of this Act, the Commission published its Systems of Records in the *Federal Register* on August 22, 1975 (40 FR 36875). The Commission determined that it would maintain eleven categories of records. These are:

1. Advisory opinion requests and public comment;
2. Audits and investigations;
3. Compliance actions;
4. Correspondence;
5. Meetings and telephone communications;
6. Personnel;
7. Registration of political committees and designations by candidates;
8. Reports of contributions and expenditures;
9. Rulemaking and public comment;
10. Certification for primary matching funds and for election campaign funds;
11. Payments for Presidential nominating conventions.

The Commission will review these categories from time to time in an effort to ensure their accuracy and make necessary changes or additions.

The Privacy Act also requires agencies to publish regulations which outline the procedures whereby an individual can determine whether a system of records contains information about that individual and how that individual may procure this information. Further, agencies are required to set out procedures for review of the record where an amendment or correction is sought by the individual.

Pursuant to the above guidelines, the Commission published its Privacy Act regulations on August 22, 1975 (40 FR 36872) and invited written comments from the public. These regulations, like the systems of records, will be reviewed periodically for any necessary changes or revisions.

Freedom of Information Act

Most of the information in the FEC record systems is open to the public, the exceptions being personnel and compliance action information which have limited access because of the nature of the information compiled. Access to compliance action material is actually restricted by statute (2 U.S.C. 437g(a) (3)). In all other systems, the Commission will disclose such identifiable records under the Freedom of Information Act (5 U.S.C. Section 552) where requested.

By statute, the Commission is actually required to make requests for Advisory Opinions, statements and reports filed under Title 2 of the Federal Election Campaign Act of 1971, as amended, available for public inspection and copying. The Commission, as a matter of policy, has also made available minutes of Commission meetings, requests for opinions of counsel, correspondence in response to these requests, proposed regulations and other similar information which does not fall within these statutory commands. The Commission will continue to make available as much information as possible about its work so long as such disclosure does not cause an unwarranted invasion of personal privacy or involve ongoing enforcement proceedings.

G. FEC Activities Concerning Pending Legislation

Requests from Congress

From time to time, the Commission is asked by Congress to comment on proposed legislation. The Commission has adopted a procedure which provides for a limit of 31 days between the date of receipt of a Congressional request for comment and the date of Commission response.

When the FEC receives a request from Capitol Hill to comment or to testify on a piece of proposed legislation, a brief letter of acknowledgement is sent to the House or Senate committee which made the request. The acknowledgement letter specifies a date when the Commission response will be delivered to the requesting party.

Within one week to ten days after Commission receipt of a request for comment, the staff prepares a file containing all relevant information necessary for Commission consideration of the pending bill. This "bill file" containing the staff's draft recommendations is reviewed by the office of the General Counsel and the Staff Director prior to circulation to the Commissioners and their executive assistants, who have approximately 1-2 weeks for review.

No later than the end of the second week of Commission consideration, the staff prepares the final draft of the Commission comment or testimony. This final draft usually reflects a consensus of the Commissioners' views. In the event that a consensus over the issue does not exist, draft alternative responses are prepared.

If the Commissioners indicate to the staff a desire to testify on the bill, the staff prepares the final draft of the Commission comment or testimony. This final draft usually reflects a consensus of the Commissioners' views. In the event that a consensus over the issue does not exist, draft alternative responses are prepared.

Other Pending Legislation

In addition to preparing responses to Congressional requests for comment on pending legislation, the Commission staff analyzes various legislative proposals, which, if enacted, would have an impact upon the administration of Federal or state election laws.

A few of the legislative proposals which the Commission staff has reviewed during 1975 are as follows:

1. The Concept of "Regional" Primaries

2. "Government in the Sunshine"
3. Public Financing of House and Senate Elections
4. Repeal of the Hatch Act
5. Postcard Voter Registration
6. "Lobby" Regulation
7. The Franking Privilege

H. FEC Task Forces¹

Task Force/Chairman	Action
1. Task Force on Forms Revision Peter Roman, Chairman	Revision and submission for adoption of reporting forms for use by candidates, committees, and individuals
2. Task Force on Certification for Public Financing Peter Roman, Chairman Pro Tempore	Met to establish internal criteria and procedures for certification for public financing
3. Task Force on Complaint Procedures Gordon Andrew McKay, Chairman Pro Tempore	Established internal Commission procedures to be followed in the handling of complaints and alleged violations
4. Task Force on Point-of-Entry John G. Murphy, Jr., Chairman	Drafted Regulation which was transmitted to the Congress for review pursuant to 2 U.S.C. § 438(c)
5. Task Force on Information Policies Herbert Koster, Chairman	Established information policies of the Commission
6. Task Force on Section 439a Commissioner Robert O. Tiernan, Chairman	Drafted Regulation which was transmitted to the Congress for review pursuant to 2 U.S.C. § 438(c)
7. Task Force on Delegate Selection Commissioner Thomas E. Harris, Chairman	Met with representatives of the major and minor Parties to establish workable criteria for monitoring contributions and expenditures made in the delegate selection process. Recommendation for legislative remedies transmitted to the Congress.
8. Task Force on Relations with Other Federal Agencies Vice-Chairman Neil Staebler, Chairman	On-going Task Force and projects
9. Task Force on Allocation of Candidate Expenses Vice-Chairman Neil Staebler, Chairman	Drafted Regulation which was transmitted to the Congress for review pursuant to 2 U.S.C. § 438(c)

H. FEC Task Forces¹ (Continued)

Task Force/Chairman	Action
10. Task Force on Data Processing and Computer Applications Orlando Potter, Chairman	Established data processing/computer requirements and priorities for the Commission
11. Task Force on Matching Funds Distribution Harriet Robnett, Chairman	Submitted a report to the Commission dealing in-depth with the issue of availability of public monies and demands therefor
12. Task Force on Multicandidate Committees Vice-Chairman Neil Staebler, Chairman	Drafted memorandum setting out criteria for assessing commonality of control within multicandidate, i.e., Political Action Committees, and recommendations for Regulations
13. Task Force on Long-Range Commission Planning Orlando Potter, Chairman	On-going Task Force
14. Task Force on the Budget Commissioner Vernon Thomson, Chairman	Gave recommendations for economies and efficient utilization of Commission resources

¹ June 24, 1975 to March 12, 1976

I. Problems and Procedures in Verifying Submissions for Matching Funds

Quality of Presentations

Due to the newness and complexity of provisions for receipt of matching funds, candidates had a good deal of trouble with their original submissions. Since August 21, candidate committees had been required to retain photocopies of contributor checks as documentation of the date and amount of the contribution and identity of the contributor. The Commission had determined that this was the fastest and least expensive way to obtain independent confirmation that the contributions had in fact been made by the persons recorded in committee records. Other confirmation techniques, such as mailing confirmation letters to selected contributors, were deemed to be too time consuming. Test letters were, however, used in cases where committees had not maintained photocopies of contributor checks or signed contributor cards before August 21. 1975

In the early presentations, committees also experienced considerable difficulty in correlating their alphabetical lists of contributors to the photocopies of the checks. In addition, key-taping and programming problems resulted in the generation of unsatisfactory contributor lists. As a result, multiple contributions from single individuals were often presented on computer lists as being from a number of different individuals. This, in turn, led to the danger that the committee might inadvertently present, and AID certify, contributions from an individual which aggregated in excess of the \$250 maximum matchable amount specified in the Act.

Because of these problems, it was not possible to use most generally accepted auditing techniques in reviewing the submission. Instead, each of the several hundred thousand transactions had to be individually reviewed to establish whether it met the matchability criteria established in the Act and individually correlated to the master alphabetical list.

Manpower Needs

The 100% item-by-item review required considerable amounts of manpower. Between December 3, 1975, and February 12, 1976, the AID staff of 28 was fully occupied with the certification process. Besides the 1,120 man days of staff time devoted to the process of certification during normal working hours, the staff worked 1,650 hours on nights and weekends to meet the 15-day certification deadline imposed by the Regulations. With one exception, all deadlines were met. The exception involved a submission of some 100,000 entries and 40,000 photocopied documents, which, because of its considerable deficiencies, had to be subjected to an item-by-item review.

Since the staff power available to meet the certification deadlines was insufficient, the Commission drew on the services of other Commission staff personnel, six staff employees of the General Accounting Office, made available to the Commission on a detail basis by the Comptroller General, and an average of eight temporary employees. Together, approximately 1,700 man days have been devoted to the certification process.

Present Procedures

With the development and approval of certification review procedures, and with a developing understanding and ability of the committees to prepare auditable matching funds presentations, certification has evolved into a three-step process:

1. **Review of supporting documentation.** Every photocopied check or signed contributor card is reviewed to ensure that it is matchable. Contributions are considered **not matchable** if they are:
 - submitted by corporate check
 - submitted by labor union treasury check
 - represent a contribution of another political committee
 - are not contributions of money (i.e., in-kind contributions)

In these cases, the photocopies are returned to the committee with a notification that they are not matchable. In the case of corporate or union checks, of course, the committee will have to present sufficient documentation and information to establish that unlawful contributions have not been made.

In other cases, the contribution is insufficiently documented to be considered matchable. Since it is an otherwise matchable contribution, such items are returned to the committee with a request for further information. Examples of **insufficient documentation** include:

- lack of documentation for listed item (no photocopy, etc.)
- contributor's name omitted
- mailing address omitted
- contributor's signature omitted
- cash contribution of \$100 or less not supported by signed contributor card

- need for additional documentation to prove contribution was made with personal funds
2. **Review of master list.** A complete review is also made of the alphabetical list submitted by the committee. The same criteria is applied to the master list as is applied to the supporting documentation. In addition, the list is examined to ensure that the computer program permits the proper aggregation of multiple contributions made by an individual.
 3. **Verification of Master List.** Last, sampling procedures are going to be used (instead of the earlier 100% review) to ensure that each item on the master list is supported by an appropriate support document verifying the information on the alphabetical list. Before January 19, 1976, considerable time was spent in carrying out this step, since the disarray of the presentations prevented the use of standard sampling techniques. Since that date, the use of statistical sampling has considerably speeded up the process. Now, any presentation which shows an excessive error rate is returned to the committee for further preparation.

If the error is found not to be excessive, a calculation of the dollar amount of probable error in the presentation is made. That amount is then deducted from the corrected figure to derive the final amount payable to the committee. The committee is given the choice of accepting the reduced amount without recourse, or withdrawing the entire presentation for later resubmission. This percentage reduction takes place after any non-matchable payments have been deducted.

J. FEC Publications and Documents

This appendix is a comprehensive list of publications and documents available from the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

Publications

Newsletter

THE FEDERAL ELECTION COMMISSION RECORD

Published in a six- or eight-page format, this newsletter serves as a primary vehicle of the Commission to inform its various audiences of the following:

- Proposed Regulations
- Interim Guidelines
- Advisory Opinion Requests
- Advisory Opinions

The FEC RECORD is published on a tri-weekly basis, to assist candidates for Federal office, political committees supporting them, and the general public in their efforts to understand and comply with Federal election campaign law.

Available from the Public Communications Division of the Office of Information Services.

Pamphlets

SPECIAL GUIDE FOR CAMPAIGN VOLUNTEERS

This four-page brochure gives general guidance to a volunteer who wishes to participate in political campaigning. Specific topics dealt with are: contribution of a volunteer's time; fundraising; and use of campaign advertising.

SPECIAL GUIDE FOR FUNDRAISERS

This six-page brochure provides an overview of general rules that a campaign fundraiser should follow to meet responsibilities under the law. Topics presented include: definition of contributions; obtaining information necessary for reporting purposes; tax benefits for political contributors; limitations and prohibitions on contributions; Presidential primary election matching funds; and notices and identification to be carried by literature or advertisements soliciting funds.

SPECIAL GUIDE FOR CANDIDATES

This eight-page brochure explains who is a candidate and what a candidate *must* do and may *not* do in complying with the Federal Election Campaign Act. Topics dealt with include: establishing candidacy; setting up books; filing reports with the Federal Government; notices to be given in reporting; and aid to be given the candidate by the Federal Election Commission.

SPECIAL GUIDE ON CONTRIBUTIONS AND EXPENDITURES (in preparation)

This brochure is designed for use by candidates for Federal office and those involved with their election campaigns. It describes how the Federal Election Campaign Law governs 1) support activity by individuals and organizations regarding contributions, volunteer work and independent expenditures; 2) expenditure activity by candidates, their authorized committees and political parties; and 3) activity permitted each election participant. This publication also discusses special problems of allocating and reporting expenditures and contributions.

STATE EXPENDITURE LIMITATIONS

This is a list of the State expenditure limitations for Presidential candidates which are based on most recent estimates of the voting age population per State.

Booklets

MAJOR PROVISIONS OF THE FEDERAL ELECTION CAMPAIGN LAW (December 1975)

Written in layman's language, this 64-page booklet summarizes major provisions of Federal Election Campaign law. An analysis is given of pertinent sections of Titles 2, 5, 18, 26, and 47 of the U.S. Code.

FEDERAL ELECTION CAMPAIGN LAWS (January 1976)

This 74-page booklet presents extracts of the following provision of U.S. Code Titles as indicated: Title 2 – **The Congress** – Chapter 14, Federal Election Campaigns; Title 18 – **Crimes and Criminal Procedure** – Chapter 29, Elections and Political Activities; Title 26 – **Internal Revenue Code** – Chapter 95, Presidential Election Campaign Fund; and Chapter 96, Presidential Primary Matching Payment Account. An Appendix to this publication includes extracts of Title 18, 26, 39 (Postal Service) and 47 (Telegraphs, Telephones, and Radiotelegraphs), over which the Federal Election Commission has no jurisdiction, but which are included for reference purposes.

**Clearinghouse
Studies
and
Reports**

These research publications by the **Clearinghouse on Election Administration** seek to improve the administration of elections in the United States by providing broad-based information on:

- Federal and State election laws
- Case decisions and Attorney General opinions
- Election administration problems
- Voter registration methods
- Absentee registration and voting procedures, and
- Costs of administering elections.

FEDERAL-STATE ELECTION LAW SURVEY – AN ANALYSIS OF STATE LEGISLATION AND JUDICIAL DECISIONS. 1973 and 1974 issues available with monthly updates. Reports published on a monthly basis with annual summaries. Federal and State election laws are compiled, summarized, and indexed (June-November 1975).

ANALYSIS OF FEDERAL AND STATE CAMPAIGN FINANCE LAW. June 1975, two volumes. A compilation of Federal and State campaign finance laws and regulations covering both Federal and State offices.

TRAINING OF ELECTION OFFICIALS. June 1975. A compilation of general information of State and local provisions for the training of election officials. Several recommendations for improving training procedures are offered.

AN ANALYSIS OF LAWS AND PROCEDURES GOVERNING ABSENTEE REGISTRATION AND ABSENTEE VOTING IN THE UNITED STATES. June 1975, two volumes. Analyzes absentee registration and absentee voting in the 50 States. Volume II provides legal memoranda of each State's absentee voting system and gives State code citations.

STATE AND LOCAL GOVERNMENT EXPENDITURE FOR ELECTION ADMINISTRATION: FISCAL YEARS 1970 TO 1973. July 1975. A compilation of State and national expenditures for administration of elections.

EFFECTIVE USE OF COMPUTING TECHNOLOGY IN VOTE-TALLYING. March 1975. A description of computer hardware, software, and administrative problems encountered in 14 electronically computed elections. The report suggests methods of insuring greater accuracy and security in the vote-tallying process.

ELECTION LAWS EXAMINATION WITH RESPECT TO VOTING EQUIPMENT. January 1975. An analysis of legal certification of voting equipment in the 50 States. Includes extensive on-site analysis of 10 States.

Documents

Available through the Public Communications Division

**Published
in
Federal
Register**

- Advisory Opinion Requests (AOR's)
- Advisory Opinions (AO's)
- Interim Guidelines
- Proposed Regulations
- Index to FEC documents previously published in the *Federal Register*.
- Calendar of 1976 Filing Deadlines

Available through the Press Relations Division

**FEC
Releases**

- FEC press releases.
- Summary of FEC regulation status.

Available through the Public Records Division of the Commission at a cost of 10¢ per page.

**Campaign
Finance
Reports**

- Presidential candidate reports and/or those of their personal political committees.
- Congressional candidate reports and/or those of their personal political committees.
- Multi-candidate committee reports from a) party-related committees, Republican, Democratic, etc., and b) non-party related committees, such as committees affiliated with labor unions or corporations.
- Reports filed by individuals reflecting independent, campaign-related expenditures.

**FEC
Activities**

- Minutes of all Commission meetings open to the general public.
- Transcripts of all public hearings held on regulations proposed by the Commission.

- Comments from the general public on Advisory Opinion Requests.
- A monthly summary of terminated compliance actions.
- Copies of opinions of Counsel.
- FEC budget proposal for FY 77 (available from Staff Director Orlando B. Potter).

Buckley
v.
Valeo

- FEC Brief to the U.S. Court of Appeals.
- FEC Brief to the U.S. Supreme Court.

**External
Publications**

- Copies of audits and other publications prepared by the General Accounting Office, pursuant to the 1971 Federal Election Campaign Act.
- Congressional Quarterly publications concerning campaign financing.
- Citizens' Research Foundation publications concerning campaign financing.
- Common Cause publications concerning campaign financing.

K. Schedule of 1975 Mailings

Date Sent	Persons Receiving Mailing	Contents
July 12, 1975	Secretaries of State	1) Letter of Introduction 2) Yellow Book (Federal Campaign Laws)
July 12, 1975	State Party Chairmen	1) Letter of Introduction 2) Yellow Book
July 28, 1975	Mass Mailing—All candidates, Political Committees and Interested Citizens	1) Cover Memorandum 2) FEC Procedure Sheet 3) AOR 1975-1 to 1975-23 Summary Sheet 4) <u>Federal Register</u> , July 21, 1975 (Revision of Forms) 5) <u>Federal Register</u> , July 25, 1975 (AO 1975-5, 1975-6)
August 11, 1975	Mass Mailing—All candidates, Political Committees and Interested Citizens	1) Cover Memorandum 2) <u>Federal Register</u> , August 5, 1975 (Office and Franking Account) 3) <u>Federal Register</u> , August 11, 1975 (IG: Recordkeeping for Matching Funds)
Last Week of September 1975 (September 19, 1975)	Mass Mailing—All candidates, Political Committees and Interested Citizens	1) Cover Memorandum 2) Interim Forms
September 29, 1975	Mass Mailing—All candidates, Political Committees and Interested Citizens	1) Cover Memorandum 2) <u>Federal Register</u> , September 29, 1975 (Disclosure Regulations)
October 8, 1975	State Party Chairmen	1) Cover letter requesting addresses of persons to be included on the mailing list 2) Copy of Record # 1
October 9, 1975	Secretary of State List	1) Cover Letter 2) <u>Federal Register</u> , September 29, 1975 (Disclosure Regulations)

K. Schedule of 1975 Mailings (Continued)

Date Sent	Persons Receiving Mailing	Contents
Last Week of October 1975	Mass Mailing—All candidates, Political Committees and Interested Citizens	1) Second copy of the newsletter 2) General Information Brochure
November 12, 1975	Mass Mailing—All candidates, Political Committees and Interested Citizens	1) Cover Memorandum 2) Primary Date Charts (3) 3) <u>Federal Register</u> Notice # 65 (Xeroxed copy) (Index of Reports) 4) <u>Federal Register</u> , November 5, 1975 (Allocation Regulations)
November 28, 1975	Selected Mailing: Secretaries of State State Party Chairmen Members of Congress Presidential Committees Multi-candidate Committees	1) Cover Memorandum 2) Press Release, November 19, 1975 (Delegate Selection) 3) <u>Federal Register</u> , November 28, 1975 (Delegate Selection, AO 12)
December 3, 1975	Secretaries of State	1) Letter requesting confirmation of primary dates
December 5, 1975	Members of Congress	1) Cover Memorandum 2) Office and Franking Account Regulation 3) Two-page highlight on Disclosure Regulations
December 16, 1975	Mass Mailing—All candidates, Political Committees and Interested Citizens	1) Cover Memorandum 2) December 1975 Record IV 3) Brochures—Volunteers and Fundraisers 4) <u>Federal Register</u> , December 12, 1975 (Proposed Forms)
December 29, 1975	Mass Mailing—All candidates, Political Committees and Interested Citizens	1) Cover Memorandum 2) Interim Forms (January 31 Report)
January 6, 1976	Minor Political Party Chairmen (14 total)	1) Cover Letter 2) Yellow Book 3) General Information Brochure

L. FEC Library Materials

To Be Collected

General Reference Works (e.g., almanacs, dictionaries, directories, atlases, manuals, etc.);

Federal Election Commission Publications (e.g., transcripts of FEC hearings, Opinions of Counsel, Advisory Opinions and Advisory Opinion Requests, FEC minutes, Task Force reports, FEC newsletter, etc.);

Case Material File (e.g., briefs, slip opinions for relevant court cases);

Journal Article File (e.g., law journal articles on relevant topics, Library of Congress Congressional Research Service reports, etc.);

Periodicals and journals to which the Library subscribes;

A book collection of election-related monographs and legal treatises;

Code materials (e.g., U.S. Code, U.S. Code Congressional & Administrative News, Code of Federal Regulations, State election laws);

Law reporter materials (e.g., Federal reporters, Shepard's Citations, Modern Federal Practice Digest, etc.);

Legislative documents (e.g., government reports, hearings, and legislative histories of selected laws, compiled in cooperation with the FEC Legislative Assistant).

Indexes

Opinion Index: This serves as 1) a key to dates of publication in the *Federal Register* of FEC Advisory Opinions, Advisory Opinion Requests, Interim Guidelines, and Proposed Regulations; 2) a subject index to the above, and a requester index to the AO's and OC's; 3) U.S. Code index to AO's and OC's.

Index to Library Book Collection: Card catalogue, author, title, and subject index to the present book collection are nearly completed.

Journal Article File Index: In existence is an index by author and journal issue number. A subject index to this file is in production.

Legislative History Indexes: This is an index to the legislative debates on the 1974 Federal Election Campaign Amendments, and consists of page references to subjects and speakers. A similar index has been partially completed for the 1971 Federal Election Campaign Act.

M. Schedule of Regional Seminars



**REGIONAL
SEMINAR
PROGRAM**

FEDERAL ELECTION COMMISSION

JANUARY — MARCH, 1976



To kick off the 1976 election year, the Federal Election Commission has scheduled a series of regional seminars across the United States to stimulate greater political participation through an understanding of Federal campaign laws and the functions of the Commission. All seminars are open to the public, free of charge.

A second series is scheduled for April 1976.

First Series:

<u>Date</u>	<u>City</u>	<u>Location</u>	<u>Congressional Districts</u>
Mon., Jan. 26	Washington, D.C.	Senate Caucus Room (Russell)	CANDIDATES FOR U.S. SENATE
Wed., Jan. 28	Washington, D.C.	Gold Room Rayburn House Office Building	CANDIDATES FOR U.S. HOUSE OF REPRESENTATIVES
Fri., Jan. 30	Washington, D. C.	House Caucus Room Cannon House Office Building	CANDIDATES FOR U.S. HOUSE OF REPRESENTATIVES
Mon., Feb. 2	Washington, D. C.	Ballroom, Marvin Center (George Washington University) 800 — 21st Street, N.W.	MULTI-CANDIDATE COMMITTEES PRESIDENTIAL CANDIDATES
Wed., Feb. 4	Baltimore, Md.	Room G30, A & B Fallon Federal Building 31 Hopkins Plaza	MARYLAND 1 through 8 WEST VIRGINIA 1 and 2
Sat., Feb. 7	Richmond, Va.	Hotel John Marshall 5th and Franklin Streets	VIRGINIA 1 through 10 NORTH CAROLINA 1 through 4, 6 and 7
Fri., Feb. 13	Chicago, Ill.	Palmer House 17 East Monroe	WISCONSIN 1 through 9 ILLINOIS 1 through 20 NEBRASKA 1 through 3 SOUTH DAKOTA 1 and 2 NORTH DAKOTA 1 MINNESOTA 1 through 8 IOWA 1 through 4 MICHIGAN 11 INDIANA 1, 2, 3, 4, 7
Sat., Feb. 14	Cincinnati, Ohio	Netherland Hilton Hotel 35 West Fifth Street	KENTUCKY 3 through 7 INDIANA 5, 6, 8, 9, 10, 11 OHIO 1, 2, 3, 6, 7, 8, 10, 12, 15, 17 WEST VIRGINIA 3 and 4
Tues., Feb. 17	Philadelphia, Pa.	Room 3306, William J. Green, Jr. Federal Building 600 Arch Street	PENNSYLVANIA 1 through 25 NEW JERSEY 1, 2, 3, 4, 6 DELAWARE 1

<u>Date</u>	<u>City</u>	<u>Location</u>	<u>Congressional Districts</u>
Fri., Feb. 20	Salt Lake City, Utah	Room B20, Federal Building 125 South State Street	UTAH 1 and 2 IDAHO 1 and 2 COLORADO 1 through 5 WYOMING 1 MONTANA 1 and 2 NEW MEXICO 1 and 2
Sat., Feb. 21	San Francisco, Calif.	Hastings College of Law 198 McAllister Street	CALIFORNIA 1 through 17 OREGON 1 through 4 WASHINGTON 1 through 7 ALASKA 1
Mon., Feb. 23	Los Angeles, Calif.	Hyatt Regency 711 S. Hope Street	NEVADA 1 ARIZONA 1 through 4 CALIFORNIA 18 through 43 HAWAII 1 and 2
Wed., Feb. 25	Dallas, Texas	Room 7A 23, Federal Building 1100 Commerce	OKLAHOMA 1 through 6 LOUISIANA 4, 5, 7, 8 ARKANSAS 3 and 4 TEXAS 1 through 24
Mon., Mar. 1	St. Louis, Mo.	Room 1612 Federal Building 1520 Market Street	MISSOURI 1 through 10 IOWA 5 and 6 ILLINOIS 21 through 24 KENTUCKY 1 and 2 KANSAS 1 through 5
Tues., Mar. 2	Detroit, Mich.	Troy Hilton Maple Road and Stephenson Highway	MICHIGAN 1 through 10, 12 through 19 OHIO 4, 5, 9, 11, 13, 14, 16, 18, 19, 20, 21, 22, 23
Sat., Mar. 6	Memphis, Tenn.	Holiday Inn-Rivermont 200 West Georgia Avenue	TENNESSEE 4 through 8 MISSISSIPPI 1 through 5 ARKANSAS 1 and 2 ALABAMA 7 LOUISIANA 1, 2, 3, 6
Mon., Mar. 8	Atlanta, Ga.	Room 556, Federal Building 275 Peachtree, N.E.	GEORGIA 1 through 10 ALABAMA 1 through 6 NORTH CAROLINA 5, 8, 9, 10, 11 SOUTH CAROLINA 1 through 6 TENNESSEE 1 through 3 FLORIDA 1 through 15
Fri., Mar. 12	New York, N.Y.	Room 305 26 Federal Plaza	NEW YORK 1 through 39 CONNECTICUT 1 through 6 NEW JERSEY 5, 7, 8, 9, 10, 11, 12, 13, 14, 15
Sat., Mar. 13	Boston, Mass.	Sheraton Boston Prudential Center	MASSACHUSETTS 1 through 12 VERMONT 1 RHODE ISLAND 1 and 2 NEW HAMPSHIRE 1 and 2 MAINE 1 and 2

In most cases, seminars will run from 9:30 a.m. to 4:30 p.m. Presentations by a Commissioner and members of the legal, audit and public information staffs will be brief. Maximum time has been reserved for questions and answers.

For further information, contact:

PUBLIC COMMUNICATIONS
FEDERAL ELECTION COMMISSION
1325 K Street, N.W., Washington, D.C. 20463
(800) 424-9530

N. Highlights of *Buckley v. Valeo*

Constitutional Provisions

Provisions of the Federal Election Campaign Act of 1971, as amended (the Act), found to be constitutional (reference to the slip opinion is by page number only):

1. The *limitations on contributions* to candidates for Federal office (6-2 vote; Burger, Blackmun, dissenting; pp. 7-33). Specifically, the Court upheld:
 - (a) the \$1,000 limit on contributions by any person to a Federal candidate in any election [18 U.S.C. § 608(b) (1)] (pp. 17-29, see also p. 48, fn. 59);
 - (b) the \$5,000 limit on contributions by a multi-candidate political committee to a Federal candidate in any election [18 U.S.C. § 608(b) (2)] (pp. 29-31);
 - (c) the \$25,000 limitation on total individual contributions during any calendar year [18 U.S.C. § 608(b) (3)] (pp. 32-33).
2. The *disclosure and recordkeeping provisions* requiring reporting by candidates, political committees, and individuals or groups which receive contributions and make certain kinds of expenditures (6-2 vote; Burger, Blackmun, dissenting; pp. 54-79). Specifically, the Court upheld:
 - (a) the \$10 and \$100 thresholds for disclosure and recordkeeping requirements in 2 U.S.C. § § 432, 434 (pp. 76-79);
 - (b) the reporting requirement of 2 U.S.C. § 434(e) for any person (other than a political committee or candidate) who makes (1) contributions to influence a Federal election or (2) expenditures for communications which expressly advocate the election or defeat of a clearly identified Federal candidate, other than to a political committee or candidate, in an amount greater than \$100 in a calendar year.
3. *Public financing of Presidential elections* through (a) the Presidential primary matching fund, (b) the Presidential general election campaign fund, (c) the national nominating convention fund (7-1 vote; Burger, dissenting; pp. 79-103).

Where a Presidential candidate has accepted public funding of campaign efforts in an election, the candidate and his/her campaign committees are subject to the national and State expenditure limits applicable to that election [18 U.S.C. § 608(c) (1) (A)] (pp. 102-103).

Unconstitutional Provisions

Provisions of the Act found to be unconstitutional:

1. The *limitations on expenditures* (pp. 7-17, 35-52). Specifically, the Court invalidated:
 - (a) the limitations in 18 U.S.C. § 608(a) on expenditures by candidates from his or her personal funds [5-3 vote; White, Marshall, Rehnquist, dissenting] (pp. 45-48);
 - (b) the overall limitations in 18 U.S.C. § 608(c) on campaign expenditures by Federal candidates in any election [7-1 vote; White, dissenting] (pp. 48-52). Note the exception above for Presidential candidates who accept public funding in any election.
 - (c) The \$1,000 limitation of 18 U.S.C. § 608(e) on independent expenditures [7-1 vote; White dissenting] (pp.33-45).
2. The *composition of the Federal Election Commission* as to all but its informational and certain investigatory powers [8-0 vote] (pp. 103-107).

The Court accorded "de facto validity" to past acts of the Commission, and provided for a 30-day stay of judgment, during which the Commission may validly exercise all the duties and powers which it previously possessed, in order to permit Congress to reconstitute the Commission in conformity with the Appointments Clause of Article II of the Constitution (pp. 136-137).

O. Chronology of *Buckley v. Valeo* and Relevant FEC Administrative Developments

Even before the Commission became operational, the Act which it had been created to administer had come under constitutional attack in the case of *Buckley v. Valeo*, and the shadow of this case was to overcast a number of Commission actions. Thus the following chronology is prepared to assist the reader in understanding the simultaneous development of the case of *Buckley v. Valeo* and the Commission's initial operations.¹

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| January | 1 | THE ACT BECOMES EFFECTIVE AS LAW. ² |
| | 2 | Bill of complaint filed in the U.S. District Court for the District of Columbia requesting that the Act be declared unconstitutional and its administration and enforcement be enjoined. The original plaintiffs were Senator James Buckley, former Senator Eugene McCarthy, New York Civil Liberties Union, Representative William Steiger, Stewart R. Mott, Committee for a Constitutional Presidency, the American Conservative Union, and Human Events, Inc. Secretary of the Senate Francis Valeo, Clerk of the House of Representatives W. Pat Jennings, Comptroller General Elmer B. Staats, and Attorney General William Saxbe were named as the original defendants. |
| | 24 | U.S. District Court Judge Howard F. Corcoran ruled that the plaintiffs raised "substantial constitutional questions." Accordingly, under provisions in the Act for the expedited determination of constitutional questions, Judge Corcoran certified the case directly to the Circuit Court. |
| February | 27 | U.S. Court of Appeals for the District of Columbia ruled that Common Cause, the League of Women Voters, and the Center for Public Financing of Elections could intervene as defendants. The Mississippi Republican Party, the Libertarian Party, and the Conservative Victory |

¹ In this chronology, dates which refer to developments in *Buckley* appear in lower case letters; all other dates appear in all capital letters.

² The provisions relating to the preemption of State Law became effective on October 15, 1974.

final judicial ruling, and promising to publicly notify the plaintiffs at least seven days prior to an attempt to certify these funds for distribution.

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| July | 7 | COMMISSION PUBLISHED INTERIM GUIDELINE FOR COMPLAINT PROCEDURE AND NOTICE OF PUBLIC RECORDS AVAILABILITY. |
| | 8 | COMMISSION CONDUCTED FIRST DISCUSSION OF SPECIFIC COMPLAINTS ARISING UNDER THE ACT. |
| | 15 | COMMISSION PUBLISHED ITS FIRST ADVISORY OPINION. |
| | 29 | COMMISSION ISSUED ITS FIRST OPINION OF COUNSEL. |
| August | 1 | COMMISSION SUBMITTED FIRST PROPOSED REGULATIONS TO CONGRESS. (OFFICE ACCOUNTS & POINT OF ENTRY.) |
| | 15 | Court of Appeals rendered its decision on <i>Buckley v. Valeo</i> . With one exception (2 U.S.C. Section 437a), the Court upheld the substantive provisions of the Act with respect to contributions, expenditures, and disclosure. The Court also sustained the constitutionality of the Commission. |
| September | 19 | The plaintiffs-appellants filed their brief before the Supreme Court in which they requested that the Court reverse the decision of the Court of Appeals. |
| October | 6 | Probable jurisdiction noted by the Supreme Court. The cases were consolidated and time for oral argument was allotted. |
| | 8 | SENATE DISAPPROVES THE PROPOSED OFFICE ACCOUNT REGULATION. |
| | 15 & 20 | Defendants-appellees filed their briefs before the Supreme Court. |

- 22 Commission requests that the Department of Justice substitute by stipulation the Commission as a party defendant in *Buckley*. Commission representatives meet with the Solicitor General and Attorney General to request the fullest and most forceful representation by the Justice Department.
- 29 & 30 Justice Department announces that it will defend the constitutionality of the Act in the Court of Appeals and Supreme Court. However, it also stated its intention to file a separate brief in the Supreme Court which will outline both sides of the constitutional issues.
- June
- 1 TRANSFER OF ELECTION ADMINISTRATIVE AUTHORITY FROM PRIOR SUPERVISORY OFFICERS TO THE COMMISSION BECOMES EFFECTIVE.
- 2 COMMISSION PUBLISHES ITS FIRST INTERIM GUIDELINES (ON REPORTING).
- 10 Commission representatives met with the Attorney General to discuss the Justice Department's representation of the Commission.
- 11 Chairman Curtis met with President Ford to discuss the *Buckley* case.
- 13 Oral argument of *Buckley v. Valeo* before the Court of Appeals and a three-judge District Court sitting jointly (consideration of three-judge District Court was limited to issues arising under Subtitle H of the Internal Revenue Code).
- 15 COMMISSION PUBLISHES FIRST ADVISORY OPINION REQUEST.
- 25 & 26 Plaintiffs in *Buckley* sought an injunction to prevent, prior to a final judicial ruling on the case, the disbursal of funds by the Commission for the purpose of financing the 1976 national nominating conventions of the Democratic and Republican parties. Commission avoided a confrontation by promising to postpone such a disbursal as long as possible or until there is a

final judicial ruling, and promising to publicly notify the plaintiffs at least seven days prior to an attempt to certify these funds for distribution.

July

7 COMMISSION PUBLISHED INTERIM GUIDELINE FOR COMPLAINT PROCEDURE AND NOTICE OF PUBLIC RECORDS AVAILABILITY.

8 COMMISSION CONDUCTED FIRST DISCUSSION OF SPECIFIC COMPLAINTS ARISING UNDER THE ACT.

15 COMMISSION PUBLISHED ITS FIRST ADVISORY OPINION.

29 COMMISSION ISSUED ITS FIRST OPINION OF COUNSEL.

August

1 COMMISSION SUBMITTED FIRST PROPOSED REGULATIONS TO CONGRESS. (OFFICE ACCOUNTS & POINT OF ENTRY.)

15 Court of Appeals rendered its decision on *Buckley v. Valeo*. With one exception (2 U.S.C. Section 437a), the Court upheld the substantive provisions of the Act with respect to contributions, expenditures, and disclosure. The Court also sustained the constitutionality of the Commission.

September

19 The plaintiffs-appellants filed their brief before the Supreme Court in which they requested that the Court reverse the decision of the Court of Appeals.

October

6 Probable jurisdiction noted by the Supreme Court. The cases were consolidated and time for oral argument was allotted.

8 SENATE DISAPPROVES THE PROPOSED OFFICE ACCOUNT REGULATION.

15 & 20 Defendants-appellees filed their briefs before the Supreme Court.

- 22 HOUSE OF REPRESENTATIVES DISAPPROVES THE PROPOSED POINT OF ENTRY REGULATION.
- November 10 Oral argument before the Supreme Court on *Buckley v. Valeo*.
- December 16 COMMISSION VOTES TO NOTIFY PLAINTIFFS IN *BUCKLEY V. VALEO* OF ITS INTENT TO CERTIFY TO THE SECRETARY OF THE TREASURY THE ELIGIBILITY OF CERTAIN PRESIDENTIAL CANDIDATES TO RECEIVE MATCHING FUNDS ON DECEMBER 23, 1975.
- 17 The Chief Justice of the Supreme Court received an application for the purpose of enjoining appellees from making the certifications for the payment of matching funds.
- 22 The Supreme Court declared that there being no majority to grant the application for an injunction, the application was denied. The Chief Justice and Justices Stewart, Blackman, and Rehnquist would have granted the injunction.
- 23 COMMISSION MADE FIRST CERTIFICATION TO THE SECRETARY OF THE TREASURY THAT CERTAIN CANDIDATES FOR PRESIDENT AND THE DEMOCRATIC AND REPUBLICAN NATIONAL COMMITTEES ARE ELIGIBLE TO RECEIVE PUBLIC FINANCING.
- January '76 30 The Supreme Court rendered its decision, affirming in part and reversing in part the decision of the Court of Appeals. Among its other holdings, the Court found the Commission to be unconstitutionally appointed, but stayed the effect of this holding for 30 days.