Federal Election Commission

Annual Report 1976

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
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MEMORANDUM

TO: COMMISSION STAFF

FROM: ORLANDO B. POTTER OBP.

DATE: March 28, 1977

SUBJECT: ANNUAL REPORT

Attached is your copy of the 1976 Annual Report which was released to the Congress and the President today. I urge you to review it carefully as it can serve as a valuable source document throughout the year. The table of contents is quite detailed and can help you find the particular area you are interested in reviewing. I suggest that recent employees read the report thoroughly as it can give them an excellent overview of the entire Commission.

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

Highlights 1976

Supreme Court and Congress

□On January 30, the Supreme Court upheld major portions of the Federal Election Campaign Act (FECA) which created the Federal Election Commission (FEC), including contribution limits, public financing and disclosure provisions. Spending limits were struck down, except for Presidential candidates receiving Federal subsidies. The Court also struck down the Commission's executive powers, including the power to certify public financing. This created a three-month hiatus in the activity of the FEC at the peak of the 1976 primary campaigns.

□On May 11, the Congress passed new amendments to the FECA and the FEC was restored to full powers on May 21, when six Presidentially appointed Commissioners were sworn in.

□On August 3 the Commission submitted a complete set of proposed regulations to Congress. These were not officially promulgated, however, because Congress adjourned prior to the expiration of the required 30-legislative-day review period.

Public Financing Program

□The Commission certified $24.3 million in matching grants to fifteen 1976 primary candidates; $4.1 million in grants to finance the two major party nominating conventions; and $43.6 million to the two major candidates.

□Major questions which faced the Commission in implementing the primary matching program involved termination of eligibility of candidates and determination of repayments. Major problems relating to the general election concerned congressional candidates sharing campaign materials with publically financed Presidential candidates, and State and local party spending for Presidential candidates.

Disclosure Program

□The FEC received disclosure reports from more than 9,000 Federal candidates, political committees and individual filers; 1.1 million pages of disclosure reports were made available for public inspection; one half of these represented 1976 filings alone.

□A computer system was designed and implemented for storing and compiling data from campaign disclosure reports. Six indexes and compilations of campaign finance data were made available prior to the general election.

□A "storefront" Public Records office was opened on the ground floor of the FEC building to facilitate public inspection and copying of disclosure reports.

□The FEC toll free lines handled over 25,000 inquiries from candidates and committees seeking help in complying with the law. These calls peaked at 1,000 a week before the general election. A six-part Campaign Guide series was also published and distributed.

Campaign Limitations

□In monitoring the various campaign limitations, the Commission placed major emphasis on achieving voluntary compliance. Notices were sent to filers indicating surface violations on their disclosure reports and in the overwhelming majority of cases an adequate response was received after one or at most two notices.

Compliance and Enforcement

□By the end of 1976 the FEC had completed field audits on most of the publically financed Presidential candidates as required by law. A general audit policy was developed for other filers.

□The FEC reviewed 319 enforcement cases during 1976. 80 percent of these cases resulted from complaints submitted to the Commission. By the end of the year, 212 cases opened in 1976 had been closed, and the records on 245 cases (1975/76) were made available for public review. In two out of three closed cases, the Commission did not find reasonable cause to believe a violation of the statute had occurred.

□A special program was developed to ensure that all Federal candidates and their committees filed required disclosure reports. As a result of prior notification and a series of notices to delinquent filers, the rate of non-filing was reduced to no more than three percent. The Commission proceeded to civil enforcement action in 22 cases.

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Introduction

HIGHLIGHTS OF 1976

With the end of 1976, the Federal Election Commission (FEC) completed its first full year of operation. Established in April 1975 under the Federal Election Campaign Act (FECA), as amended, the Commission has exclusive jurisdiction for enforcement of the FECA, and for administration of the disclosure, campaign limitations and public financing programs. The Commission began operations when the early campaigns for the 1976 elections were already underway. When the first Annual Report was presented to Congress and the President in March 1976, the country was in the middle of numerous Presidential primary campaigns, and the Commission was deeply absorbed in developing and implementing initial policies and procedures.

Three events highlighted 1976, all of which affected operations at the Commission. First, the January 30 Supreme Court decision in *Buckley* v. *Valeo* declared portions of the FECA unconstitutional. After a hiatus of three months, during which the FEC continued operations on a limited basis, new amendments to the FECA were passed by Congress and signed into law by President Ford on May 11, 1976. This new law was the second major event of the year. The amendments not only reconstituted the Commission, but also significantly changed the law in the areas of enforcement, limitations and to some extent, disclosure. Finally, November brought to a close the first Presidential election held under the new ground rules and programs established by the FECA and administered by the Commission. With the completion of the first full election cycle, the Commission has concluded the initial phase of its responsibilities under the law, and is in a position to review and assess policies and procedures while preparing for new activity in the year ahead.

Supreme Court Decision

On January 30, 1976, the Supreme Court handed down its landmark decision in the case of *Buckley* v. *Valeo*. The case had substantial impact upon the operational responsibilities of the Commission since the Court ruled that the Commission, with members appointed under the FECA Amendments of 1974 (two members appointed by the President, two by the House, and two by the Senate), was unconstitutionally constituted to carry out certain executive responsibilities of the Act. These executive functions included the promulgation of rules and regulations, the issuance of binding advisory opinions, enforcement actions and the certification of public funds to candidates. The Court

initially granted a 30-day stay until February 29, in the effective date of this suspension of executive powers. Although this stay was subsequently extended until March 22 without comment from the Court, a request for a further stay was denied. The final stay expired on March 22, and the Commission's executive powers were thus suspended until the Congress and the President acted to reconstitute the Commission and reappoint the Commissioners on May 21.

While it is difficult to assess precisely the impact of this suspension of powers on operations of the FEC and campaigns, it is clear that there were some adverse effects. During this hiatus, the FEC was unable to certify additional primary matching funds to those Presidential candidates who had received initial payment in January and who had planned their campaigns in expectation of receiving further funds on a regular basis. In addition, those candidates who were requesting initial certification for the matching fund program, could not get into the system, and had to conduct their campaigns without knowing when or if the matching program funds might be available. In order to minimize the impact of the delay, the Commission decided to continue processing all submissions for matching payment and eligibility certification, so that money would continue to be in the pipeline and could flow immediately upon reconstitution.

Commission powers to issue rules and regulations and advisory opinions were also suspended. Without these regulations and opinions which interpret the law and its effect on certain campaign activities, candidates and committees were unsure how to organize and operate their campaigns. The Commission attempted to meet this need by issuing Opinions of Counsel wherever appropriate, and continuing to provide general and specific information to its clients through its public communications program.

The Court's decision also suspended the Commission's enforcement powers. Although this did not immediately affect the progress of campaigns, it did create uncertainty about enforcement of the Act, and delayed the development of enforcement policies and procedures, some of which could not be implemented until the 1976 election was almost over.

1976 Amendments to FECA

In addition to the resolution of the constitutional questions of executive appointment and the striking of expenditure limitations, the major changes in the statute by the May 1976 Amendments were in the area of enforcement. Specifically, the FEC gained exclusive jurisdiction over civil enforcement of the law.[1] Further, the law spelled out in much greater detail the steps which must be taken in any enforcement action, including attempts to achieve compliance through conciliation. The scope of advisory opinions was reduced, which had the effect of shifting Commission emphasis away from issuing advisory opinions to the development of rules and regulations.

[1] Under the 1974 law, the Commission had to refer those matters in Title 18 to the Justice Department for enforcement. When these portions of the Act were transferred to Title 2 of the United States Code, the Commission gained exclusive civil jurisdiction.

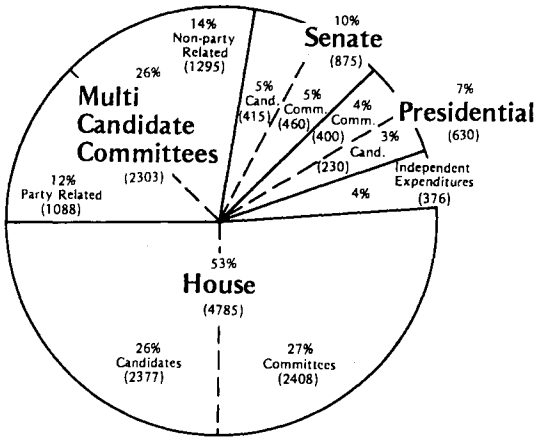
The law did not change the disclosure program to a significant degree, nor did it make major changes in the public financing program. Notable in their absence were the now unconstitutional limitations on campaign spending which had appeared in the old law, except that such limitations were retained when Presidential candidates accepted public financing. While this shift in emphasis away from campaign limitations did not change the nature of the Commission's responsibilities, it did reduce the scope of its enforcement responsibilities.[2] It also created a demand for interpretation and clarification of certain policy questions. For example, what limitations could be applied to a candidate running for two offices, one of which came under the public financing program, the other of which did not subject him to spending limitations. Finally, the new amendments were much more precise about what type of corporate and labor organization campaign activities would be allowed.

1976 Campaign

With the end of the 1976 campaign it is possible to assess the scope of the job given to and Federal Election Commission. During 1976, the FEC gave advice to the received disclosure reports from 3,022 candidates (230 for the Presidency, 415 for the Senate, and 2,377 for the House of Representatives). In addition, 5,651 political committees filed reports and 376 individuals and committees reported money spent independently on behalf of candidates. Altogether 9,049 filers, representing 3,390 campaigns, filed a total of half a million disclosure documents.[3] (See Figure 1) These documents represented $300 million in campaign funds which the FEC was charged with monitoring.

Figure 1

FEC Filers 1976
(9049)



In the area of public financing, the FEC certified $72 million to 15 different candidates, and the two major party conventions. Finally, the Commission handled 319 formal enforcement cases plus numerous notices of incomplete disclosure reports, surface violations and non-filings. These figures give some idea of the parameters of the involvement of the Commission in Federal campaigns.

[2] Instead of monitoring spending by all congressional candidates, the FEC was now only responsible for Presidential candidates and some party spending.

[3] See Appendix H for detailed breakdown of these figures.

OUTLINE OF THE ANNUAL REPORT

This report for 1976 provides a functional analysis of the job the Commission has done, from the perspective of its administrative and enforcement responsibilities. The first chapter deals with the overall organization and operation of the Commission, what type of a body it is, how it operates as a "sunshine" agency, and what organizational changes have come about as a result of experience during its first full year of operation.

The next three chapters focus on the Commission's programs: public financing, public disclosure, and campaign limitations. For each program, policies, procedures and results are reviewed. Next, the FEC role in enforcing the Federal Election Campaign Act is reviewed, again looking at the policies which flow from the law, and the procedures developed to implement these policies. A final operational section deals with FEC activity in the area of election administration, specifically the role of the Clearinghouse on Election Administration. Finally, there is a chapter presenting the Commission's suggestions for legislative changes based on experience with the law to date. Appendices are designed to provide more detailed data and to serve as reference documents to advisory opinions, proposed regulations, and FEC publications. Detailed statistical data on the public financing program is not included in this report since it will be the subject of a separate report to Congress when the post-election audits are completed.

Organization and Operation of the FEC

ORGANIZATION

The Commission, as created by the Federal Election Campaign Act Amendments of 1974, is composed of six Presidentially-appointed Commissioners, and two ex officio members, the Secretary of the Senate and the Clerk of the House of Representatives. The original Commissioners were appointed two by the President, two by the Speaker of the House and two by the President of the Senate. It was this mixture of legislative and executive appointment authority which caused the Supreme Court to strike down the Commission's executive powers in its decision on *Buckley* v. *Valeo.*

In addition, the law provides for two statutory officers, the Staff Director and the General Counsel. The Commission staff of 197 is grouped in functional units under the two statutory officers. During the first year of the Commission, the organization of these functional units has been changed several times as experience has shown which groupings would most effectively achieve the Commission's objectives.

The Commissioners

The six Presidentially-appointed Commissioners serve full time, and are prohibited by the statute from engaging in any "other business, vocation, or employment"[1] (2 U.S.C.§437c(a)(3)). The Secretary of the Senate and the Clerk of the House serve ex officio and without the right to vote. The Commissioners are responsible for administering, seeking to obtain compliance with, and formulating policy with respect to those provisions of the Federal Election Campaign Act, as amended, which are codified in Title 2 and those provision of Title 26 of the United States Code, relating to public financing. All decisions must be made by a majority vote of the members except that four affirmative votes are required in order for the Commission to render advisory opinions and to take certain action in connection with enforcement (2 U.S.C. §437c(a)). The Commissioners are each served by an Executive Assistant and a Confidential Secretary. The Secretary to the Commission, who is responsible for Commission meetings, minutes, agendas and scheduling, serves in the Office of the Staff Director.

[1] Added in the 1976 Amendments.

The Commission meets regularly once a week, and during the campaign period was meeting at least one additional day each week. Meetings are regularly scheduled and publicly announced in accord with the Commission policy of open meetings. Agendas are available for the public in advance, and all meetings are open to the public except for those dealing with personnel or compliance matters. During 1976 the Commission met a total of 88 times.

The Commissioners have played an active role in the work of the Commission, particularly during this first year. Because of the newness of the legislation, and its complexity, much time had to be devoted to review and approval of regulations and advisory opinions, to approving compliance and audit policy and procedures, and to determining procedures for certification of public funds. Much of this time was duplicative, furthermore, since the extensive new amendments in May of 1976 demanded review and redevelopment of many of the regulations for resubmission to Congress. As the number of compliance cases increased through the election period, the amount of time devoted by the Commissioners to review and determinations in this area also increased. Likewise, while a large amount of time was devoted to regulation review during summer months of 1976, this effort was drastically reduced once the proposed regulations were forwarded to Congress in August. A continuing responsibility throughout the year has been the certification of public funds under the Presidential public financing program.

When the Commission was reestablished on May 21, 1976, pursuant to the May 1976 Amendments, the President reappointed all of the original Commissioners with the exception of retiring Chairman Thomas Curtis. William Springer, of Illinois, was appointed to fill the vacancy. At the first meeting of the new Commission, Vernon W. Thomson was elected Chairman and Thomas E. Harris Vice Chairman, each for a one year term.[2]

[2] See Appendix I for complete biographic data on the six Presidentially-appointed Commissioners, the two ex officio members, and the statutory officers.

Office of the Staff Director

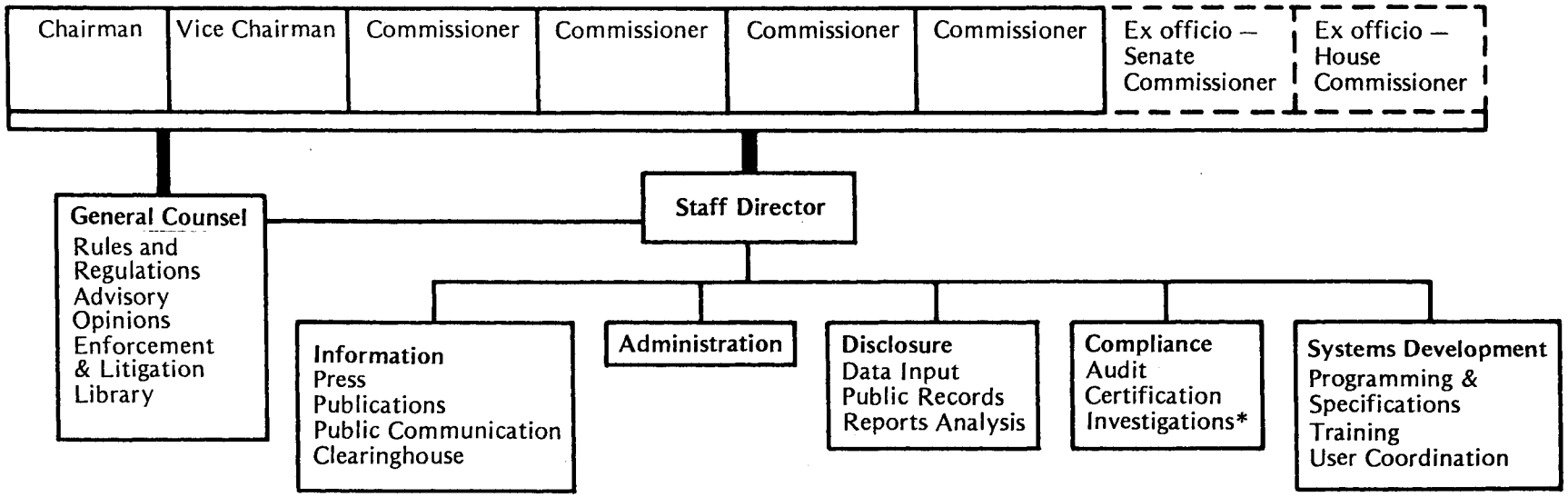
As the chief executive officer of the agency, the **Staff Director** is responsible for the appointment of staff personnel, for the organization of the staff and for the translation of Commission policy into action programs. As the Commission evolved during 1976, the organization of the staff was realigned in several respects to meet developing needs. These realignments had the overall effect of broadening the structure of the organization from its initial form which channelled authority through a few supervisors, to a more horizontal plane, with more supervisors and more operating divisions.

In 1976, the principal action programs of the Commission were: certification for public financing, audit and investigation, review and analysis of disclosure reports, processing of reports for data entry and public records, general information programs and administration. To implement these programs, the staff, exclusive of the Office of General Counsel, was originally divided between three offices: **Disclosure and Compliance, Information,** and **Administration.** In March of 1976, an interim reorganization took place which divided the functions of the Disclosure, Compliance and Information offices into two subdivisions, each handled by a Deputy Assistant Staff Director. In July of 1976 a new **Office of Data Systems and Development** was established to implement the computer program.

As the Office of Data Systems assumed responsibility for processing and storing data from the disclosure reports, it became apparent that a different clustering of all functions relating to disclosure was necessary for the proper and prompt flow of records and control of data. Accordingly, in December 1976, a new **Office of Disclosure** was created, incorporating all functions relative to the disclosure documents, from receipt and review, through data entry, processing and making them available for public inspection. The remainder of the Office of Compliance retained audit and certification responsibilities, while the Office of Information retained Public Communications, Press and Publications and the Clearinghouse, with its research and publication functions. The new Data Development Office is no longer an operational unit, but will concentrate on developing and implementing new data systems to assist other units of the Commission in carrying out the objectives of the Act. This office will also provide continuing service and training assistance to the Disclosure Office. Finally, a new Planning and Management unit was established within the Staff Director's Office. (See accompanying organization chart page 8.)

Figure 2

Federal Election Commission
(as of December 31, 1976)



*As of October, 1976, investigators reported to the General Counsel for operational purposes.

The staff of the Commission for 1976 was 197 (including 40 in the Office of General Counsel and 20 in the Commissioners' offices). This represented an increase of 34 over the total for 1975. The bulk of this increase resulted from creation of the Office of Data Systems and Development.

In addition, the Commission found it necessary to augment its staff with temporary employees. The use of temporaries, averaging 25 man-years during the election period, made it possible to meet the varying demands of the election cycle. By March of 1977 there will be a sharp reduction in the number of temporaries reflecting the winding down of post-election activity.

The Commission had an authorized personnel ceiling of 197 positions at year's end. The distribution of these positions in the various offices was as follows:

Commissioners and Immediate Staff	20
Staff Director's Office	11
Office of Administration	16
Office of General Counsel	40
Office of Information	15
Office of Disclosure	33
Office of Compliance	48
Data Systems Development	14
Total	197

Office of General Counsel

The **Office of General Counsel** is responsible for drafting for the Commission's consideration the proposed legal interpretations of the law which eventually are embodied in rules and regulations and advisory opinions. The Office of General Counsel also directs the enforcement activities of the Commission and represents and advises the Commission in any legal actions brought against it. The investigations staff, originally located in the Office of Disclosure and Compliance, was assigned to the Office of the General Counsel in October 1976 for operational purposes on an experimental basis.

The Office of General Counsel has traditionally had a very flexible organization, with lawyers expected to handle a variety of assignments. There are, however, three formal functional units. One concerns policy development, handling rules and regulations and responses to advisory opinion requests. A second unit handles compliance activities and a third is the law library, which serves the Commission as a whole.

OPERATION

As a Sunshine Agency

From its very first days in 1975, the Federal Election Commission has been conducting nearly all of its meetings and proceedings open to the public. Therefore, the newly enacted "Sunshine Act" will have little effect on the FEC.

In debating and discussing all advisory opinions, proposed regulations, policy statements and internal procedures in the public view, the Commission has discovered that a policy of openness is beneficial to the Commission itself, as well as to the public. On numerous occasions, members of the public attending an open discussion were able between meetings to make suggestions, comments and contributions to FEC staff members and Commissioners that assisted the discussion. Such public comment would not have been so readily available to the Commission had discussion been held in closed session.

The experience of the Commission operating in the Sunshine has also been that a routine policy of openness helps to increase the credibility of the Commission as a nonpartisan agency. This is an important facet of an agency like the FEC where public confidence in the neutrality and fairness of the Commission is essential. Since everyone can hear first hand the policy development and debates, the public is aware of the reasons for FEC decisions.

During 1976, the Commission held 88 formal meetings, and countless meetings of internal task forces which also were open to the public. The exceptions to the open meeting policy are only those portions of a meeting when confidential compliance, audit and personnel matters were discussed. These items are discussed in Executive Session at the end of regularly scheduled meetings. These meetings will continue to be closed under the provisions of the Sunshine Act.

As an Information Agency

It has been a major tenet of the FEC from the beginning that its information activities should be directed to helping candidates and committees understand their obligations under the law, particularly their filing and reporting obligations under the disclosure program. To this end, a variety of information programs have been created to explain the law, answer questions and assist filers.

The focal point for those seeking information is the **Public Communications** section, handling 95% of the phone and mail requests which come to the Commission. Throughout 1976, as the campaign progressed, the staff was expanded from three to six members and the number of toll-free lines increased from two to six. This section responded to over 25,000 phone and letter inquiries about the FECA and the FEC during 1976, peaking during October at over 1,000 calls per week. In addition the system had the capability of transferring calls to the operating units for specialized legal, audit or reporting questions.[3]

All contacts with the press are centralized in the **Press Office.** During the 1976 campaign, this office handled hundreds of calls each week from media sources in Washington, and from around the country with questions about the campaign finance law. Two press officers handle all such calls to ensure prompt, coordinated responses to media questions and requests, and to ensure uniformity in disseminating Commission policies and actions to the media. The Press Office was particularly charged with insuring adherence to the confidentiality required by the law in all pending FEC compliance actions.

In addition to responding to inquiries, the Press Office regularly took the initiative to inform the press of all major Commission decisions, policies and activities. These press releases usually include substantive highlights of decisions or policies since the Commission believes the press and public must be well informed of Commission activities.

The **Publications** program of the FEC is directed at helping candidates and committees understand the law and FEC policies through the issuance of guides and a periodic newsletter. The 1976 publication program was delayed due to changes in the law during the year; first, the January 30 Supreme Court decision and, then, the May 11 Amendments. Immediately after the amendments went into effect, the Commission issued a printed text of the law showing old and new sections for comparison. This was followed by a complete text of the new amended law. Within several weeks after reconstitution in May, a new **Campaign Guide** series was issued. Based on the Act and the proposed regulations each guide in the series of multi-colored pamphlets focused on a single aspect of the law, for example, political committees, party committees, and contribution and expenditure limitations.

The FEC also publishes a periodic newsletter, the **RECORD**, which capsules all FEC actions and decisions. There were eight issues in 1976. All publications are free to the public.[4]

[3] During the primary season, for example, a lead auditor was assigned to handle all questions from those candidates receiving public funds.

[4] See Appendix G for complete listing and synopsis of all FEC publications.

Administration

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 support functions of the Commission are centralized in the office, namely a word processing center, document reproduction, and correspondence control. During 1976 the Office of Administration was also concerned with implementing several activities which flowed from the Commission's becoming an executive agency under the 1976 FECA Amendments.

The major personnel activity involved a review of all FEC employee positions by the Civil Service Commission. This review was required by the provision in the 1976 Amendments which made the FEC subject to the classification and pay provisions of the Civil Service laws and regulations. Formal approval and application of the CSC recommendations is expected early in 1977.

The Commission has also absorbed all personnel functions, some of which were previously administered by the General Services Administration as part of an administrative support contract.

Other programs, with which Administration has been involved during 1976, were the development of a correspondence control system, expendable supply system, inventory control, and a records control and disposition manual preparatory to the transfer of records to the Federal Records Center.

Budget

For Fiscal Year 1976, the Commission received an appropriation of $5,000,000. In addition, an appropriation of $1,250,000 was granted for the transition quarter. Expenditure of these monies over the fifteen month period was as follows:

FY 1976
$6,250,000

Commission and Staff Salaries, including benefits	$3,520,000
Consultants	56,000
Travel	128,000
Motor Pool	20,000
Space Rental	282,000
Equipment Rental	159,000
Printing	276,000
Contracts (including research contracts awarded by the National Clearinghouse on Election Administration)	1,100,000
Supplies	160,000
Library Materials	30,000
Telephone/Telegraph	111,000
Postage	25,000
Administrative Expenses	242,000
Equipment	141,000
Total	$6,250,000

FY 1977
$6,000,000

An appropriation of $6,000,000 has been received for FY 1977. Expenditure of these funds is budgeted as follows:

Commission and Staff Salaries including benefits	$4,213,000
Consultants	40,000
Travel	210,000
Motor Pool	17,000
Space Rental	305,000
Equipment Rental	141,000
Printing	200,000
Support Contracts (including Clearinghouse)	450,000
Supplies	100,000
Library Materials	30,000
Telephone/Telegraph	87,000
Postage	25,000
Administrative Expenses	125,000
Equipment	57,000
Total	$6,000,000

In addition, the Commission has requested a supplemental appropriation in the amount of $180,000 to defray the costs of the October 1976 statutory pay increases.

FY 1978
$8,125,000

An appropriation of $8,125,000 has been requested for FY 78. As a result of the FEC status as an executive agency, for the first time the Commission budget was subject to the review of the Office of Management and Budget. A hearing with the OMB examiner was held on October 13, 1976.

Public Financing

INTRODUCTION

Establishment of the Program

With the end of 1976, the Nation completed one cycle of an entirely new system for financing elections: the public financing of Presidential candidates and nominating conventions. The program, as enacted by Congress in 1974, contained three major elements: a primary matching fund program, providing partial public financing for any candidate who met certain eligibility requirements indicating a broad base of public support; a program of direct grants to the two major party conventions; and third, a program of full public financing for the major party candidates in the general election.[1] The administration of this program was assigned to the Federal Election Commission, along with the requirement that the Commission conduct post-election audits of all three elements. The Commission is required to submit to Congress a detailed report of its activity under the program.

Receipts and Disbursements 1976

Figure 3

Receipts and Disbursements Presidential Election Campaign Fund, 1976

Deposits:[2]		$95,838,787.00
Disbursements:		
Primary matching payment (fifteen candidates)		$24,273,401.65
Convention payments		
Democratic	$3,180,869.79	
Republican	$1,963,800.00	$4,144,669.79
General election payments (Two candidates @ $21,820,000)		$43,640,000.00
Total Disbursements		$72,058,071.44
Balance		$23,780,715.56

[1] Under certain conditions third party candidates can qualify for public grants. No such candidates qualified during 1976.

[2] All figures are as of December 31, 1976. Some adjustments may be made as final matching payments and any repayments are made. ($48.04 has been repaid by Sanford, but is still included in these figures; other repayments await Commission policy decisions.)

The funding for this program comes from the Presidential Election Campaign Fund, created by Congress in 1972, whereby taxpayers may designate one dollar of their taxes for the fund. Participation by taxpayers in this fund has grown steadily each year and now stands at 25.8%. By December 31, 1976, the fund had collected nearly $96 million; during 1976 a total of $72 million was disbursed from the fund, leaving a balance of approximately $23 million. (See Figure 3.)

PRIMARY MATCHING FUND PROGRAM

In developing policies and procedures to implement the public financing program, the Commission felt it imperative to maintain impartiality towards the candidates, to be prompt and responsive in processing submissions so that no candidate's campaign plans would be delayed, and finally to ensure public confidence in the proper distribution and use of public funds. The Commission is satisfied that these goals were met.

The initial statutory deadline was met when, by January 1, 1976, the Commission had certified 11 Presidential candidates eligible for the primary matching program, and had certified initial payments for the two major party conventions. To further expedite processing the Commission mandated a two-week turn-around time from submission to verification. Careful procedures for verifying contributions for matching were followed scrupulously throughout, and the Commission made special efforts to assist candidates in establishing recordkeeping practices which would facilitate prompt certification of their submissions.

In assessing this program for 1976, it is also important to keep in mind that the candidates and the Commission were breaking entirely new ground. Both had to develop recordkeeping and verification procedures for an entirely new type of certification and payment of public funds. Furthermore, policies and procedures had to be developed under extreme time pressure since fundraising for many primary campaigns was already underway when the Commission came into being. This situation demanded patience and flexibility on the part of Commission staff and campaign treasurers alike. In order to help this situation, the Commission assigned a lead auditor for each campaign who kept in close touch with the campaign treasurer throughout the matching-fund period.

Statistics

Fifteen Presidential candidates in the primary contests applied for and were certified eligible to receive a total of $24.3 million in matching funds. Six candidates received 84 percent of the total certified, while the remaining nine each received less than $.6 million. (See Figure 4.) The average contribution submitted for matching was $26.86, although the average size of contribution submitted varied greatly among the candidates. Some candidates concentrated on raising larger contributions (of the six major candidates, President Ford's average was the largest at $43.06). Some candidates submitted much larger numbers of smaller contributions (Governor Wallace's average was $14.75 and Harris' $11.74). (See Figure 5.)

Figure 5

Summary of Primary Matching Fund Activity - As of December 31, 1976

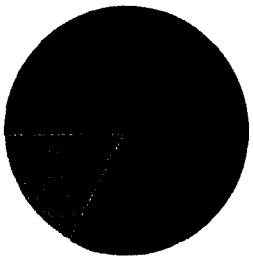
Candidate	Number of Submissions	Number of Contributions Submitted*	Average Amount Submitted	Total Amount Submitted	Percentage of Total Request Matched	Total Amount Certified
Bayh	17	6,988	$ 68.02	$ 475,335.94[a]	98.70%	$ 469,199.54
Bentsen	3	6,767	84.98	575,052.94	88.86%	511,022.61
Brown	9	20,089	34.55	694,174.87[a]	83.64%	580,629.65
Carter	21	94,419	41.09	3,880,118.84[a]	89.31%	3,465,584.89
Church	18	18,812	33.50	630,151.01[a]	98.82%	622,747.04
Ford	21	114,661	43.06	4,937,232.99	94.32%	4,657,007.82
Harris	13	56,021	11.74	657,813.91	96.24%	633,099.05
Jackson	7	58,372	35.45	2,069,042.97[a]	95.72%	1,980,554.95
McCormack	8	14,161	18.08	256,093.60[a]	95.32%	244,125.40
Reagan	19	238,266	23.11	5,507,153.24	92.40%	5,088,910.66
Sanford	3	1,960	126.07	247,100.32	99.71%	246,388.32
Shapp	11	4,416	69.61	307,403.71	97.28%	299,066.21
Shriver	8	2,745	104.12	285,822.19[a]	99.73%	285,069.74
Udall	22	97,764	21.84	2,135,263.72[a]	88.92%	1,898,686.96
Wallace	6	240,052	14.75	3,539,579.86	92.89%	3,291,308.81
Subtotals	186	975,493	$ 26.86	$26,197,340.11	92.65%	$24,273,401.65[b]

(a) The following candidates have submissions and resubmissions "in-house" which have not been certified as of Feb. 20, 1977:

Candidate	Number of Submissions	Number of Resubmissions	Amount
Bayh	2	0	$ 81,161.75
Brown	1	0	$ 31,558.50
Carter	4	3	$597,996.93
Church	1	0	$ 18,421.50
Jackson	2	1	$ 84,550.67
McCormack	2	3	$ 10,795.03
Shriver	1	0	$ 11,855.00
Udall	1	1	$ 80,518.00
	14	8	916,857.38

Figure 4

Distribution of Primary Matching Funds:
1976 Presidential Campaign $24.3 million



6 candidates
$20.4 million (84%)

Reagan	$5.0 million
Ford	4.7 million
Carter	3.5 million
Wallace	3.3 million
Jackson	2.0 million
Udall	1.9 million

9 candidates
$3.8 million (16%)

Brown	$ .6 million
Church	.6 million
Harris	.6 million
Bayh	.5 million
Bentsen	.5 million
Shapp	.3 million
Shriver	.3 million
McCormack	.2 million
Sanford	.2 million

Candidate	Amount Originally Rejected	Percentage of Request Matched Prior To Resubmission of Rejected Amount	Amount Resubmitted	Final Amount Rejected
Bayh	$ 36,134.95	92.39%	$ 30,309.55	$ 6,136.40
Bentsen	64,030.33	88.86%	-0-	64,030.33
Brown	134,177.23	80.00%	22,278.01	113,545.22
Carter	522,827.93	86.52%	152,892.83	414,533.95
Church	12,566.97	98.00%	5,485.50	7,403.97
Ford	611,218.93	87.62%	330,993.76	280,225.17
Harris	147,519.90	77.58%	122,805.04	24,714.86
Jackson	613,002.81	70.38%	524,514.79	88,488.02
McCormack	25,974.37	89.85%	14,151.17	11,968.20
Reagan	436,801.80	92.06%	18,599.22	418,242.58
Sanford	712.00	99.71%	-0-	712.00
Shapp	12,947.50	95.79%	4,610.00	8,337.50
Shriver	14,417.45	94.95%	13,740.00	752.45
Udall	295,910.76	86.14%	59,922.00	236,576.76
Wallace	870,737.36	75.39%	622,466.31	248,271.05
Subtotals	$ 3,798,980.29	85.49%	$ 1,922,728.18	$ 1,923,938.46

(b) Since December 31, the following amounts have been certified for the following candidates:

Candidate	Amount Certified since Dec. 31	Total Amount Certified to Date
Brown	$ 1,974.12	$ 582,603.77
Carter	$255,924.88	$3,721,509.77
Harris	$ 5,913,48	$ 639,012.53
Udall	$ 51,086.30	$1,949,773.26
	$314,898.78	

Total Certified, Jan. 1, 1976 - Feb. 20, 1977, for all Candidates:
$24,588,300.43

* Estimated

Impact of the Supreme Court Decision

The most important event affecting the public financing program in 1976, and one which should be kept in mind in assessing and reviewing the 1976 program, was the January 30 Supreme Court decision, *Buckley* v. *Valeo*, which, while upholding the constitutionality of the program, struck down the power of the Commission to certify funds. This left the candidates, committees and the public in a state of suspense until Congress acted to reconstitute the Commission as an Executive agency. These powers were restored on May 21 when the President swore in the six Commissioners.

In reacting to the Court decision, the Commission made several policy decisions which affected the fortunes of many candidates. When the decision was handed down, the Court allowed a 30-day stay in order to allow time for Congress to enact remedial legislation. During this period, the Commission speeded up its schedule for receiving requests for payment from biweekly to weekly and worked its staff overtime in order to process the maximum possible number of submissions before the suspension of its powers. When it became apparent that Congress would not act before the expiration of the stay, the Commissioners decided to continue accepting and processing requests for matching payments, and thus keep submissions in the pipeline which could be immediately certified upon resumption of powers. When the new Commission was reconstituted, the Commissioners were able to certify a backlog of $3.2 million to nine candidates on May 21.

It is difficult to measure precisely the impact of this delay on the candidates and the outcome of various primary elections. Two candidates had ceased active campaigning prior to the suspension of powers. An additional four left the running during the hiatus. Certainly the delay in receipt of funds may have influenced the fortunes of their campaign. However, the Commission's decision to continue processing requests helped to lessen the impact because it made it easier for candidates to seek and obtain credit against the expected public grants.

Policy Questions

Ineligibility

The major policy questions which arose during 1976 concerned eligibility. Specifically, when does a candidate cease to be eligible for further public funds? While the law was quite specific on the criteria for determining initial eligibility, the original 1974 Amendments were silent on the question of when a candidate was no longer eligible.[3]

[3] Before a candidate can become eligible to receive primary matching payments he must certify in writing to the Commission that he or she is seeking nomination by a political party for the office of President in more than one State, that the candidate and his or her authorized committees shall not incur qualified campaign expenses in excess of the limitations and that the candidates and his or her authorized committees have received matchable contributions in excess of $5,000 in at least 20 States with no amount matched in excess of $250 per individual. The candidates are also required to agree in writing to furnish to the Commission all information requested concerning qualified campaign expenses; keep and furnish any book or records that the Commission may request; and permit an audit and examination by the Commission to determine whether any payback of public money is required. Failure to comply with the agreement outlined above could result in suspension of certification.

This question was already on the minds of the Commission and the Congress when the new 1976 Amendments were drafted and two specific criteria were added to the law. First, a candidate would lose his eligibility should he fail to receive 10 percent of the vote in two successive primaries, and had not certified to the Commission that he was not actively campaigning in those States. Second, a candidate also would lose eligibility if he "is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States." (26 U.S.C. §9032(2)) The first criterion was applied to one candidate and did serve as a basis for disqualification. The second criterion was used more extensively.

Although many of the other candidates had ceased active campaigning prior to the passage of the May 11 amendments, the Commission did not have any basis for formally declaring them ineligible. With the new amendments in effect, a letter was sent to several candidates informing them that since they had ceased active campaigning in at least two States, the Commission would consider them no longer eligible. Although not specified in the statute, the Commission also ruled that a candidate who released or instructed his delegates to vote for another candidate was also not actively campaigning in two States and thus no longer eligible.

Continuing Payments

There was another aspect of eligibility, however, which the law did not address as clearly. This was the question of how long the Commission should continue to certify payments for legitimate campaign debts after a candidate had ceased to be an active candidate. In spite of the availability of public funds, many candidates found themselves seriously in debt when they left the campaign arena and were forced to continue to solicit funds to cover these debts. The law allows payment to "defray qualified campaign expenses incurred before the date upon which a candidate becomes ineligible." (26 U.S.C. §9033(c)(2)) The Commission adopted a policy which allowed candidates to continue submitting contributions for matching in order to liquidate debts incurred prior to the date of ineligibility. In connection with this, the Commission also ruled that continuing operating expenses contracted prior to the date of ineligibility would be qualified campaign expenses. This had the effect of extending the payment period until early in 1977.

At year end the Commission was considering a further refinement of the regulations with regard to the question of continuing payment after ineligibility. As originally proposed, the regulations would allow a candidate to receive matching funds up to the amount of his debts on the date of ineligibility. The proposed amendment would take into consideration not only the candidate's debts, but also the amounts of private contributions received after the date of ineligibility. The question is whether a candidate who raises sufficient private money to erase his campaign debt should still be eligible to receive public money toward that debt.

Other policy questions on eligibility concerned problems with a candidate running for two Federal offices. A question also arose concerning a candidate who met all the requirements of threshold and verification of contributions, but who in the eyes of some portions of the public was not a genuine candidate for the Presidency but rather a spokesman for a particular interest group. In spite of the threat of a lawsuit (which never materialized), the Commission did certify this candidate since the candidate met all the statutory requirements for eligibility.

Matchable Contributions

Aside from eligibility requirements, other policy questions which arose had to do with what contributions could be matched. For example, are monies raised from the sale of campaign materials or other items matchable contributions? Are the proceeds from the sale of concert tickets or contributions from minor children matchable? The Commission addressed these questions in the regulations proposed to Congress in the summer of 1976, although the answer did not in all cases apply to the 1976 campaigns. (See sections 130.8 [matchable contributions] and 130.9 [nonmatchable contributions] in the proposed regulations for details.)

Delinquent Filers

A final policy question which did affect several candidates was whether matching payments should be certified to candidates who had not submitted timely campaign disclosure reports. The Commission took the position that failure to file reports was sufficient cause to withhold payments under §9033(a)(2) which required candidates seeking public funds to "agree to keep and furnish to the Commission any records, books, and other information it may request. . . ." In the case of two candidates this decision did hold up payments for a short period until their complete disclosure reports were received. In order to alleviate any later confusion on this matter, this decision has been incorporated into the proposed regulations sent to Congress.

Procedures

The procedures for verifying submissions for matching funds were being developed and evaluated throughout 1976. No one had ever administered this type of program before and the Commission had very little time to develop procedures before submissions began to be received. Certification of eligibility began on December 18, 1975, when three Presidential candidates met the qualifications; an additional eight were determined eligible by December 23, one more was added during January, two in February, and one in June. This completed the 15 candidates who received matching fund payments for the 1976 campaign.

Working with Candidates

The Commission developed a two-stage procedure for working with candidates and guiding them on how to submit their contributions for matching. First, in an effort to assist candidates in their recordkeeping procedures and to determine initial eligibility, the Commission undertook a field audit with the candidates and their committees. This took place when a candidate first appeared to meet the eligibility requirements. In many cases the committees' particular accounting systems were not readily adaptable to the requirements of the standardized procedures. In these cases every effort was made to modify the procedures to a point where both the committees' needs and the Commission's requirements were met. One problem with standardization was the variety in scope and sophistication in the campaigns. Most of the candidates eventually used computers for compiling their submissions. Although there was little coordination between campaigns, and only two candidates sent representatives to the seminar which the FEC held in an attempt to assist in standardizing procedures, the systems developed by the campaigns were remarkably consistent.

Second, as the Commission developed and refined internal procedures for verifying submissions, the candidates were kept informed informally and formally of needed changes and new requirements. Procedures were ultimately pulled together in a "Guideline for Presentation in Good Order," which was sent to the candidates on May 21. The material which dealt with matchable and nonmatchable items was finally incorporated in the regulations proposed to Congress in the summer of 1976.

Verification Procedures

The development of procedures for the candidates went hand-in-glove with the development of an internal review process within the Commission. The Commissioners initially took the position that all submissions must be subject to 100 percent review for verification purposes. This not only ensured a maximum degree of public confidence in the system, but also allowed the Commission to become aware of the problems and pitfalls which would accompany the verification process. 100 percent review of hundreds of pages of contributions and double checking these against the written instrument proved to be extremely labor intensive, time consuming and tedious. In order to expedite the process, the Commission approved in early January a statistical sampling procedure for verifying matching contributions. This system was tested throughout the spring, and by July, the Commission was satisfied that it could safely drop the requirement for 100 percent review and moved to a standardized sampling procedure. The major outlines of this procedure were incorporated in the proposed regulations, including the proviso that "the candidate will be given the option of correcting and resubmitting the documentation or of accepting a dollar reduction in the amount requested for matching based on the results of the sample . . ." (FEC Proposed Regulations, §132.5(a)).

Also late in the spring, in order to expedite payment of matching funds to campaigns, the Commission instituted a holdback procedure, and on June 26, 1976, a letter was sent to all candidates still making submissions, outlining the new procedure. Matching funds were then certified less a percentage holdback which was determined by computing the average amount rejected in the candidate's last four submissions. Later, a detailed sample review of the submission was made and an adjustment was computed and applied to the candidate's next submission. The candidates were required to submit a form with their submission certifying that the request met all criteria set forth in the Commission's standardized procedures. The holdback procedure was used by the Commission for certifying funds until the volume of submissions slacked off enough so that the staff could review the submissions within a reasonable time limit.

Several problems plagued both the Commission and the candidates in their efforts to review submissions for accuracy and compliance. Initially, there was the question of matchable and nonmatchable contributions and the Commission did have to reject some contributions for matching on that basis. As these questions were resolved and the Commission was able to provide guidelines to the candidates, the incidence of these questionable contributions lessened.

Another early problem was to compare lists of contributions against a supporting instrument, such as a check. Until the candidates themselves organized and controlled their records, there were numerous instances where the lists and supporting documents did not match, and the Commission was obliged to reject contributions for matching.

The final problem, and one which increased in seriousness, concerned aggregations of contributions from the same contributor. Since the law prohibits matching more than $250 from any one contributor, the candidates were asked to indicate any earlier contribution from the same person and to submit an aggregate figure. For large submissions based on computer runs, such aggregation was often difficult, especially when individuals used several different versions of their names. Most of the later rejections stemmed from this problem. A sample showing a percentage of contributions which were not correctly aggregated became the basis for a percentage rejection of the entire submission.

Rejection of Submissions

Figure 5 on page 17 shows that the percent of total submissions rejected for each candidate varied tremendously. There were many variables influencing the rate of rejection. These were the number of submissions, the number of contributors on each submission, whether submissions were prepared manually or by computer,[4] the occurrence of specialized methods of fundraising, such as concert tickets, which

[4] In some cases of small submissions, which were manually prepared, the rate of rejection was lower than for computerized submission.

required independent identification because the identification of the donor was often insufficient. Finally, all candidates were allowed to resubmit rejected submissions. While some chose not to, in all cases where they did so, a substantial portion of the resubmission was eventually certified for payment. The bulk of these rejections stemmed from computer or recordkeeping errors and not from any evidence of willful violation of the submission requirements.

The results of this first cycle of matching grants would indicate that most of the problems have been identified and satisfactory procedures worked out. Verification will always be an intense and time-consuming process, particularly during the peak of the primary season, but the experience with the 1976 program shows that it can work to the satisfaction of the candidates, and the public from an administrative point of view. The Commission hopes to solicit the advice and comments of those treasurers who worked closely with the submission process to incorporate their suggestions into a set of guidelines for future candidates planning to submit for matching funds.

CONVENTION FINANCING

Statistics

The story on convention financing is much simpler than the Primary Matching Fund. Under the statute each major party was entitled to up to $2,000,000 for its nominating convention, with an adjustment for cost-of-living increases. These funds were paid in quarterly installments.

In the final accounting, the Democratic National Committee received $2,180,869.79 and the Republican National Committee received $1,963,000.00. Any unexpended portion must be repaid to the U.S. Treasury when the final results of the field audit are available. Audits of the convention committees were begun on November 15, 1976, and November 29, 1976, respectively. The field work was completed in both cases by the end of 1976, and the audit reports were expected in early 1977.

Policy Questions

Contributions

The Commission faced several policy questions in connection with this program. There was some question about the type of in-kind services the conventions could accept. This was resolved generally in the favor of the committee, using a criterion of whether the proferred service was normally provided to conventions of like nature. There was also some question concerning the donation of business or labor organization funds to the conventions. The Commission allowed for the donation of such funds provided they were used for certain specified purposes, such as promotion or welcoming activities.

Payment Schedule

Another policy decision which faced the Commission was the question of whether to accelerate payments when it appeared that the Commission's payment powers would be suspended following the Supreme Court decision. Although both committees requested earlier payments, the Commission decided to hold to its original schedule.

PRESIDENTIAL GENERAL ELECTION CAMPAIGN FUND

Statistics

Although much simpler to administer, the Presidential General Election public financing program had a much greater impact on the financing of the 1976 election. Each major party candidate received only public funds for his campaign, and agreed to limit his campaign expenditures to $21.8 million dollars. Private contributions to candidates were no longer permitted in Presidential campaign finance except for legal and accounting fees. Each candidate was entitled to spend $21,820,000, based on the spending limit of $20,000,000 plus adjustments for cost-of-living increases. Following the election, each candidate was subject to audit, and must repay any unused public funds.

Policy Questions

Buttons and Bumper Stickers

The policy questions which the Commission faced all concerned the question of private contributions to the candidates. The question quickly arose whether a congressional candidate could use the Presidential candidate's name, picture or materials in conjunction with his campaign, or whether this should be prohibited as an illegal in-kind contribution to the Presidential candidate. The Commission took the position that buttons, bumper stickers, and/or brochures showing the candidates together would not have to be considered a contribution-in-kind. When the involvement escalated to the level of joint billboards or joint media events, this would have to be prohibited unless the Presidential candidate made some financial contribution or reimbursement for his share of the campaign expenses.[5]

Private Contributions

Alongside this question of shared campaign expenditures were the many private citizens who simply did not realize or accept the fact that they could no longer contribute directly to the candidate of their choice for President. Campaign disclosure reports filed by the two candidates often showed private contributors making donations directly to the candidate. The candidates dealt with this problem by refunding such contributions, but these refunds often did not appear on disclosure documents until correcting amendments were submitted. The Commission did rule that candidates could accept private contributions to cover legal and accounting expenses incurred for the purpose of complying with the Act.

[5] AOR 1976-78.

Procedures

The administration of the general election campaign fund was quite simple compared to the problems encountered with the Primary Matching Fund program. Payments were based on a letter certifying that each candidate was the candidate of a major party, would use the funds for only qualified campaign expenses, and would not accept private contributions to defray qualified campaign expenses. The only difference procedurally was that President Ford received his grant in check form while Governor Carter took a line of credit through the Atlanta Federal Reserve Bank.

PUBLIC FINANCING AUDITS

Policy Questions

Timing

The Commission is required to conduct a "thorough examination and audit" of all primary matching fund recipients, the party conventions, and general election Presidential candidates receiving public financing (26 U.S.C. §§9007, 9008 and 9038). The results of these audits shall be submitted in a report to the Senate and House of Representatives (26 U.S.C. §§9009 and 9039). The timing of these audits is a question of some interest and importance since it brings into focus the potential conflict between the disclosure and compliance objectives for which the audit is conducted. In brief, if the audit is conducted in order to satisfy the public that the funds were properly used, then the audit results should be made public as expeditiously as possible. On the other hand, many factors may legitimately delay a candidate closing out his books, or he may be in a continuing position of making matching fund submissions for a period of time after ineligibility. These situations could delay initiating the audit. Finally, since an audit may raise questions which could bring the investigative and enforcement authority of the Commission into play, and since the statute makes it clear that the Commission may not disclose any information concerning a matter which arose from an audit and is under investigation (2 U.S.C. 437g(a)(3)(B), the final report on a field audit could be delayed.

The convention audits are to be scheduled not later than December 31 of the year in which the nominating convention is held. (26 U.S.C. §9008(g)) The general election audit shall be done "After each Presidential election . . ." (26 U.S.C. §9007(a)), although the Commission must notify candidates of necessary repayments no more than three years after the date of the election (26 U.S.C. §9007(c)). For the Primary Matching Fund, audits shall be conducted "After each matching payment period . . ." (26 U.S.C. §9038(a)) which is defined as ending when the party's nomination takes place. However, since candidates are allowed to continue spending public funds for up to six months after the matching payment period ends, there is a built-in delay before the Commission may reasonably expect candidates to close their books and be ready for final audit.

The Commission has taken several policy positions as to when an audit shall begin and when reports shall be released. First, the Commission early decided to begin audits on candidates in the order in which they terminated their participation in the public financing program. Also, most significantly from a public point of view, the Commission decided not to undertake audits of the major party candidates, Ford and Carter, during the general election campaign since it would be impossible to complete the audit and make the results public prior to the election. It was felt that an incomplete audit might be unjustifiably damaging to the candidates and to the integrity of the election process. Also, the Commission took the position that field audits would not be initiated until a candidate's financial activity was substantially complete.

Having taken these positions, and in recognition that the field audits would ultimately be delayed until some time after the election, the Commission initiated an intensive in-house review of all the available documents. This provided a basis from which field work would begin which would expedite the field audit.

Qualified Campaign Expenses

A final policy question with which the Commission has wrestled is the criteria for judging what is a "qualified campaign expense." Since public funds could only be spent on "qualified campaign expenses," and this was the basis against which an audit report must be made, the Commission did attempt an internal examination of what more detailed criteria could be applied to flesh out this language of the statute. After some initial work in the field, this attempt was dropped in recognition that the variety and ingenuity of political campaigners in spending funds for a campaign would simply not lend itself to easy categorizing. At the moment the rule which is being followed is simply whether an expenditure is "ordinary, reasonable, and necessary." Also, expenditures must be documented by other related evidence such as invoices.

Procedures

The procedures for auditing were two-fold. First, an in-house review was made of reports submitted by the candidates, and secondly, a field audit was conducted. During the course of the field audit the candidate's books and records were compared to the reports and statement filed with the Commission to verify the accuracy of the reports and the records. This is the disclosure aspect of the audit. Simultaneously, expenditure records were reviewed to determine if any public funds were used for other than qualified campaign expenses, thus requiring repayment to the Treasury. Finally, if the candidate was in a deficit position on his date of ineligibility, his net campaign debt was verified, or if in a surplus position, the amount of the surplus was verified. This procedure allowed the Commission to determine any further matching payment eligibility or any repayment due to the U.S. Treasury. It is important to note that campaign debts to be honored with public funds must have been incurred or obligated before the date the candidate became ineligible for new matching funds. The manpower required for field work in each case varied greatly with the size of the campaign and conditions of the records. In one case, three staff members were able to complete the work within a week while in others four staff members were required for four or five weeks.

Status of 1976 Audits

It is apparent from the above that the audit process is a long and complex one. As of December 31, 1976, the Commission had issued a final report on one primary matching fund candidate and completed the field work on the two conventions and eight additional primary candidates. The one report, for Governor Terry Sanford, was released on October 14, 1976, and showed a slight surplus of public funds. A $48.04 repayment was made to the U.S. Treasury according to the repayment formula specified in the statute.

Reports on the two convention audits should be issued early in 1977. Reports on the eight primary candidates were deferred because a number of policy questions still awaited resolution at the end of the year, among them repayment and compliance matters. Finally, the Commission was unable to issue several reports because candidates were requesting additional matching funds to erase campaign debts.

The field audits on six candidates were scheduled later for a variety of reasons. These included Ford and Carter whose audits were delayed until after the general election, and whose books and records were not complete until later in the year. Three other candidates were requested to consolidate the records of their respective State organizations so that the field audit could be conducted more expeditiously. There was a delay in initiating an audit on the sixth candidate because of a contested ruling of ineligibility.

Disclosure

INTRODUCTION

Description of the Disclosure Program

Disclosure of campaign financial information is one of the oldest approaches to campaign reform and the one with the most solid constitutional support, as the Supreme Court clearly indicated in *Buckley* v. *Valeo*. Federal disclosure laws have been on the books since 1910, and some form of financial disclosure is now required in nearly all 50 States.

One basic purpose of disclosure is to create an informed public by providing information about the sources and uses of a candidate's finances. The publicity resulting from disclosure is itself a constraint against corruption. Disclosure is basic, as well, to other campaign reforms since the periodic reporting of financial data provides a base for monitoring the various limits and restrictions on campaign activity. Over the years, cumulative data also provides the basis for research on patterns of campaign financing.

The Federal Election Commission's disclosure system is based on a series of reports rendered on standard forms issued by the Commission. The initial reports provide basic information about a candidate and his authorized committees. A similar basic registration report provides information as to when, where and by whom a political committee was organized.

Following initial registration, the second step in disclosure is the recurring report of receipts and expenditures, designed to show the source of funds, names and addresses of major contributors, how the money is spent and who receives it. These reports are required from candidates, political committees, and from individuals making independent expenditures on behalf of or in opposition to a candidate. Finally, there are reports required from labor and corporate groups which show any funds they expend in excess of $2,000 for political communications to their permissible groups,[1] advocating the election or defeat of a clearly identified candidate.

[1] The "permissible group," in the case of a labor organization, is its members and their families; in the case of a corporation, trade association, or membership organization, the permissible group is comprised of executive and administrative personnel and their families, and stockholders and their families.

Since these reports are periodic and cumulative, candidates and committees must be prepared to keep detailed records to enable them to complete quarterly or in some cases monthly reports for the FEC and the public. At the time of the election, report frequency is increased, with a ten-day pre-election report, and reporting by telegram of contributions or transfers of money in excess of $1,000 after the 15th day prior to the election.

Together these reports provide a fairly complete picture of who is involved in a campaign, the flow of money in and out of a campaign, and what groups or individuals are supporting a particular candidate. Because of the periodic nature of the reports, any one report only indicates the financial situation of the campaign at that time. A complete picture demands continuous review of the reports as they are submitted and a final review when the books are closed. This places an enormous burden on the press and public if the primary purpose of disclosure is to be met, namely an informed public. This has also influenced the way the Federal Election Commission has defined its objectives and responsibilities in administering the disclosure and reporting system.

FEC Approach to Disclosure

The FEC placed major emphasis on the disclosure program during the 1976 election period. This emphasis was reflected in several ways. Information resources were directed primarily at helping FEC clients understand their reporting requirements and assisting them in meeting these requirements. It was also decided that the public must have ready and easy access to the reports, which was accomplished by creation of a store-front Public Records Office for easy public reference to the reports. Finally, during 1976 the Commission embarked on a computerized storage program for the data taken from disclosure documents. The system provides for compilation and cross-referencing of campaign data for greater ease of analysis and meaningful disclosure, plus a base for compliance review. The computer system permits more timely and thorough analysis of campaign financing than ever before possible.

POLICY QUESTIONS

Independent Expenditure Reporting

While the disclosure program was not greatly affected by the Supreme Court decision in *Buckley* v. *Valeo*, the 1976 Amendments did contain significant new provisions regarding disclosure, particularly with respect to independent political expenditures. These are expenditures clearly advocating the election or defeat of a clearly defined candidate, made directly by individuals or committees without consultation or coordination or at the request or suggestion of the beneficiary candidate. Reflecting the Supreme Court's decision that limitations on such independent expenditures are unconstitutional, the 1976 Amendments tightened the section on individuals reporting independent expenditures of $100 or more by adding a requirement for a notarized statement attesting to the "independence" of the expenditure.

Corporate and Labor Reporting

Another new provision of the 1976 Amendments required corporations and labor organizations to report costs of communications to executive and administrative employees, stockholders and members, when those costs exceed $2,000. This provision has created a new type of reporting and a new group of filers. Reporting is required when a substantial portion of the communication advocates the election or defeat of a clearly identified candidate.

Presidential Delegate Selection

On February 10, 1976, the FEC issued a policy statement regarding the application of the Act to the process of selecting delegates to the national party nominating conventions. These "guidelines" reflected the conclusions of a Commission report which had been transmitted to Congress in late 1975, and also the adjustments required by the Court decision in *Buckley* v. *Valeo*. While neither the 1976 FECA Amendments nor the legislative history specifically indicated how delegate selection was to be treated, it was clear to the Commission and many inquiring delegates, candidates and party committees that questions of disclosure, and contribution and expenditure limits have significant bearing on the financing of individual Presidential campaigns. By drawing a distinction between those delegates who were financially authorized by a Presidential candidate and those who were not and by establishing minimum reporting standards, the FEC sought to provide guidance for the 1976 election, at the same time noting that further congressional action was needed to clarify the matter for future years.

Particulars of Expenditures

The Commission dealt with another policy question which did not flow from the Amendments, but which arose during the course of the campaign. This concerned reporting the particulars of expenditures. In a special letter, dated September 29, 1976, the FEC urged candidates and their principal campaign committees to describe more fully the purpose of their itemized expenditures and to maintain backup materials for all expenditures. The letter stated that, "as required by the statute, the 'particulars' of each over-$100 expenditure must be reported. Entries such as 'advance to fieldman' or 'travel' are not sufficient to meet the statutory requirements. An advance to staff is not an expenditure. . . . The actual use to which the advance is put must be itemized." This position was subsequently included as an amendment to the proposed regulations.

PROCEDURES IN DISCLOSURE

Filing of Reports

The FEC has responsibility for designing and furnishing forms, providing a bookkeeping manual for campaign treasurers, and providing advice and assistance to its clients on how to complete the forms. During 1976 the Commission revised its reporting forms and schedules to conform to the 1976 Amendments, and developed three new forms to reflect new requirements. Over 100,000 packets of reporting forms and information were distributed, plus 15,000 copies of the bookkeeping manual. In addition, the **Campaign Guide Series** pamphlets offered simplified but comprehensive guidance on reporting requirements for candidates, committees and other filers. The latest in this series was a complete summary of the post-election reporting requirements. In all, the Commission mailed out 150,000 copies of the Campaign Guides during the 1976 campaign. The Public Communications section also responded to numerous phone and letter inquiries about reporting requirements and deadlines.

During 1976 the FEC received disclosure reports from approximately 9,000 filers. This represented roughly 5,600 committees, 3,000 candidates and nearly 400 miscellaneous filers. Senate and House candidates must file initially with the Secretary of the Senate or the Clerk of the House, but copies and microfilm of the reports are forwarded immediately to the Commission and then made available in the Public Records Office. All other filers (Presidential, multicandidate-party and nonparty-related committees and independent expenditors) file directly with the Commission.

Since the Commission's proposed regulations would allow waivers of personal candidate reporting responsibilities, it is assumed that most candidates will not be filing personal reports in future elections, though they would still have to file written authorizations of committees and bank depositories. Generally, each reporting entity is expected to submit between 12 and 15 documents during an election year including statements, reports, amendments, and miscellaneous correspondence. Thus, the Commission can reasonably be expected to receive from 67,000 to 84,000 documents from committees, plus an additional 10,000 to 15,000 documents to be filed directly by candidates.

Review of Reports

The primary objective of reports review and analysis for disclosure purposes is to secure complete information on the record so that the public will have the complete financing story of any one campaign. From its inception, the Commission has had responsibility to review Presidential, multicandidate and party-related committee reports. Upon mutual agreement, the Secretary of the Senate and the Clerk of the House retained review responsibility for congressional reports until July and September of 1976, respectively. This functional transfer which had been anticipated from the establishment of the FEC proved to be a very sensitive matter, but fared well as a result of the continued efforts on the part of the staff in conjunction with the ex officio Congressional Commissioners.

"Threshold Review"

In developing procedures for reviewing reports, the Commission faced two problems. One was a recognition that the staff available simply could not review all disclosure documents. In response to this the Commission adopted a threshold concept which concentrated review on those campaigns which exceeded a given level of financial activity. This need for selective review was accentuated when the Commission received responsibility for monitoring Senate and House documents.

A $10,000 threshold for review was adopted on August 12, 1976.[2] This meant only those filers whose aggregate receipts and/or expenditures exceeded $10,000 would be reviewed, and eliminated from the review process about 43 percent of all documents filed. Under this criterion, the FEC would still examine virtually all Senate candidates who were successful in the primary and general elections and the great majority of successful House candidates. The committees which were eliminated from the review process under the $10,000 threshold were primarily:

1. House candidates unsuccessful in primary elections
2. Local party-related committees
3. Small non-party-related multicandidate committees
4. Minor Presidential-candidate committees

"Substantial Compliance"

The second problem was the need to establish criteria of "substantial compliance" with the law. The level of experience and sophistication on the part of candidates and committees completing the disclosure forms varied so greatly that there were many incomplete forms, and other minor errors and omissions. Under initial strict application of the disclosure criteria set down in the Act, the review process resulted in 30 percent of reports being determined "inadequate."[3]

In order to reduce this workload on staff and filers, the Commission adopted guidelines to accept reports as complete if 80 percent of the information in a given category (such as addresses of contributors) was present. Where large contributions or expenditures (generally in excess of $500) were involved, the requirement for complete descriptive information was maintained. By applying such criteria, the Commission recognized, in most cases, a "best efforts" attempt by committee treasurers to comply with the disclosure requirements, as specified in the recordkeeping section of the statute (2 U.S.C. §434(b)(14)). Adoption of these guidelines has substantially reduced the number of "inadequate" reports.

[2] A survey of House campaigns in 1972 shows that 92 percent of House candidates who ran in the general election spent in excess of $5,000 while 87 percent spent an excess of $10,000 during the calendar year.

[3] This does not include House and Senate reports for which the FEC did not yet have review responsibility.

RFAI's

When the information on a disclosure report was determined to be inadequate, a **Request for Additional Information** (RFAI) was sent to the filer. The quality and completeness of the data on these reports varied enormously and demanded often quite experienced judgement and knowledge on the part of the analysts in order to determine whether the report was "adequate." However, if a filer ultimately failed to provide adequate information as required by the RFAI, this could become the basis for formal compliance action by the Commission. Following the guidelines in the statute, the FEC sent three further notices, each with a specified time period before taking formal action. During 1976, the overwhelming majority of filers did provide an adequate response to the RFAI's after one or at most two notices.[4]

The Commission adoption of the "threshold" and "substantial compliance" concepts eliminated a sufficient portion of the total review workload, and allowed a more in-depth analysis with respect to those committees which received and spent the bulk of the money directly affecting the political process.

Processing Reports-The Computer

Computer Development

During 1975, microfilm was selected as the processing means for primary viewing by the public of disclosure documents. These films are available in the Public Records Office, in addition to paper copies of the documents themselves. Early in 1976, the Commission began designing a computer system which could assist in the storage and retrieval of information on the disclosure documents, both for purposes of Commission review and, where appropriate, for public review. The development of this program continued throughout the spring and in August of 1976 the Office of Data Systems and Development began operation.

During the last half of 1976, the Data Systems Office undertook primarily to gather and store the data off incoming and some backlogged documents. The actual preparation of data for entry into the computer, and the verification of the product, proved to be considerably more difficult than had been envisioned. The disclosure forms were not wholly compatible with data entry requirements, and there was extreme variation in the way committees and candidates completed the forms. Several different versions of the forms were in circulation because of various changes in the law, and finally, there was a desire to get out a product before the election. All of this, combined with the necessity of training new personnel and essentially de-bugging a new computer program, made the first months of the computer operation extremely difficult.

[4] For a discussion of how the Commission handled nonfilers see the Chapter on **Compliance and Enforcement.**

Computer Functions

One function of the computer for disclosure purposes was to assist with reports review. The computer made it possible to implement the concept of threshold review. A weekly run of all new documents quickly showed the Reports Analyst which campaigns were above the $10,000 threshold and thus subject to review. Other internal listings assisted in more specialized types of review.

A second function of the computer is to meet the statutory requirements for publication of a variety of indexes. These required indexes included a listing of all documents filed with the Commission, of multicandidate committees, of nonfilers and of independent expenditures. In addition, by Commission directive, the indexes contained updated tabulations of receipts and expenditures for each candidate and committee. The computer literally made such listings possible, for they could not be completed manually in timely fashion given the volume of data to be processed.

Following the election, the Data Systems Office concentrated on ensuring that the data base was reliable and accurate. When this is completed, further indexes and compilations can be produced which will provide a basis for more sophisticated analysis of the financing of the 1976 campaigns. It is the objective of the Commission that this computer system provide consolidated raw data from the disclosure reports in such a form that the public can have ready access to data for whatever analysis it desires. In this way the FEC will be an information service organization, while the actual research, analysis and formation of conclusions will be done by an independent public.

Making Reports Available to the Public

Public Records

The information in the disclosure reports is made available to the public in several ways. First, the reports themselves can be viewed. This is the responsibility of the **Public Records Office** of the Commission and the statute requires reports be publicly available within 48 hours of receipt. During 1976, this office provided 1.1 million pages of Federal campaign finance data for public inspection in a "storefront" research area. This included ½ million pages relating to over 9,000 filers during 1975–76. Visitors to this office ranged from 100 per week in early 1976 to several hundred per week during October 1976.

In addition to making documents available for direct viewing on microfilm, this office copied and sold over 1/3 million pages of statements and reports on self-service microfilm reader/printers and photocopiers, and responded to 2,012 written orders and 1,379 phone orders. The office also handled more than 2,000 information calls on document availability. When these figures are set against the 46 contests represented, it is possible to gain a measure of the degree of public interest in these disclosure documents.

Now that the consolidation of House, Senate and Presidential documents has been largely completed, and the microfilm system is completely operational, the Public Records Office is looking to make its records even more accessible to the public. At headquarters, the computer operation now provides a printout machine in Public Records which can produce an updated computer printout of a specific category of data on call.

The primary obstacle to fuller disclosure at this time, however, is the need to get the data out of Washington to the local level where the campaign is conducted. More extensive use and distribution of microfilm and development of a greater variety of published computer indexes could answer this need. In addition, the office is exploring the possibility of making microfilm available to State libraries and central campaign finance records offices. This would, for the first time, permit widespread research and study of Federal campaign finance reports outside of Washington, D.C.

Indexes and Compilations

Aside from the reports themselves, the second major format for public disclosure consists of indexes and compilations of the data from disclosure reports filed with the Commission. Several indexes are required by the statute, such as the listing of independent expenditors; others are developed to make public understanding of the data easier. In spite of the difficulties in implementing the new computer system, it was possible to produce several indexes and tabulations for public review prior to the election, although some indexes had to be developed by hand for the 1976 campaign in order to meet the deadline in the statute. For some categories of reports, this public listing is the primary form of control which the public has to ensure compliance with the law.

One such index is the one listing independent expenditures. In mid-September, the FEC sent a "Notice of Independent Expenditures Reporting" to all candidates and political committees, advising them of the details of the independent expenditure reporting requirement. This special notice was felt to be necessary not only because of the new requirement for notarization, but because without any limit on such expenditures, disclosure remained the only effective control. An **Independent Expenditure Index** was issued by the Commission on October 14, 1976, and updated on October 27, 1976.

A second category of filers which relies on public listing for effective compliance includes the new reports from corporations and labor unions regarding the costs of political communications with members and employees when those costs go over $2,000. This so-called Packwood Amendment is extremely difficult to monitor. While the FEC can inform corporations and unions of their obligation to report, there is no built-in control to determine when that reporting requirement is triggered. By publishing a list of those organizations which have reported, the Commission can facilitate the filing of complaints with regard to organizations which may have failed to file. Such a list was published on October 18, 1976, entitled **Index of Communications by Corporations and Membership Organizations May 1–October 1, 1976.** Other kinds of listings which are needed for compliance are the lists of **Multicandidate Committees** who qualify for a higher contribution limit, published in the *Federal Register* October 6, 1976, and updated on November 9. Without such a list developed through the FEC, the individual candidate cannot easily know how large a contribution he can legitimately accept from a committee.

Through the use of the computer, the Commission also made available a listing of all contributions of $500 and above to the Ford and Carter primary campaigns, a listing by Presidential candidate of all reports filed for the prenomination period, including receipts and expenditures for each report and aggregates therefor, and finally a listing of selected special interest groups showing which candidates they supported and the size of their contributions.

Because of the preliminary nature of the data and because of the developmental stage of the computer program, these indexes were made available primarily for review in Public Records, and not in published form. It is anticipated that updated versions of these various indexes, including data from the year-end disclosure reports, will be published in the spring of 1977. These indexes will begin to provide the public with final data on the financing of the 1976 campaign. The Commission has also undertaken a review, in conjunction with several private research groups, to determine exactly what statistical information would be most useful to the public for future elections. The results of this study will guide the development of programs for the computer for the 1978 elections.

Campaign Limitations

INTRODUCTION

Laws which impose limits on campaign spending and activity customarily fall into three categories: 1) limits on contributions, 2) limits on campaign expenditures, and 3) restrictions or prohibitions on the involvement of various groups in campaign activity, particularly corporate and labor groups. The 1974 Federal Election Campaign Act, under which the Commission started, included all three of these approaches. In its January 1976 decision, *Buckley* v. *Valeo*, the Supreme Court ruled that limits on campaign expenditures and candidate personal spending were unconstitutional, unless the candidate was receiving public financing for his campaign. Limitations on independent expenditures were ruled out completely. Contribution limits were upheld. Restrictions on corporate and union activity were not affected.

POLICY QUESTIONS

Independent expenditures

By striking limits on independent expenditures and candidate personal spending, the Court left open several areas which were then addressed by the 1976 Amendments and the Commission. Acknowledging the lack of restrictions on independent spending, the new amendments required a notarized statement that these expenditures were made without prior consultation with or at the request or suggestion of the candidate (2 U.S.C. §434(e)).

The Commission later addressed the question of whether the $1,000 contribution limit would apply in the case of contributions to committees making independent expenditures on behalf of candidates. The concern was that a contributor could give unlimited amounts to such a committee which was openly spending money on only a single candidate, thereby circumventing the $1,000 limit. In a policy statement issued September 23, 1976, the Commission took the position that contributions to political committees making independent expenditures would not be subject to the $1,000 limit as long as "the contributor does not give to the committee with the knowledge that a substantial portion of the contributor's funds will be . . . expended on behalf of the candidate." Such contributions are restricted to the $5,000 limit to each committee per calendar year, and for individuals, to the $25,000 limit per calendar year.

Affiliated Committees

In the area of contribution limits, Congress added the significant provision that multicandidate committees which are "affiliated" must share a single $5,000 limit (2 U.S.C. §441(a)(5)). This provision resulted from experience with the 1974 Amendments which indicated that proliferation of committees could provide an avenue for evasion of the $5,000 contribution limit for multicandidate committees.

The question which then faced the Commission was how to determine which committees were affiliated and thus subject to a single contribution limit. While the statute did outline certain relationships which would constitute affiliation, the Commission, in its proposed regulations, felt it was necessary to develop a list of additional criteria to determine affiliation. These were intended to cover those organizations which were outside the usual groups of corporations, unions, and membership associations, and to define "affiliation" more precisely. (Sec. 110.3 of Proposed Regulations.)

Party Spending

The major question which arose in connection with the application of spending limitations concerned the activity of State and local political party committees. For the Presidential campaign the statute established a spending right for only the national political parties (two cents per voting age population of the United States). The Commission interpreted this to mean that State and local party committees did not have the right to make their own independent expenditures on behalf of a Presidential candidate.[1] Recognizing the restriction this would place on their traditional party activities, the Commission then adopted language in the proposed regulations which would allow each local unit of the party (State, county, city, or congressional district), an expenditure of up to $1,000 to further the election of their party's candidate. In a letter dated September 21, 1976, the Commission advised all State and local party organizations of the overall policy on participation in the Presidential campaigns. Experience during the 1976 campaign indicates that there may be sentiment to amend the statute to allow a broader degree of involvement by local party units.

Corporate and Union Solicitation

In the area of restrictions on campaign activities, Congress provided more specific restraints on solicitation activities which may be undertaken by unions, corporations, and trade associations (2 U.S.C. §441b). The Commission wrestled long and hard writing regulations to implement this section regulating corporation and union participation in the political process. The old §610 of the 1974 Amendments had been a very general section which the Commission had interpreted in an Advisory Opinion in 1975. In response to this Opinion, the 1976 Amendments added far more detailed provisions on how, when, and to whom corporations and unions could make solicitations of their employees and members for political contributions. Trade associations and other membership organizations were also expressly included in the statute for the first time, and special consideration had to be given to their particular problems.

[1] In addition, State and local party units are prohibited from making direct or in-kind contributions to Presidential candidates receiving full public financing in the general election.

PROCEDURES FOR MONITORING LIMITS AND RESTRICTIONS

FEC Approach

Monitoring of campaign limitations and restrictions is one of the major jobs of the Commission if the public is to be assured that these objectives in the law are indeed being met. With the limited time and resources available after the 1976 Amendments were passed, the Commission decided that its efforts should be applied to those campaigns having the greatest financial impact on the election. The individual perspective would continue to be achieved at the local level, where one reporter can review a disclosure document with a thoroughness and familiarity which can never be achieved by a centralized agency in Washington. Therefore, the Commission concentrated review on those campaigns above a given threshold of financial activity and those contributions of $500 and above.

Primary reliance was on manual review of these larger campaigns and contributions. The computer was used primarily to develop the "threshold" list: a daily listing of those candidates and committees whose financial activity exceeded the $10,000 mark. In addition, the computer was used to track contributions of $500 and above to the Ford and Carter campaigns. Additional computer capability will be developed during 1977 to assist in monitoring limits.

Surface Violation Letters

Beginning in July, the Commission adopted a notification program for apparent surface violations of the limits and restrictions on campaign activity which appeared on disclosure reports. This program was distinct from the **Requests for Additional Information** sent for incomplete reports. When review of reports showed an apparent violation, the filer was sent an initial letter with a specified time period for response. When an inadequate response or no response was received, a second and, if necessary, third letter were sent. If there was inadequate response after the specified time for response to the third letter, the matter was referred for formal compliance action.

This notification program resulted in a substantial increase in compliance. Of 140 initial letters indicating apparent violations of statutory limitations,[2] 97 percent of the committees involved amended their reports adequately with no further contact necessary. It should be noted that the figure of 140 includes many more possible violations since one letter to a large committee or other filer might refer to numerous apparent violations in the same category. Clearly, the fact of disclosure and a first or second reminder from the Commission has caused many candidates to return or refuse illegal contributions, or to correct improperly reported transactions. In the case of some large campaigns, contributions which exceeded the limits were often routinely returned prior to formal disclosure.

The distribution of notification letters among the various categories of candidates was fairly even. Most of the letters sent fell in the category of excessive contributions, both individual and committee. The second

[2] These covered the period July through December 1976.

category was apparent illegal corporate and labor contributions. Other surface violations were connected with disclosure requirements, such as contributions from nonregistered political committees, and improperly reported independent expenditures.

1976 Spending Limits

Presidential Limits

For the 1976 election, all Presidential candidates receiving public funds were subject to separate spending limits for the primary and general election. The primary limit was $10,910,000. During the general election the candidates were limited to campaign expenditures not to exceed $21,820,000.[3] The disclosure forms for Presidential candidates receiving public funds were designed to require the filer to indicate what portion of his or her campaign expenditures was subject to limits. Specific expenses exempted from the limit by law were legal and accounting fees, fundraising expenses up to 20 percent of the limit, loan repayments and contribution refunds, and transfers to other authorized committees of the same Presidential candidate. The amount subject to limitation is calculated by the candidate and subject to an initial in-house review by the FEC. The final monitoring relies on the field audits mandated by law. It is important to keep in mind that the law specifies that a candidate shall not be deemed to have exceeded his limit until his final books and records are closed. This means that an interim disclosure report may, because of outstanding debts or pending refunds, temporarily show what appears to be an expenditure in excess of the specified limits.

For the 1976 campaign the in-house review indicated all candidates were apparently within the limits, but a final determination must await the field audit reports.

State-by-State Limits

A second element of the Presidential spending limit is the limit imposed on spending in each State, a designated portion of the overall limit. The candidate is required to submit a statement showing the expenditures allocated to each State. These are reviewed within the Commission for surface violations, and the final determination is made during the field audit.

Party Limits

The final spending limits applicable for the 1976 election were those imposed on the national party committees for Presidential candidates and on national and State party committees for other Federal candidates. These limits again are monitored by review of the disclosure documents within the Commission, and by a field audit conducted after the yearend reports are received. In the 30-day post-election reports, both the national parties indicated figures for expenditures for the respective Presidential candidates which were within the $3,203,787.00 spending limit. The figures will be checked against the itemized expenditures when the field audit is completed.

[3] Figures include statutory limits of $10,000,000 for the primary, $20,000,000 for the general, plus the cost-of-living increase (2 U.S.C. §441a(b)). The cost-of-living increase in 1976 was 9.1 percent.

1976 Contribution Limits

Contribution limits are difficult to monitor because of the volume of reports. The task of aggregating multiple contributions to the same candidate, or total contributions from single contributors in a campaign year is so voluminous that it can only be undertaken through computerized sorting and listing of identical or similar names. After the names have been arrayed alphabetically in computerized listings, they must be reviewed visually by trained examiners to identify apparent violations.[4]

During the 1976 campaign, most apparent violations of the contribution limits were corrected by refund after an initial letter was sent to the filer by the Commission. In some cases, where itemized listings of contributors indicated inconsistencies or unusual patterns of contributions, the Commission sent letters directly to the listed contributor asking for verification of the contribution.

The major listing of contributors for the 1976 campaign was of all contributions of $500 and above to the two major Presidential candidates, Ford and Carter. This list was made available to the public on October 22, 1976. Since this listing contained apparent violations of the contribution limit, each candidate was sent an initial letter asking for clarification of those contributions apparently in excess of the limits. In both cases, satisfactory responses were received and the corrections were made a part of the public record.

Finally, the Commission monitored contributions by affiliated committees, which are subject to a shared limit of $5,000. On their financial disclosure forms all committees were asked to provide the names of any connected organizations and of any affiliated committees. In a further effort to highlight this requirement, a special letter dated September 20, 1976, was sent in which the FEC asked chairmen of all non-party political committees to report their committee affiliations. FEC Chairman Vernon Thomson said, "The Commission wants to identify which committees are not aware that they are collectively subject to the single contribution limit, in order to help these committees avoid improper contributions." This inquiry by the Commission brought answers on the part of 95 percent of the 1,188 committees involved.

Following the criteria outlined in the proposed regulations, the Commission initiated a study of these responses to determine whether in fact all cases of affiliation were reported and whether the responses are adequate to meet the intent of the law. In cases where the committee indicated no affiliation, patterns of expenditure habits, contributor information, candidates supported, identification of officers, etc., were studied to determine the possibility of common control which would constitute a violation of 2 U.S.C. §441. From the study, the Commission has developed a list of affiliated committees for internal use, which could also provide a valuable guide to candidates for the next election.

[4] The same problem arose in verifying contributions for the primary fund program.

Procedures for monitoring the prohibition on corporate and labor contributions follow the same pattern as other limitations, namely in-house review and subsequent field audit of candidate and committee disclosure reports. Again using the threshold concept, not all such activity is monitored, and not all campaigns receive a field audit. For those filers where in-house review did require that a letter be sent on an apparent violation, substantial compliance was achieved. Many of these apparent violations stemmed from inadvertent use of corporate small business checking accounts instead of personal accounts. Or, in the case of labor unions, contributions were sometimes recorded in the name of the union rather than the appropriate political action committee.

The Commission has less ability to monitor the solicitation activities of corporations and unions with their employees and members (2 U.S.C. §441b). These activities do not have to be reported or disclosed, so that the Commission must rely on the normal complaint process to monitor these activities.

Compliance and Enforcement

INTRODUCTION

In addition to administration of the various campaign finance reform programs, the Federal Election Commission has been assigned the primary responsibility for ensuring compliance with and civil enforcement of these programs. Various powers of the Commission flow from these responsibilities. The power to issue advisory opinions and interpretation rules and regulations provides a broader legal basis for enforcement of the law. Audit and investigatory powers assist the Commission in determining the degree of compliance with the law, and investigating specific complaints or evidence of noncompliance. Finally, a variety of civil enforcement powers, including the power to issue subpoenas and secure injunctions, allows the Commission to take direct action to correct or prevent a violation of the law.

Civil enforcement powers were given to the Commission when it was first created by the 1974 Amendments to the Federal Election Campaign Act. While the previous supervisory officers for the 1971 Act had compliance responsibility, specifically audit and investigatory powers, they were obliged to refer all cases for enforcement to the Justice Department. The 1974 Amendments gave the Commission primary civil enforcement authority. This came partly in response to a concern about the degree of enforcement of earlier campaign reform laws; it was felt that the Commission would be able to concentrate on review of possible violations and enforcement of the law sufficiently to restore public confidence, which was so eroded by the campaign scandals of the 1970's.

With the 1976 Amendments to the FECA, the Commission's enforcement responsibilities were again strengthened with the granting of "exclusive" civil enforcement authority over all of the provisions of the Act. This included the disclosure and campaign-limitations programs in Title 2 and the public financing programs in Chapters 95 and 96 of Title 26 of the U.S. Code. The 1976 Amendments were also much more precise about the steps which the Commission must take in connection with an enforcement action. The compliance review or audit functions of the Commission were not affected, but the procedures for legal interpretations of the Act by the use of advisory opinions were modified.

COMPLIANCE

The Commission is charged with bringing about compliance with the Act, and with determining whether candidates and committees are complying with the Act. Activities in these areas include legal interpretation of the law through Advisory Opinions and rules and regulations, general informational assistance to candidates and committees, and in-house review and field audits of committees and candidates to determine the accuracy of records and fulfill the disclosure requirements of the statute.

Rules and Regulations

Rules and regulations provide interpretations and explanations which help committees and candidates comply with the law. They also provide a broader legal foundation for enforcement of the law. The Commission originally sent proposed regulations to Congress during December 1975 and January 1976. These never went into effect because of the Supreme Court decision in January which suspended the Commission's rulemaking authority.

In April 1976, the staff of the Office of General Counsel began redrafting portions of these original regulations when the shape of the 1976 Amendments seemed fairly clear. One significant aspect of the 1976 Amendments was the Congress' decision to recodify in Title 2 the provisions on campaign limitations and restrictions which had previously been in Title 18, over which the Commission had no rulemaking authority. It was in this area that the drafting initially focused. Drafts for many sections were finished in late April and were circulated to the Commission for review pending the final passage of the Amendments by the Congress and the reconstitution of the Commission. Also receiving extensive attention were the provisions covering corporate and union activities, and independent expenditure activity.

The disclosure provisions, Parts 100 through 108, were not significantly altered from the original version submitted to the Congress in December of 1975, since the 1976 Amendments did not affect them substantially. The staff draft also altered parts of the office accounts regulation, Part 113, and made adjustments in the matching fund regulations, Parts 130 through 135, in conformance with the 1976 Amendments.

As soon as the Commission was reconstituted on May 21, it was presented by the legal staff with a complete set of revised regulations. The entire set of proposed regulations was published in the *Federal Register* on May 26, 1976, for public comment. The Commission then held extensive public hearings on June 7-10 and July 2, which covered the entire body of the regulations with an attempt to define on a given day particular subject matters for consideration. During the same period, written comments were received from the public to be made part of the record. By late June, the final drafts were considered by the Commission and amendments were made, and by the end of June, the Commission had given preliminary approval to the entire set of regulations.

After the Commission concluded preliminary approval, Commission staff met with staff from the House and Senate committees with jurisdiction over the Commission, to brief them with respect to the draft versions before final Commission action. The Commission then approved a complete set of regulations in final form and transmitted them to the Congress on August 3, 1976. These proposed regulations were subsequently published for public information in the *Federal Register* on August 25, 1976.

The Commission could not officially promulgate these regulations until a period of 30 legislative days had elapsed from the date of receipt by Congress, during which time either House had the opportunity to veto them. The 1976 proposed regulations had been under review in Congress 28 legislative days when Congress adjourned on October 1, 1976, two legislative days short of the 30-legislative-day requirement. This left the Commission and the public alike without formally approved rules and regulations for the remainder of the election period.

On October 5, 1976, the Commission issued a policy statement on its position on the status of the regulations. This stated among other things that:

> "This announcement provides notice to all affected parties that the Commission intends to administer the Act in a fashion which implements the interpretations set forth in the proposed regulations. All persons subject to the Act should accordingly comply fully with the requirements of the FEC regulations during the 1976 elections. The FEC regulations should be looked upon as interpretative rules under traditional concepts of administrative law and should be taken as an authoritative guide as to how the election laws apply. . . ."

On January 11, 1977, the Commission resubmitted this set of rules and regulations to Congress, plus several proposed amendments.[1]

Advisory Opinions

During 1976 the Commission's authority and function with respect to rendering Advisory Opinions, Opinions of Counsel, and informal legal Informational Letters were substantially affected by both the United States Supreme Court decision in *Buckley* v. *Valeo* and the 1976 Amendments to the Federal Election Campaign Act.

Prior to the Supreme Court decision, the Commission issued binding Advisory Opinions under 2 U.S.C. §437f. During that period the General Counsel also issued Opinions of Counsel under a procedure that the Commission approved and implemented in 1975 as a method to respond to questions which could not be treated under the Advisory Opinion procedure set forth in the statute, or which were otherwise inappropriate for advisory opinion treatment. With the *Buckley* decision, however, and the Supreme Court's invalidation of many of the Commission's powers including the power to issue Advisory Opinions, the Commission ceased issuing Advisory Opinions.

[1] See Appendix C for highlights of these proposed Regulations; see the *Federal Register* of August 25, 1976, for a complete text.

The Commission did continue issuing Opinions of Counsel, and used that format as a vehicle to respond to pending requests for Advisory Opinions if the requestor consented to receiving an Opinion of Counsel. Accordingly, between January 30 and March 23, 60 Opinions of Counsel were issued by the General Counsel of the Commission. When the Court's stay expired, Opinions of Counsel were also terminated.

The 1976 Amendments to the Act contained substantial amendments to the Advisory Opinion procedure (2 U.S.C. §437f) with the result that the Commission was required to place principal emphasis on the development and submission to the Congress of proposed regulations to implement the Act as amended. Specifically, the Congress provided that no opinions "of an advisory nature" could be issued except in response to specific factual situations where a general rule of law stated in the Act or a promulgated regulation could be applied. This prohibition required the General Counsel to cease issuing Opinions of Counsel, and precluded the Commission from issuing Advisory Opinions based on proposed rules and regulations. The legislative history made clear, however, that Congress did not intend this restriction to bar the Commission or its staff from issuing informational material, whether contained in letters or general publications, pertaining to the Act. This informational function was discharged by the Commission through the Office of General Counsel as well as the Office of Information.

The need for Advisory Opinions continued, however, as new requests were submitted after the enactment of the 1976 Amendments. The Commission responded to these requests in two ways. Formal Advisory Opinions were issued where applicable. In addition, the Commission developed a new format for those responses which were based in part on the Commission's proposed regulations. These responses, designated Re: AOR, were given in letter form and clearly stated that they did not constitute a formal Advisory Opinion, but rather a response based on a proposed regulation.

While the formal Advisory Opinions carried with them the full protections and immunities granted by the statute, the Commission's Responses to Advisory Opinion Requests (Re: AOR's) which involved reliance on the proposed regulations did not afford the requesting person, or others similarly situated, the same protection given in connection with an Advisory Opinion.

During 1976, the Commission issued 57 formal Advisory Opinions (AO's) and 51 Re: AOR's. In addition, the Office of General Counsel sent out numerous Informational Letters to persons who did not have proper standing for an Advisory Opinion, where the subject matter was overly general, or where the incoming letter did not otherwise require a Commission-level response. Roughly half of all opinion requests had to do with campaign contribution questions; the rest concerned expenditures, solicitations to separate segregated funds, excess campaign funds, political committees, reporting and other questions in that order of frequency.[2]

[2] See Appendix E for a **Subject Matter Index of Advisory Opinions, 1975-1976.**
See Appendix D for summaries of selected Advisory Opinions and Informational Letters issued in 1976.
Advisory Opinion Requests are made public at the Commission and summaries are published in the *Federal Register* as received. The opinions themselves are available from the Commission's Office of Public Records.

Audit Policy

The Commission has a general audit authority under 2 U.S.C. §438(a)(8) of the statute. This authority is discretionary except in the cases of candidates accepting public financing which is mandated under another section of the law. The purpose of audits is to test the general level of compliance with the law and to selectively review particular cases where there are indications that practices may not be in conformance with bookkeeping and reporting requirements. In addition, because of the newness and complexity of the law, the Commission uses the field audit to assist candidates and committees in developing better recordkeeping systems so that they may more easily comply with the law.

The Commission spent a good part of 1976 developing a general audit policy, and the procedures to carry out that policy. The services of a special consultant were used, plus extensive consultation with Internal Revenue Service and with personnel who had been involved in audit programs of the 1972 election. While this program was developed and approved by the Commission in 1976, implementation was delayed until 1977 because of the prior obligation to complete audits on those Presidential candidates receiving public funds.

Under the audit program adopted in November 1976, the Commission took several policy positions. First, House and Senate audits would not be conducted during a campaign period. Second, the Commission recognized it was not possible or desirable from the point of view of resources or results to audit all races. Rather, the Commission chose to rely on a series of objective standards for selecting which candidates or committees would be audited. These standards included the amount of money received or spent, statistical selection, predetermined criteria which indicate problems with recordkeeping, percent of the vote, and, for Presidential races, the number of States in which a candidate appeared on the ballot. A final policy approach was to audit only the general election races, unless there is indication that the meaningful campaign was in the primary. Some indicators which will be used to determine this are the percentage of the vote gained in the general election and the amount of money received or spent.

Audit Procedures

Congressional Campaigns

Congressional candidates and their committees are the largest group to be audited and therefore present the most difficult problems of selection. The Commission adopted a two-part selection policy for this group, combining statistical selection of sample campaigns, and selection by application of specified audit criteria. The statistical sample would be further refined by eliminating those candidates who received less than a certain percentage of the vote and spent less than a given amount of money in their campaign. Any statistical sample would be of campaigns, so that all candidates in a particular district will be examined.

The primary purpose of the audit criteria selection process is to identify individual candidates or committees most needing attention from the Commission, through an escalating process of review and analysis of disclosure reports. Field audits in such cases would be designed to help correct the individual disclosure reports previously filed, and to address the needs of their recordkeeping and reporting systems, so that future reports could be made more satisfactorily.

For the 1976 campaign, the Commission decided to audit 10 percent of the House and 10 percent of the Senate campaigns during odd-numbered years. Approximately 50 campaigns would be selected by the use of the audit criteria selection process.

Presidential Campaigns

Most of the major Presidential candidates are automatically subject to audit because they accepted public financing. For the remainder, the Commission decided to audit those who appeared on the ballot in at least 10 States. This would eliminate the *de minimus* candidates and seems more appropriate than a threshold of campaign finances or percent of the vote.

Multicandidate Committees

Multicandidate committees will be audited on a two-year cycle if they exceed a given threshold of financial activity, presently set at $100,000. A five percent random sample of the remainder will also be audited every year.[3]

Party Committees

National party committees and congressional campaign committees will be audited each year, while reporting State level party committees will be audited on alternate years.

ENFORCEMENT

Policy

The Federal Election Commission has exclusive civil enforcement authority over all provisions of the Federal Election Campaign Act as amended in 1976. Enforcement actions are triggered either by a signed, sworn notarized complaint (2 U.S.C. §437g(a)(1)), or by information "ascertained in the normal course of . . . (the Commission's) supervisory responsibilities" §437g(a)(2).

The statute itself specifies the basic policies governing the use of this enforcement authority. 2 U.S.C. §437g prescribes several elements which must be part of any Commission enforcement action, including confidentiality of the investigation, notification to the parties involved, formal investigation, and a required period for attempted conciliation.

[3] Three multicandidate committee audits were conducted in early 1976 but further activity was suspended with the initiation of the mandatory Presidential audit program. Reports on these committee audits were made available in October.

The statute also requires that each determination by the Commission to initiate successive steps in an enforcement action shall require an affirmative vote by four members of the Commission (2 U.S.C. §437(c)). The phased procedure, the prescribed conciliation period, notarization of the complaint and exclusive civil jurisdiction are new elements in the law since the 1976 Amendments.

Procedures

The procedures which flow from the statutory policy involve several stages, and the Commissioners must take a formal vote to initiate all but the first step. Briefly, these stages are:

1. **Preliminary review** of a complaint or other possible violation, followed by a Commission determination of whether there is "reason to believe" that a violation has occurred.
2. A **formal investigation** and **notification** of the person involved in the alleged violation, followed by a Commission determination of whether there is "reasonable cause to believe" a violation has occurred.
3. 30-day period for **voluntary compliance** or **conciliation.**
4. **Civil action** if there is failure of conciliation or voluntary compliance and Commission determination that there is "probable cause to believe" that a violation has occurred.

If at any stage a majority of four members of the Commission do not feel there is enough evidence to proceed to the next stage or if a satisfactory conciliation agreement is reached, then the case is closed.

Preliminary Review

When a compliance matter is opened it is assigned a Matter Under Review (MUR) number, and as soon as feasible, the Office of General Counsel develops a preliminary report on the matter. This report includes a summary of the complaint, a preliminary legal analysis and a recommendation for Commission action, including appropriate letters of notification. The Office of General Counsel attempts to make its recommendations within 48 hours of the time a complaint is received. However, due to the increasing complexity of complaints received and the frequent need to verify information in a complaint against the Commission's own records, the 48-hour deadline cannot always be maintained.

Investigation

The Commission action on the recommendation of the Office of General Counsel will be to open an investigation because there is "reason to believe" a statute has been violated, or to close the case because there is no "reason to believe."

During the stage of formal investigation, the Commission is vested with the full range of powers normally applicable to regulatory agencies, including service of subpoenas, taking of depositions, and the requiring by special or general orders of answers to written questions (§437d). At the close of the investigation, having afforded all persons who received notice of the violation "a reasonable opportunity to demonstrate that no action shall be taken," the Office of General Counsel submits a report and the Commission determines whether there is "reasonable cause to believe" that a violation has been committed (§437g(a)(5)(A)).

Conciliation

If the Commission determines there is "reasonable cause," the Commission must endeavor for a period of "not less than 30 days to correct or prevent such violations by informal methods of conference, conciliation, and persuasion" (§437g(a)(5)(A)). Where the matter involves reports due or complaints filed close to an election the statute allows the conciliation period to be shortened to "not less than one half the number of days between the date upon which the Commission determines there is reasonable cause to believe such a violation has occurred and the date of the election involved" (§437g(a)(5)(A)(i), (ii), (iii)).

Civil Action

When the Commission is unable to correct a matter through conciliation and determines there is "probable cause to believe that a violation has occurred or is about to occur," the Commission is empowered to institute a civil action for relief, including a permanent or temporary injunction, restraining order or civil penalty (§437g(a)(5)(B)). The amount of the penalty varies in accordance with whether the violation was "knowing and willful" (§441). Finally, knowing and willful violations may be referred to the Justice Department.

Petition

The Act also provides that any party aggrieved by the failure of the Commission to act on its complaint or by an order of the Commission dismissing a complaint may file a petition with the United States District Court for the District of Columbia. Such petitions shall be filed within 90 days after the filing of the complaint, if a failure to act is alleged; if a dismissal is alleged, the petition must be filed in court within 60 days of the dismissal (§437g(a)(9)). To date, one petition has been filed under this provision.

Confidentiality and Publicity

The statute sets forth certain requirements for confidentiality concerning enforcement cases. Under section 437(a)(3)(B), any notification or investigation may not be divulged by the Commission or by any person without the written consent of the person receiving the notification or the person named as a respondent in the investigation. Violators of this provision may incur fines up to $5,000.

On the other hand, the Commission must make public the results of all conciliation attempts, including conciliation agreements entered into, and any determination by the Commission that no violation of the Act has occurred (§437g(a)(6)(C)). During 1976, the Commission developed a system to make such cases a matter of public record. Summaries and documents are available in both the Public Records Office and the Press Office of the Commission headquarters in Washington, D.C. These files will be updated on a regular basis as additional cases are closed. Indexes are available by number and by names of the parties involved in each case. During 1976 the FEC made public the documents on 245 compliance cases.

1976 ENFORCEMENT ACTIONS

Complaints

The Commission reviewed 319 enforcement cases during 1976 including 34 which were initiated in 1975.[4] Nearly 80 percent of these cases resulted from complaints received pursuant to §437g(a)(1), while approximately 20 percent of the matters were based on information ascertained through the Commission's supervisory responsibilities (§437g(a)(2)). In general, the average number of enforcement matters initiated per month increased at a constant rate in the months following the Commission's reconstitution on May 21, 1976, reaching a peak of 70 in October, the month prior to the election. Although the number of complaints received by the Commission during 1977 will probably drop below the pre-election level of October, there will be a corresponding increase in the number of matters generated through the increased exercise of the Commission's auditing and reports analysis functions.

The relevant statistics maintained by the Commission on its compliance case activity indicate that since May 11, 1976—the effective date of the 1976 Amendments—there has been a steady decline in frivolous complaints (e.g., those matters which could be closed without an inquiry or investigation) and a corresponding increase in the number of matters which require some form of extended inquiry.

[4] The Commission reviewed 75 compliance matters during 1975. Of these, 67 have been closed (34 in 1976), five referred to the Department of Justice, and two are still under review.

Statistics
Figure 6

FEC Action	Closed Cases (status when closed)	Open Cases (status as of 12/31/76)	Total
Preliminary Review	166	25	
Investigation	44	54	
Conciliation Period (30 days)*	0	6	
Civil Enforcement Action	2	22	
	212	107	319

*This period is reduced in cases where probable cause is found in the period just prior to an election.

Figure 6 shows the status of the 319 cases reviewed during 1976. Two thirds (210) were closed after preliminary review or investigation without the Commission finding "reasonable cause to believe" a violation had occurred. Furthermore, approximately 79 percent (166) of these closings did not proceed to an investigation, but were closed after only a preliminary review of the complaint and relevent documents in the Commission's files.[5] The remaining 21 percent (44) were closed after an inquiry or investigation involving the parties named by the complainant. These figures are somewhat misleading, however, since a large portion of the preliminary review closings involved cases filed prior to May 11, 1976, whereas virtually all of the cases which proceeded to inquiry or investigation were filed after May 11, 1976, when the new enforcement amendments went into effect.

Of the 107 cases open as of December 31, 1976, more than half (54) are still in investigation. On the basis of past experience, it would appear that a large portion of the 25 cases in the preliminary review process will also proceed to investigation. Six cases are currently in the stage of attempted conciliation, where there is a 30-day waiting period. Finally, there are 22 cases already in the stage of civil litigation. It should be noted that all of these 22 cases involve candidates or committees who failed to file campaign disclosure reports. (See below for a full description of this "nonfiler" program.)

[5] The Commission institutes an inquiry in matters where further information is required before a determination can be made that there is reason to believe that the Federal Election Campaign Laws have been violated. A finding of reason to believe automatically triggers an investigation (§437g(a)(2)). Few of the complaints or internally generated matters which arose in the latter half of 1976 required an inquiry as opposed to an investigation.

Nonfiler Program

The Commission initiated a separate program to monitor filing of disclosure reports by candidates and their principal campaign committees. The primary objectives of this program were to inform candidates and their committees of their filing obligations, and to implement an expedited compliance process in an effort to being about timely filing of these reports. In addition, 2 U.S.C. §437(a)(7) of the Act required the Commission to prepare and publish a list of those candidates who fail to file reports. Evidence to date also indicated that there were many questions regarding the registration and separate reporting requirements of candidates and their committees. One factor contributing to this confusion was the uncertainty about the applicability of the waiver provision in the FEC proposed regulations. Since the regulations had not been promulgated, the waiver could not be legally granted.

This program monitored pre- and post-primary reports in 28 States, the October 10 quarterly reports, the 10-day pre-general-election reports, and the 30-day post-general-election reports. All candidates appearing on the ballot were sent forms and campaign guides, and separate "prior notice" telegrams outlining specific filing requirements for the primary and general reporting periods. The Commission then identified those candidates who failed to file by the prescribed date. An effort was made to recognize a best effort on the part of the candidates and certain criteria were established for determining when miscellaneous documents and letters could be accepted in lieu of reports. Since the initial point of entry for Senate and House reports lay outside the Commission, determination of nonfilers involved close coordination with the offices of the Clerk of the House and Secretary of the Senate.

Once an initial list of nonfilers and nonregistered committees was developed, all such candidates and committees were sent a "reason to believe" mailgram. Subsequent filings indicated that many had sent their report on time but mail delivery delayed receipt. As shown on Figure 7, roughly half of those receiving first notices had either already filed or did so within the designated 48 hours. The remainder received a "reasonable cause to believe" mailgram. Finally, further noncompliance led to the publication of the names of nonfilers—and in some instances—to the filing of civil litigation.

Figure 7

Non-Filers Program

Type of Report	No. of Candidates	1st Notice	2nd Notice	Publication of Non-Filers[6]
Primary Reports	789	535	217	20
October 10 Quarterly	1,300	407	172	37
10-Day Pre-general	1,300	888	358	127
30-Day Post-election	1,300	351	187	49
		2,181	**984**	**233**

The accompanying chart shows that each successive notice substantially reduced the number of nonfilers. The greatest delinquency rate was for the 10-day pre-general-election report when nine percent (127 out of 1,300) had failed to file reports when the nonfiler list was published just before the election. Following publication, many candidates and committees did submit their required reports, and as of the end of the year, the delinquency rate for all reporting periods was no more than three percent. Of the final number, 22 resulted in civil litigation.

Separate programs involving a similar series of escalating notices but without publication were also instituted for partial filings, and incomplete filings containing surface violations. (These are described in Chapters on Disclosure and Campaign Limitations.)

The Commission also processed and responded to a large volume of compliance mail that did not rise to the level of a compliance matter Of approximately 500 such letters, 80 percent were handled in the second half of 1976.

[6] See Appendix A, Chronology of FEC Events, 1976, for dates of publication. All but the post-election were published prior to the general election.

National Clearinghouse For Information on Election Administration

INTRODUCTION

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 administrations have the ultimate responsibility for conducting Federal, State and local elections, but they share with the FEC many other areas of common concern. In the area of campaign financing, for example, some 41 States have passed legislation affecting the campaign financing activities of various State and local candidates in addition to the responsibilities of each State to receive, maintain, and make available for public inspection Federal campaign finance statements. Similarly, many State and local election offices are making substantial efforts to improve access to the ballot through new voter registration methods, voter education and training activities and new voting equipment. The Commission feels it can play a positive role in these endeavors by actively working with and assisting these State and local election units.

Election administration is a complicated, expensive governmental function. The FEC estimates, for example, that there are over 6,300 independent election boards who directly expended $813 million for administering elections during Fiscal Years 1970-1973. It is conservatively estimated that $250 million was spent during election year 1976 by these same election boards. In addition, there are literally tens of thousands of other governmental units who spend additional sums in administering local elections.

Despite the obvious and ever-growing need, there is an almost total lack of effective communication among State and local election jurisdictions in the area of election administration. Many election boards have faced and solved such difficult problems as approving and purchasing vote-counting equipment, operating mail and automated voter registration systems, establishing effective voter education programs and training election poll workers. Their experiences, however, have not been available to other election administrators facing similar problems. Because of this lack of communication among these thousands of election jurisdictions, millions of dollars have been wasted through duplication of effort.

Congress, recognizing these problems, in 1971 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, the statute provides that the research products issuing from these efforts be made available to the general public at cost.

CLEARINGHOUSE RESEARCH REPORTS

The Clearinghouse uses a variety of methods to reach its objectives. The first method is the publication of a series of formal research studies in functional areas of election administration.[1] These reports, which are products of independent research contracts, are then provided, free of charge, to various Federal, State and local governmental officials. Members of the general public can purchase these reports, for a nominal fee, through the National Technical Information Service (NTIS) of the Department of Commerce. During the June 1, 1976–January 1, 1977 time period, over 1,000 Clearinghouse reports were sold to members of the general public which returned over $7,000.00 to the NTIS system.

Each Clearinghouse research contract involves the establishment of individual project work groups who, depending on the type of research project, are comprised of various levels of election officials and others most directly affected by each particular project. For example, a bilingual group, which has met in formal session twice since the beginning of the bilingual study, is comprised of election administrators and those minority language groups directly affected by the bilingual requirements of the Voting Rights Act Amendments of 1975. These project work groups provide practical advice and assistance to assure that products resulting from these projects will indeed be useful for the audience(s) intended.

[1] See Appendix G for a complete listing of Clearinghouse studies.

CLEARINGHOUSE ADVISORY PANEL

As noted earlier, the Clearinghouse serves as a central information exchange for the 50 States and the more than 6,000 local election boards. 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.

The Clearinghouse Advisory Panel is presently comprised of 20 State election officials, county and local election administrators and State legislators. 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, bipartisan 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.

CLEARINGHOUSE INFORMATION PROGRAMS

Technical Assistance

During 1976, the Clearinghouse began a modest technical assistance program utilizing members of the Clearinghouse staff. For example, the District of Columbia has requested assistance in designing a management plan for the Board of Ethics and Elections. The Clearinghouse has also, at the request of the Massachusetts and Kentucky State election committees, aided members of their staff in developing enabling legislation for computerized voting.

Conferences

On Friday, September 10, 1976, the Clearinghouse cosponsored a conference with the Institute of Computer Sciences of the National Bureau of Standards entitled "Assuring the Consent of the Governed: Managing Computerized Elections." This conference drew over 165 State and local election officials from 30 States, as well as a number of interested members of the press and congressional staff. Many of the attendees, as well as those who could not attend, have requested the Clearinghouse to hold an expanded version of this conference during the summer of 1977.

CLEARINGHOUSE DOCUMENTS CENTER

During the past few years, the Clearinghouse has received hundreds of simple requests for copies of State mail registration forms, ballots and so forth. In an attempt to be of greater service to these people, the Commission approved the creation of a Clearinghouse Documents Center, a technical resource library for State and local election administrators and others interested in information relating to election administration. The center is comprised of two main sections. The first section is a State-by-State collection of election laws, regulations, ballots, mail registration forms, training manuals and so forth. The second section is a general collection of congressional hearings, election data, studies, articles and other data relating to election administration and elections generally.

FEC Journal on Election Administration

Since many election administrators and others interested in election administration do not have easy access to Washington to use the Center, the Commission has approved the quarterly publication of a bulletin, the *FEC Journal on Election Administration*, to inform people about the contents of the Center and how to obtain access to them.

Survey of State Secretaries of State

During the month of October 1975, the Clearinghouse sent a questionnaire to the chief election officer in every State concerning the filing requirements of Section 439 of the Federal Election Campaign Act. In March of 1976, the Clearinghouse compiled and analyzed the responses in a report entitled "Survey of State Election Offices with Respect to 2 U.S.C. §439."

The report recommended that multicandidate committees be required to file copies of their financial reports with the appropriate State office, only in the State where the contributing and recipient committees are headquartered. The Commission provided for the implementation of that recommendation in Section 108.4 of its proposed regulations.

The report also recommended that the Commission give consideration to encouraging the provision of Federal funds to help the States fulfill the Federal requirements to receive, maintain and make available to the public financial statements of candidates for Federal office.

The report made other recommendations, some of which may be enacted by the Commission while others may require amending the Act.

Those recommendations that require only Commission action include:

1. Periodically provide an updated list of candidates and committees, filed with the FEC, to the States in which the candidates and committees should be filing.
2. Compile and keep updated a list of State filing offices for Federal reports and provide them to State election officials, candidates and committees.
3. Notify a State when a candidate who has been active in a State is no longer required to file with the FEC.

Those recommendations appearing to require congressional action include:

1. Reduction of record retention time for Federal reports.
2. Amend the FECA to permit the States to select the State office where Federal reports should be filed.

Other Commission Support Activities

Additionally, the Clearinghouse assisted the Commission by contracting State officials concerning the results of Presidential primaries in order to comply with a new provision of the Act in the 1976 Amendments concerning eligibility for public funds. The Clearinghouse also had the responsibility of determining which candidates were on the various State ballots, in order that they could be notified of their filing responsibilities.

Legislative Recommendations

In 1976 Congress enacted the fourth major overhaul of campaign financing laws in slightly over four years. The Federal Election Campaign Act Amendments of 1976, like its predecessors (the Presidential Election Campaign Fund Act, the Federal Election Campaign Act of 1971, and the Federal Election Campaign Act Amendments of 1974), made comprehensive changes in the system of campaign financing regulation.

During implementation of the 1976 Amendments, the Commission kept a continually updated listing of omissions, inadequacies and other problems. The legislative recommendations discussed below are a condensation of this original listing, produced by a group of Commissioners and staff members with the final approval of the Commission. Not all of the Commissioners agree with each of the following recommendations. These suggestions merely cite areas in which the Congress may wish to consider amendments in order to improve the functioning of the Act.

The Commission has not made specific recommendations on a number of the major policy issues which may be considered by the Congress, but rather has attempted to focus attention on mainly administrative, technical and less controversial policy-oriented amendments. Ambiguities in the statute which have been resolved by Commission regulations were intentionally omitted.

As the Congress begins to deliberate over possible modifications in the law, the Commission wishes to offer every available assistance in order to make the Act simpler, more workable, and better able to instill public confidence in the political process.

The Commission has categorized these recommendations into seven separate areas: I. Simplification, II. Presidential Elections, III. Limitations and the Role of the Political Party, IV. Corporate and Union Activity, V. Clarification, VI. Miscellaneous, and VII. Technical and Conforming Amendments.

SIMPLIFICATION

A major goal of campaign financing legislation should be the facilitating of participation in the political process. Burdensome and cumbersome requirements and procedures only blunt the impact of reform legislation and discourage honest people from entering politics. While both the 1974 and 1976 Amendments made sincere efforts to reduce the burden on candidates, committees, and volunteers, the end result often fell short of this goal. The Commission strongly believes that a simple, workable system of campaign financing regulation is achievable. Approximately half of the Commission's recommendations for 1977 seek to meet this goal and simplify the law.

Reports

The 1974 Amendments attempted to reduce the number of reports required to be filed, but in 1976 many candidates and committees actually were required to file more reports. Implementation of the following recommendations would drastically reduce the number of reports required to be filed, while actually facilitating public disclosure. Presently, the large number of excess reports and requirements, such as registration amendments disclosing candidate support, make it more difficult for the press and the public to effectively use campaign financing reports.

Principal Campaign Committee Reporting

By mandating that each candidate designate a principal campaign committee and requiring these committees to file reports, the 1974 Amendments forced many candidates to file two sets of reports. Although the Commission was given authority to exempt candidate reporting by regulation, no such regulation has of yet gone into effect. Instead, candidates could be given two options: (a) filing all reports of receipts and expenditures on the candidate report and not have any committee receiving contributions and making expenditures; or (b) designating a principal campaign committee which would compile all reports, including the candidate's reports (which would not be filed directly with the Commission), and file them with the Commission. This change would reduce the number of reports required by one-half for some candidates.

Candidate Support Statements

The Act imposes the burdensome requirement on multicandidate committees that they report on their registration statements the names and offices of all the candidates they support. Any change in this information must be reported by amendment within 10 days. Some multicandidate committees are required, under this provision, to file amendments almost every 10 days. These amendments sometimes exceed the length of the reports on receipts and expenditures. On occasion, the volume of these reports is so great that public disclosure is impaired. Further, the same information is contained on the reports of receipts and expenditures of each multicandidate committee. Except in the case of authorized and single-candidate committees, this provision should be repealed.

Secretary of State Reporting

If the recommendations mentioned below on filing with the Secretaries of State are adopted, candidates and committees would eventually not be required to file these reports, since all campaign finance reports filed with the Commission would be available in each State through a computer terminal or some other similar means.

General Waiver Authority

In the past, there have been instances when the Commission may have wished to suspend the reporting requirements of the law in cases where reports or requirements are excessive or unnecessary. To further reduce needlessly burdensome disclosure requirements, the Commission should have the authority to grant general waivers or exemptions from the extensive reporting, recordkeeping and organizational requirements of the Act. Each proposal for a general waiver would, of course, be submitted to the Congress in the form of a regulation for purposes of review.

The cumulative effect of the above recommendations on disclosure would be to reduce the number of reports by 50 percent for many candidates and committees and by up to 90 percent for some candidates and committees, while at the same time enhancing the ability of the press and the public to glean from the reports important campaign finance data.

Registration Statements

The law requires political committees to supply information on their statements of organization which is not integral to the central goals and purposes of the Act. The following provisions do not add sufficient information to the concept of disclosure to warrant retention and should be repealed:

– the requirement that "the area, scope, or jurisdiction of the committee" be listed.

– the requirement that the statement of organization contain "a statement whether the committee is a continuing one."

– the requirement that committees state "the disposition of residual funds which will be made in the event of dissolution."

In addition, since State and local reports are pre-empted by Federal law, the provision requiring a "statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons" should be repealed.

Election Period Limitations

The contribution limitations are structured on a "per-election" basis, thus necessitating dual bookkeeping or the adoption of some other method to distinguish between primary and general election contributions. The Act could be simplified by changing the contribution limitations from a "per-election" basis to an "annual" or "election-cycle" basis. If an annual limitation is chosen, contributions made to a candidate in a year other than the calendar year in which the election is held should be considered to be made during the election year. Thus, multicandidate committees could give up to $10,000 and all other persons could give up to $2,000 at any point during the election cycle.

State Filing

The Act presently requires all candidates and committees to file a copy of each statement filed with the Commission with the Secretary of State or other equivalent State officer. It also imposes certain responsibilities on the Secretaries of State or equivalent officers. The Commission should be granted regulatory authority to determine the time, place and manner in which these reports should be filed with the State officers. Ultimately, if it is given sufficient funds, the Commission may decide to suspend this filing requirement and supply the Secretaries with microfilm copies of reports filed with the Commission or it may wish to place a computer terminal in each Secretary of State's office or to use existing computer terminals in State capitals to make available to the States all reports filed with the Commission. General Commission regulatory authority would be needed to accomplish this goal without statutory amendment and to make the filing times and places more flexible and to grant the Secretaries more latitude in how they carry out their duties.

Alternatively, the present, more restrictive statutory language could be kept and several less major changes made. Although State election commissions and other similar State agencies are frequently the most logical place to have Federal reports filed, the statute requires all such reports to be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer). Instead, the Governor of each State should be allowed to designate the appropriate place, subject to notification of the Commission. The appropriate State officials should be required to keep reports for only three years for House, five years for President and seven years for Senate, instead of the present 5- and 10-year requirements. The Secretaries of State have expressed more opposition to the report preservation feature of their filing responsibilities than any other.

Point of Entry

The Commission recommends that it be the sole point of entry for all disclosure documents filed by Federal candidates and committees supporting those candidates. A single point of entry would eliminate any confusion about where candidates and committees are to file their reports. It would assist committee treasurers by having one office with which to file, correspond, and ask questions. At present, conflicts may arise when more than one office sends out materials, makes requests for additional information and answers questions relating to the interpretation of the law. A single point of entry should also reduce the governmental costs now connected with the three different offices, such as personnel, equipment and processing centers.

The Commission has the authority to prepare and publish lists of nonfilers. It is extremely difficult to ascertain who has and who has not filed when reports may have been filed at or are in transit between two different offices. Finally, separate points of entry make it difficult for the Commission to track responses to compliance notices. Many responses and/or amendments may not be received by the Commission in a timely manner, even though they were sent on time by the candidate or committee. The delay in transmittal between two offices sometimes leads the Commission to believe that candidates and committees are not in compliance. A single point of entry would eliminate this confusion.

Written Pledges

Candidates and committees are required to report all written pledges even if there is no hope of collecting the money, because the definition of contribution includes "a written contract, promise, or agreement, whether or not legally enforceable, to make a contribution." Candidates and committees should be required to keep records of written pledge cards and other similar written instruments, but they should not have to be reported.

Office Vacancy

The Act prohibits the acceptance of contributions and the making of expenditures when there is a vacancy in either the office of chairman or treasurer. The main thrust of this provision is to assure that there is at least one person responsible for the acceptance of contributions and making of expenditures. Since the treasurer is responsible for signing the reports and keeping the books, there is little reason to also include the chairman within the ambit of this provision. This prohibition should cover only those periods when there is a vacancy in the office of the treasurer.

Disclaimer

The disclaimer required on all solicitations of contributions should be shortened to read:

> "A copy of our report is filed with and is available for purchase from the Federal Election Commission, Washington, D.C."

The present disclaimer is redundant and reduces the amount of space or air time a candidate can use for his own advertising.

Independent Expenditures

The threshold for the reporting of independent expenditures should be increased from $100 to $250. The present burden of reporting on persons who make relatively small amounts of independent expenditures is not consonant with the purposes of the Act. The higher amount of $250 would appear to be a more realistic figure as to when independent expenditures begin to have an impact on election campaigns.

Independent Contributors

Persons who make independent contributions in excess of $100 are required to file reports with the Commission. An independent contribution is a contribution to a person (other than a candidate or political committee) who makes an independent expenditure. The Commission suggests that independent contributors not be required to report to the Commission. Instead, persons who file independent expenditure reports should be required to report the sources of any contributions in excess of $100 made with a view towards bringing about an independent expenditure.

Trade Associations

Trade association political action committees must obtain the separate and specific approval each year of each member corporation in order to be able to solicit the corporation's executive and administrative personnel. Some trade associations have thousands of members and it is a considerable administrative burden to obtain approval to solicit every year. The one-year time limitation should be removed and the trade association should be allowed to solicit until the corporation revokes its approval.

PRESIDENTIAL ELECTIONS

The Federal Election Campaign Act and Presidential Election Campaign Fund Act made sweeping changes in the financing of Presidential elections. Several amendments are needed to both of these Acts.

Delegate Selection

Amendments are needed to delineate the status of delegates and delegate-candidates to Presidential nominating conventions and the applicability of the disclosure provisions and contribution and expenditure limitations to their activities. Further, it is noted that the general prohibitions on contributions by corporations, labor organizations, Government contractors, and the prohibitions on cash contributions over $100 and contributions by foreign nationals apply to contributions to delegates.

Congress may wish to exempt from the definition of contribution and expenditure: (a) the payment by a delegate of all travel and subsistence costs incurred in attending caucuses or conventions; and, (b) the payment of expenditures incurred by a State or local political party in sponsoring party meetings, caucuses and conventions for the purpose of selecting delegates.

Additionally, since some delegates are closely connected with a Presidential campaign, while others run independently of any Presidential candidate, it is necessary to distinguish among the different relationships for the purpose of determining the reporting responsibilities and the applicable contribution and expenditure limitations. One suggestion would be to consider delegates who have been formally authorized by a Presidential candidate to raise and expend money on behalf of the Presidential candidate as "authorized" delegates. These delegates would report to the Presidential candidate. Contributions to the delegate would be considered contributions to the Presidential candidate and expenditures by the delegate would be charged against the Presidential candidate's limitations.

All delegates who have not been authorized, i.e., "unauthorized delegates," could be required to report when they receive contributions or make expenditures in excess of $1,000. Presently, they may be subject to the independent-expenditure reporting provisions for which the reporting threshold is $100.

The contribution limitations for unauthorized delegates could be set so that persons could give up to $1,000 to these delegates—excluding amounts donated for travel and subsistence expenses. A contributor could give up to $1,000 to a single delegate or could divide the contribution among any number of delegates so long as the total amount of contributions to all delegates does not exceed $1,000. Similarly, a qualified multicandidate committee could give up to $5,000 to all delegates.

Support of Presidential Nominees

Congress may wish to clarify to what extent a congressional candidate may give occasional, isolated or incidental support to the Presidential nominee without that support counting as a contribution in-kind, which is prohibited by the Presidential Election Campaign Fund Act. During the 1976 elections, there was considerable confusion as to whether and in what form and manner a congressional candidate could mention and support his political party's Presidential nominee.

For example, a congressional candidate could be provided with a separate spending limitation for the support, listing and mention of the Presidential candidate in campaign materials. A suggested limit would be $2,500 or ½¢ times the Voting Age Population of the district or State, whichever is greater. Further, Congress may wish to determine that the brief mention or appearance of the Presidential nominee in newspaper ads or in television or radio ads would not be considered a contribution so long as the purpose is to further the election of the congressional candidate and the appearance is at the initiative of the congressional candidate.

Presidential Election Campaign Fund

Under the current provisions, the Secretary of the Treasury is required to place first priority on funds for convention financing; second priority on funds for general election financing; and third priority on the matching-payment fund. Since the primaries occur before the general election, the Secretary may not have a clear idea of the amount to reserve for the general election fund. The Secretary may determine that a substantial portion of the entire fund needs to be reserved for a number of possible qualified nominees in the general election; thus leaving insufficient funds to give Presidential primary candidates their full entitlements. On the other hand, the Secretary may make a determination which would not reserve sufficient monies for the general election fund to pay new party candidates who qualify in the general election. Since the amount in the fund is a fixed amount in that it is limited by the number of dollars received as a result of the tax check-off provision, the Secretary may be faced with a situation where he must risk depleting the general election fund to assure full entitlement for Presidential primary candidates. Under some circumstances, the present system could be unworkable and should be modified to either assure candidates full entitlement or to eliminate all discretion by the Secretary and the Commission in determining how to distribute partial entitlements.

State Spending Limits

It is recommended that consideration be given to the retroactive application of expenditure limitations to Presidential candidates who apply for public funds after they have campaigned in several primaries. A candidate might spend considerably more than the State-by-State expenditure limitation in the early primaries and then apply for Presidential matching funds. By making huge outlays in the early primaries and thus obtaining the early momentum, a candidate would have an unfair advantage over publicly funded candidates who would be subject to the State-by-State expenditure limitations. Congress may wish to establish that any candidate who exceeds the State-by-State ceilings would not be eligible to receive primary matching funds.

Issue-Oriented Candidacies

During the 1976 elections, the Commission had a great deal of difficulty ascertaining the intent of contributors to issue-oriented or cause-oriented candidacies. Determinations had to be made as to whether the contributor was giving to further the nomination of the candidate or merely to further the issue or cause.

All written instruments representing contributions submitted to the Commission for matching payments should be required to include the name of the individual whose candidacy they are intended to support. If contributions can be made out to "cause" committees or other noncandidate related entities, the Commission cannot expeditiously and effectively check the contributor's intent.

Fundraising Exemption

Congress may wish to consider the results of the application of the 20 percent fundraising exemption as it is presently drafted. The Act clearly makes the 20 percent fundraising exemption applicable to the entire $10 million limit for Presidential primary candidates, although the legislative history indicates a congressional intent to apply the exemption only to the $5 million privately raised. Further, the 20 percent fundraising exemption applies to Presidential nominees who accept partial public funding for the general election. The application of the fundraising exemption in this situation has the effect of increasing the nominee's spending ceiling and placing nominees who have elected to accept full funding at a lower spending limit. The 20 percent fundraising exemption should be eliminated and the expenditure limitation raised accordingly.

Investment of Funds

Congress may wish to change the tax on income earned by Presidential committees on the deposit of Federal funds. Under the current law, recipients of Federal funds are permitted to invest these funds, and the income generated is applied against the recipients' entitlement. However, the interest income of a political committee is taxed at a specified rate (approximately 46 percent) under the Internal Revenue Code.

The application of these two provisions places the committee in an unusual predicament. If the candidate places the Federal funds in an interest-bearing account, the actual amount of money available for campaigning is reduced by the amount of taxes due on the interest income. If the candidate chooses to maximize the funds available, the funds will be put in a non-interest bearing account. The campaign depository thereby receives a windfall while the Federal Government loses the benefit which could be expected from the investment of these funds in accordance with normal business practices. This anomaly could be eliminated if the tax on the interest earned on Federal funds were repealed.

Treasury Accounts

Alternatively, Congress may wish to consider requiring candidates who receive public funds to establish an account with the Treasury. Each candidate would then be allowed to draw from this account as needed up to his or her entitlement. Such a procedure would eliminate any "lump sum" payments to the Presidential candidates which, when deposited in the campaign depository, could amount to "windfall profits" for the bank.

CONTRIBUTION AND EXPENDITURE LIMITATIONS AND THE ROLE OF THE POLITICAL PARTY

A systematic, comprehensive, enforceable system of contribution and expenditure limitations was implemented for the first time in the 1976 elections. The Commission recommends the following changes in the application of these limitations:

Party Activity

Political parties have a central role to play in the political system. Campaign finance legislation must be carefully drafted to bolster the role of political parties in campaign financing, while at the same time assuring that the parties do not become conduits for wealthy individuals and the special interests. The Commission believes that the role of the political parties, particularly in the Presidential election, can be substantially strengthened without imposing any significant corrupting influence on the political process. One of the major failures of campaign financing legislation in the 1976 elections was the limited role which it delegated to State and local party committees. Accordingly, the Commission recommends the following:

State committees of a political party should be allowed to spend the greater of $20,000 or 2¢ times the Voting Age Population on behalf of the Presidential candidate of the national party. State committees should be allowed to delegate this spending right to subordinate committees.

Local and subordinate committees of a State committee should be allowed to distribute campaign materials and paraphernalia normally connected with volunteer activities (such as pins, bumper stickers, handbills, pamphlets, posters and yardsigns, but not including billboards, newspapers, mass mailings, radio, television and other similar general public political advertising). These activities would be exempt from the limitations when undertaken on behalf of the Presidential candidate; would be subject to the disclosure provisions; could mention as few or as many candidates as deemed desirable; and would be paid for only with funds that are not earmarked for a particular candidate.

If the abovementioned recommendations are adopted, the political parties will be given a strengthened role in the political process and volunteer activities will be encouraged. If the proposed changes are incorporated into the Act, 26 U.S.C. §9012(f) should be repealed.

Contribution Limitations

In the aftermath of the 1976 elections, there has been a great deal of public discussion about the desirability of raising or lowering the contribution limitations. The Commission makes no specific recommendation on these suggestions, but urges the Congress to study the impact of the various ceilings carefully in order to set the limitations in consonance with the overall statutory scheme. Overly restrictive limitations only serve to strangle citizen participation and reduce the flow of information to the voters, while excessively high limitations reduce public confidence and open the door to special-interest influence.

Expenditure Limitations

The experience of the 1976 elections suggests that the Congress may wish to raise the Presidential spending limitations. The entitlement for Presidential candidates receiving full funding for the general election could be increased to $25, $30, or $35 million. The amount finally chosen should be set in cognizance of the fact that it will be increased by the Cost-of-Living Adjustment. Similarly, the $2 million entitlement for the national nominating conventions of the political parties should be examined and the $10 million limitation on candidates seeking nomination for President could be increased, especially if the fund-raising exemption is eliminated (see recommendation under Presidential Elections). The Commission also makes no specific recommendation on the raising of the expenditure limitations, albeit these limitations should be set at a sufficiently high level to allow the candidates and the political parties to wage vigorous campaigns.

Contribution Limitation Anomalies

When structuring an equitable balance in the application of the contribution ceilings, Congress should attempt to rectify two serious anomalies:

(a) A national political party committee which is not authorized by any candidate may accept contributions of up to $15,000 from multicandidate committees and $20,000 from any other person. However, if the Presidential nominee of the political party designates the national committee as his principal campaign committee, then the national committee is prohibited from accepting contributions in excess of $5,000 from all persons. Thus, the national committee of a political party is, in effect, prevented from becoming the principal campaign committee of its Presidential nominee.

(b) As was noted above, an individual can give a national political party committee up to $20,000 but a multicandidate committee can give only $15,000.

Contributions by Minors

The Act does not stipulate at what age a minor child may make contributions. Presently, the Commission is forced to rely on subjective criteria such as whether "the decision to contribute is made knowingly and voluntarily by the minor child." Contributions by minor children under the age of 16 should be considered to have been made by the parent and should be subject to the parent's $1,000 contribution limitation—unless the minor child's contributions aggregate $100 or less per candidate per election or per election cycle.

Multicandidate Status

In order to attain multicandidate committee status and thus become eligible to give $5,000 to a candidate, a political committee need only give $1 to four other candidates. A threshold should be set to assure that small political committees do not achieve multicandidate committee status.

CORPORATE AND UNION ACTIVITY

Honorariums

The Commission recommends that corporations and labor organizations be prohibited from giving honorariums to Federal candidates. Since honorariums have been exempted from the definition of contribution, corporations and labor organizations have been allowed to use general treasury money to give honorariums to Federal candidates. If the candidates are not Federal officeholders, there may be no limit on the amount of the honorariums.

Reporting Communication Expenses

Although the Act requires membership organizations—including labor organizations and corporations—to report the costs of certain communications expressly advocating the election or defeat of a clearly identified candidate if these costs exceed $2,000 per election, the Act does not currently provide specific procedures and dates for reporting these costs. Because of the numerous reports which may be required, Congress may wish to consider specific reporting requirements such as those recommended in the simplification section above.

Registration/ Get-out-the-Vote

Congress may wish to amend the Act to allow corporations and labor organizations to conduct nonpartisan registration and get-out-the-vote activities aimed at the general public without sponsorship of a nonpartisan organization so long as the activities are not targeted toward selected groups and so long as the activities merely urge people to register and to vote. Currently, corporations and labor organizations may only participate in such activities if they are cosponsored with and conducted by an organization which does not support or endorse candidates or political parties. The present overly restrictive provision effectively prevents corporations and labor organizations from engaging in some of the simplest and most innocuous types of political activity—such as putting up signs urging employees and the general public to register and vote and paying for public service broadcast spots which merely urge people to vote.

CLARIFICATION

Modifications are needed in the Act to clarify several ambiguities resulting from the comprehensive effort to regulate our diverse system of campaign financing. Any initial, wide-ranging effort to regulate a pluralistic political system may inevitably result in some arbitrary distinctions, but many of these disparities can be mitigated by further legislation.

Legislatively Appropriated Funds

The Act does not set forth a statutory scheme for the treatment of the use of appropriated funds in connection with election campaigns. The Commission has been confronted with numerous questions in this area, most of which have eluded any coherent regulatory framework. For example, if a candidate uses a Government conveyance during an election period, is he required to reimburse the Government for the full cost of such use, the fair market value, or anything at all? Can individuals whose salaries are paid for exclusively with appropriated funds be used in connection with a political campaign? Must these persons take bona fide vacation time to work on campaigns? Can a candidate's campaign use materials produced by Government agencies such as the House and Senate recording studios with or without reimbursement? Can Members of Congress use Government services such as mobile vans during campaign periods if they are on legislative business? Can Members of Congress pay for the maintenance of such vehicles with campaign funds?

The number of questions appears to be multiplying and there is, as of now, no logical, coherent mechanism for formulating an equitable, fair application of the law. The Commission has been unsuccessful in finding any definitive regulatory scheme within the present Act for treating these problems.

Voluntary Services

The Act places no limit on the services that a professional may donate to a candidate, including those which are provided on a commercial, non-campaign related basis. Thus, a professional entertainer may hold a concert and donate the proceeds of that concert to a candidate without those funds counting towards the contribution limitations. Congress may wish to circumscribe the use of volunteer professional services when they are not donated directly to the candidate or his committee for campaign-related purposes.

MISCELLANEOUS

Draft Movements

The Congress may wish to consider amending the Act to bring draft movements within the reporting provisions and contribution limitations. Under the Act, an individual does not become a candidate until he or she 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 or her behalf or takes other affirmative action to become a Federal candidate. The reporting requirement in 2 U.S.C. §434 applies to political committees supporting a candidate or candidates, to candidates, and to persons who make contributions or independent expenditures on behalf of clearly identified candidates. Thus, persons or committees supporting a draft movement on behalf of an individual who is not a candidate within the meaning of the Act may not have any reporting obligation. Section 434 should be amended to require reporting by political committees whose purpose is to influence a clearly identified individual or individuals to become a candidate and to require the reporting of contributions or independent expenditures expressly advocating that a clearly identified individual become or refrain from becoming a candidate.

Consideration should also be given to the application of contribution limitations to draft movements. Since the $1,000 limitation on contributions by persons applies only to candidates, a person could now give up to $5,000—the limit applicable to contributions to political committees—to a draft committee. Congress may wish to amend the limitation section to make the $1,000 limitation applicable to contributions to political committees whose purpose is to influence a clearly identified individual or individuals to become a candidate. Although the limitation on contributions by multicandidate committees to candidates or to draft committees is identical, multicandidate committees, as well as persons, would be able to make two contributions toward the nomination of an individual—one contribution to a draft movement and, if the individual becomes a candidate, one contribution to the candidate. Accordingly, Congress may wish to consider amending the Act to provide that a person who has contributed to a draft committee with the knowledge that a substantial portion of his or her contribution will be expended on behalf of a clearly identified individual will, for the purposes of contribution limitations, be considered to have made a contribution to a "candidate." If that individual should become a candidate, the contributors to the draft movement would be eligible to give to the candidate only to the extent their earlier contributions did not exceed the "candidate" limits.

48-Hour Reports

Thought should be given to requiring multicandidate committees to submit 48-hour reports on contributions of $1,000 or more made by the committee. Presently, the recipient must report, within 48 hours, the receipt of contributions of $1,000 or more received after the 15th day, but more than 48 hours before any election. Requiring multicandidate committees to report their contributions would greatly facilitate the disclosure of large contributions prior to the election.

Reporting Transfers

A committee or candidate is currently required to disclose the name and address of each political committee or candidate to which it transfers funds or from which it receives funds. The requirement for the name and address of the candidate has not eliminated confusion as to the actual candidate who received the funds. To avoid such confusion, the Act could be amended to require the reporting of the office sought and the District, rather than the address, with regard to candidate contributions.

Debts and Obligations

Two provisions of the Act, 2 U.S.C. §§434(b)(12) and 436(c), relate to the reporting of debts and obligations. These sections should be consolidated.

Conciliation Period

The enforcement provisions of the Act provide for a mandatory 30-day conciliation period. Congress has recognized that the 30-day period could delay enforcement actions immediately prior to an election and has, accordingly, provided for a shortened conciliation period when the Commission has reached a reasonable-cause-to-believe determination close to the election for certain types of enforcement actions. The mandatory conciliation period should be shortened to 15 days to enable the Commission to process complaints more expeditiously and also to thwart the use of the mandatory conciliation period to delay enforcement action close to the election.

Judicial Review

The Act contains different judicial review provisions which Congress might wish to consider conforming to each other. As noted by the Court of Appeals for the District of Columbia, no apparent reason exists for different review provisions in Chapters 95 and 96 of Title 26. Congress might wish to consider making the provisions of 26 U.S.C. §9011, including the provision for expedited review in §9011(b), apply to Chapter 96, perhaps making §§9040 and 9041 identical to §§9010 and 9011. Additionally, Congress might wish to address what the Supreme Court called the "jurisdictional ambiguities" resulting from Title 2 having a totally different expedited review provision (2 U.S.C. §437h) for questions of the constitutionality and construction of the statutory provision.

Legislative Days

The Congress may wish to consider reducing the requisite 30 legislative days for the review of regulations to 15 legislative days.

Use of Reports

Thought should be given to amending the Act to allow the use of the names and addresses of political committees obtained from reports to solicit political contributions from those political committees. Under the present law, information copied from reports and statements may not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose (2 U.S.C. §438(a)(4)). A distinction could be made between protecting the privacy of individuals and political committees which are in the business of making contributions.

Private Benefit

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 U.S.C. §608(b), repealed by the Federal Election Campaign Act of 1971.)

Congress should reinstate some strict controls on campaign activities conducted for the private profit of the candidate or committee, particularly in cases involving the conversion of political funds to personal use. Currently, the Act provides that excess campaign funds may be used for any lawful purpose (2 U.S.C. § 439a).

Multiyear Authorization

The Commission should be given a multiyear authorization of appropriation in order to increase its ability to engage in long-range planning and to make long-range decisions on implementing the law. The present scheme drains valuable staff resources each year in attempts to justify an authorization and frustrates intelligent management of the agency.

Criminal Code Provisions

Certain provisions of the criminal code (18 U.S.C. §§592-607) pertain to elections or election-related activities. Many of these provisions are outmoded, vague, or overly broad. Congress should clarify these provisions and review the sections with a view toward resolving any jurisdictional conflicts.

TECHNICAL AND CONFORMING AMENDMENTS

The $500 exceptions to the definitions of contribution and expenditure occur at the end of the paragraph in 2 U.S.C. §431(e)(5), but occur at the end of each exception or subparagraph in 2 U.S.C. §431(f)(4). These provisions should be made parallel by adopting the method used in 2 U.S.C. §431(f)(4).

The phrase "*to the extent that* the cumulative value" is used in 2 U.S.C. §431(e)(5), but the phrase "*if* the cumulative value" is used in 2 U.S.C. §431(f)(4). Under one interpretation of the above-mentioned provision, if a person exceeds the $500 threshold only the amount in excess of $500 must be disclosed and credited to the limits. On the other hand, in the latter provision, the full amount—including any sums under $500—must be disclosed. The phrase "to the extent that" should be substituted for "if" in 2 U.S.C. §431(f)(4).

In 2 U.S.C. §432(e)(2), the term "political committee" should read "authorized political committee" in order to clarify any ambiguity that might exist about which committees file with the principal campaign committee.

The last sentence in 2 U.S.C. §433(a) is no longer needed and should be stricken.

A statutory provision relating to the FEC's already implicit general authority to procure goods and services as a Government agency would clarify some apparent gaps and uncertainties.

The language relating to the procurement of temporary and intermittent services contained in 26 U.S.C. §§9010(a) and 9040(a) should also be placed in 2 U.S.C. §437c(f)(2).

2 U.S.C. §455 was improperly codified and "Title III of this Act" should be stricken each place it occurs and in lieu thereof should be inserted "chapter."

The cross-reference in 26 U.S.C. §527(f)(3) should be changed from "section 610 of Title 18" to "section 441b of Title 2."

Appendix A

FEC Chronology of Events, 1976

January

1 FEC meets statutory deadline for initial certification of candidates eligible for matching primary payments, and certification of national parties for receipt of convention financing. Eleven candidates certified prior to deadline.

6-7 FEC Clearinghouse Advisory Panel holds first meeting to provide advice on practical and applied research in election administration.

14 Commission opens FEC Public Records storefront location for easy access to disclosure and other public documents.

29 Twelfth Presidential candidate certified eligible for matching primary payments.

30 Supreme Court renders decision affirming in part and reversing in part the decision of the Court of Appeals on specific provisions of the 1974 Amendments to the FECA (*Buckley* v. *Valeo*). Provides 30-day stay in judgment.

February

2 Commission holds first of the series of regional seminars throughout the United States to provide explanations of the campaign laws and functions of the Commission.

24 First 1976 Presidential primary.

25-26 Thirteenth and Fourteenth Presidential candidates certified eligible for matching primary payments.

27 Supreme Court extends original 30-day stay in its judgment in *Buckley* v. *Valeo* until March 22.

March

16 First congressional primary election.

22 With end of stay in Supreme Court decision, FEC executive powers suspended.

March (continued)		Last FEC certification of matching funds pending congressional action reconstituting the Commission in accordance with the U.S. Supreme Court opinion in *Buckley* v. *Valeo.*
	23	Hearings before House Appropriations Committee on FY 77 budget.
	24	Senate passed legislation re-establishing the Commission and providing for additional amendments (S. 3065).
		Hearings before Senate Appropriations Committee on FY 77 budget.
	31	Commission releases first Annual Report as required by statute.
April	1	House passed HR 12406 amending the FECA.
May	3,4	House and Senate agree to Conference Report.
	11	Federal Election Campaign Act Amendments of 1976 (P.L. 94-283) signed by President Ford.
	17	President Ford nominates and submits to Congress the names of the six Commissioners for appointment to the FEC; five original Commissioners with William Springer to replace Thomas Curtis, first Chairman of the Commission.
	21	Commissioners sworn into office at the White House. Vernon Thomson elected second Commission Chairman; Thomas Harris elected Vice Chairman.
		1st certification of Presidential matching funds following reconstitution of the Commission.
	26	Commission publishes proposed regulations in *Federal Register* for public comment.
June	8	Last Presidential primary.
	17	Last of Presidential candidates certified eligible for matching primary payments.
July	12-15	Democratic Party National Convention (New York, N.Y.).
	20	Democratic party nominees for President and Vice President certified eligible for Presidential Election Campaign Fund payments.

August	3	Commission submits to Congress proposed regulations governing all major areas of Federal election campaign laws.
	16-19	Republican Party National Convention (Kansas City, Kansas).
	24	Republican party nominees for President and Vice President certified eligible for Presidential Election Campaign Fund payments.
September	1	Commission publishes first list of nonfilers of pre-primary reports in accordance with statutory requirement.
	21	Commission issues first in FEC Disclosure Series: **Presidential Pre-Nomination Receipts and Expenditures, 1976 Campaign.**
	23	Commission publishes 2nd list of nonfilers of pre-primary reports.
October	1	Congress adjourns two days before expiration of 30-legislative-day review period prior to promulgation of regulations.
	2	Last congressional primary elections.
	5	Commission announces policy of general applicability of proposed regulations to candidates and committees participating in the November elections.
	14	FEC announces first of several civil suits filed against candidates for Federal office to compel compliance with statutory reporting requirements.
		Release of post-primary audit report of the Sanford for President Committee, the first statutory audit completed of Presidential committees receiving public matching funds.
	22	Commission makes available for public inspection computer printout summarizing contributions to the Ford and Carter primary campaigns.
	27,28	Commission publishes lists of nonfilers of quarterly reports.
	30	Commission publishes lists of nonfilers of 10-day, pre-general election reports.
November	2	Election day.
	23	Commission selects William C. Oldaker to replace John G. Murphy, Jr. as General Counsel, effective January 1, 1977.
December	8	Commission authorized in-depth study of the effect of the FECA on candidates for the Senate and House of Representatives.

Appendix B

Highlights of 1976 Amendments to Federal Election Campaign Act

Federal Election Commission

Established a six-member bipartisan Commission, to be appointed by the President and confirmed by the Senate.

Allowed Commissioners one year during which to terminate outside employment, business, or vocation.

Public Financing

Disqualifies a Presidential candidate from public financing who has ceased campaigning actively in two or more States.

Disqualifies a Presidential candidate from public financing "who has actively ceased to seek election to the office of President or Vice President."

Disclosure

Requires quarterly reports from candidates and their committees in a non-election year only if contributions and/or expenditures exceed $5,000 in a quarter.

Raises to over $50 the threshold for required recordkeeping of contributions (name and address).

Makes the "best effort" of the committee treasurer or candidate in trying to obtain information for FECA reports sufficient to show compliance with the Act.

Requires a disclosure report from individuals or committees making "independent expenditures" of $100 or more in a calendar year (without cooperation or consultation with or at the request or suggestion of any candidate) which expressly advocate the election or defeat of a clearly identified candidate.

Requires a disclosure report within 24 hours of any independent expenditure in excess of $1,000 which is made between the 15th day before an election and 24 hours before an election.

Requires that contributions made to a candidate through an intermediary be considered a contribution by the contributor to the candidate, and requires the intermediary to report the name of the source of the contribution.

Disclosure (continued)	Allows a candidate who has received contributions toward his nomination or election or one Federal office to use those funds to run for another Federal office as long as the candidate has not received any public funding. However, the limits on contributions must not be breached in the transfer of funds.
Honoraria	Raises the maximum amount officeholders may receive in honoraria in a calendar year to $25,000 aggregate with a ceiling of $2,000 on a single honorarium. Travel expenses of a spouse or aide as well as an agent's booking fees are not charged against the limits. Excludes honoraria from the definition of contribution.
Political Advertising	Requires a "clear and conspicuous" statement on political advertising as to whether the expenditure was authorized by the candidate and if unauthorized give the name of the person or persons who financed the literature.
Campaign Limits	Sets a $5,000 limit on individual contributions to a political committee supporting more than one candidate in a calendar year. Sets a $20,000 ceiling on contributions by persons in a calendar year to party political committees. Sets a $15,000 ceiling on contributions by multicandidate committees to party political committees. Does not apply limits to transfers among affiliated committees of a national, State, district, or local political party committee. Subjects political committees established, financed, maintained, or controlled by any corporation, union, or any other person to a single joint contribution limit. Allows the Republican and Democratic Senatorial Campaign Committees or the national committee of a political party or any combination of such committees to contribute up to $17,500 to a Senate candidate in an election year. Reaffirms expenditure limits for Presidential candidates' accepting public financing (includes overall national spending limit, limits for each State, and a $50,000 limit on the amount a Presidential candidate may spend from his own funds or those of his immediate family on his own campaign). Excludes fundraising costs from Presidential candidates' expenditure limits when the costs do not exceed 20 percent of the expenditure ceiling. Establishes a spending limit for the national committee of a political party of up to 2 cents times the Nation's voting-age population on behalf of a Presidential candidate in the general election. Limits the amount national and State committees of a political party may spend on behalf of congressional candidates ($20,000 or 2 cents times the State's voting-age population in a Senate race; $10,000 in a House race).

Restrictions on Corporations, Unions, and Their Political Action Committees (PAC's)	Allows corporations or their PAC's to solicit their stockholders, executive and administrative personnel, and their families for contributions to separate, segregated funds. Permits corporations or their PAC's to solicit their employees who are not stockholders or administrative or executive personnel **twice a year but only** through mail addressed to their homes. Permits unions or their PAC's to solicit their members and their families for contributions to a separate, segregated fund. Permits unions or their PAC's to solicit corporate stockholders, executive or administrative personnel or employees **twice a year but only** through mail addressed to their homes. Allows a trade association or its PAC to solicit contributions from the stockholders and executive or administrative personnel of the association's member corporations if "separately and specifically approved" by the corporation as long as the corporation has not approved any other such solicitation by a trade association in that calendar year. Requires corporations, unions, and membership organizations to report expenditures that are directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate if such costs exceed $2,000 per election. Requires that those soliciting employees must inform them of the political purpose of the separate, segregated fund as well as of their right to refuse to contribute without fear of reprisal.
FEC Advisory Opinions, Regulations	Provided that opinions, rules and orders issued by the original Commission would remain in effect if they were consistent with the 1976 FECA Amendments. Required that rules and regulations issued by the original Commission prior to the enactment of the 1976 Amendments must be resubmitted to Congress. Stipulates that Advisory Opinions relate only to the application of the Federal Election Campaign Act as amended or to promulgated Commission regulations. Restricts the Commission to issuing general rules of law only in the form of a rule or regulation subject to the veto of either House. Prohibits opinions of counsel. Extends the legal protection provided by an Advisory Opinion to those "involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such . . . opinion is rendered."
Enforcement	Grants the Commission "exclusive primary jurisdiction" over the civil enforcement of the Act. Transferred Title 18 Criminal Code provisions (Sections 608, 610, 611, 612, 613, 614, 615, 616, and 617) into Title 2, thus bringing those provisions clearly under the Commission's rulemaking powers.

Enforcement (continued)

Requires that complaints be signed, sworn to, and notarized; prohibits the Commission from investigating or taking any action "solely on the basis" of an anonymous complaint.

Allows the Commission to begin investigations on the basis of information obtained "in the normal course of carrying out its supervisory responsibilities."

Requires the Commission to inform alleged violators of a complaint or a Commission investigation and allows them to have a "reasonable opportunity" to show that no FEC action is necessary.

Requires a 30-day conciliation period following FEC determination that there is reasonable cause to believe a violation has occurred or is about to occur. The mandatory 30-day conciliation period can be reduced if the alleged violations involve failure to file pre-election reports or result from complaints lodged less than 45 days but more than 10 days before an election.

Bars the Commission from taking further action connected with that violation if a compliance agreement is complied with.

If the FEC determines there is "probable cause" that a knowing and willful violation has occurred or is about to occur, and as defined in 2 U.S.C. ¢441j, allows the Commission to bypass the conciliation period and refer the matter to the Attorney General.

Requires the Commission to make public the results of any conciliation attempt or agreement, as well as instances where the Commission determines that no violation has occurred.

Provides fines for Commission members and employees for improperly releasing information relating to a complaint or investigation.

If effort to obtain conciliation agreement fails, allows the Commission to seek judicial relief through a temporary restraining order, injunction, etc., including penalties not to exceed $5,000 or an amount equal to that involved in the violation.

Permits aggrieved parties to appeal Commission orders to the Federal courts.

Grants any enforcement action instituted under the FECA priority on the court docket.

Authorizes Federal courts to impose civil fines of up to $10,000 or 200 percent of the amount involved in the violation if there is "clear and convincing proof" that a person has knowingly and willfully violated the law.

Imposes a maximum fine of the greater of $25,000 or 300 percent of the amount of the contribution or expenditure involved if it is a knowing and willful violation concerning the making, receiving, or reporting of any contribution or expenditure of $1,000 aggregate (in value). Optional maximum of one year in prison or both.

Imposes the same general penalty for violations involving corporate and union contributions except that the monetary value of such contribution or expenditure need only be $250 (aggregate). The $250 threshold also applies to a knowing and willful violation of the section prohibiting fraudulent misrepresentation of campaign authority.

Appendix C

Highlights of 1976 Proposed Regulations and Amendments

Proposed regulations were submitted to Congress on August 3, 1976. They covered Title 2, U.S. Code (disclosure and reporting requirements, and spending and contribution limitations), and Title 26, U.S. Code (public financing provisions of the law). On January 11, 1977, the FEC resubmitted the complete set of regulations since Congress had adjourned when the original set had been under legislative review for only 28 days—two days short of the 30-day requirement for promulgation. The resubmitted set was identical to the original with the exception of three amendments.

Following are highlights of selected provisions of the proposed regulations and amendments which amplify the statutory text. The complete text was published in the *Federal Register* on August 25, 1976. The amendments were published on September 10 and October 18.

PART 100 – General Definitions

Loan – A loan is a contribution "to the extent that the obligation remains outstanding."

Volunteer Activity – An individual can donate services to a campaign without making a contribution or expenditure. However, an employee volunteering services during a "regular work period" must make up or complete duties "within a reasonable period" to prevent that time being considered an in-kind contribution from the employer.

Candidate's Personal Expenses – A candidate's "routine living expenses," including food and residence, are not campaign expenditures if paid by the candidate out of personal funds.

"Testing The Waters" – An individual is not deemed a "candidate" by receiving money or making payments to determine whether to become a "candidate," such as taking a poll. However, upon becoming a candidate, these preliminary transactions will be treated as reportable contributions and expenditures subject to any campaign limits.

Primaries – For independent or minor party candidates, the primary election ends either (1) the last day under a State's law to qualify to appear on that State's general election ballot, or (2) the date of the last major party primary election, caucus or convention in that State, or (3) the date of nomination by the party.

PART 101 – Candidate Status

Candidacy – The individual becoming a candidate must, within 30 days, file a Candidate Statement, or letter, designating a principal campaign committee and a national or State bank as a campaign depository.

Waiver of Candidate Personal Reporting – A candidate is relieved of the duty to file personal campaign reports if he or she agrees to turn over to the principal campaign committee any contribution made personally to him or her and also to not make any unreimbursed campaign expenditures (except from personal funds). This waiver becomes effective when the regulations are promulgated by the FEC.

PART 102 – Committee Registration and Organization

State Party Committees – A State or local political party committee supporting Federal and non-Federal candidates must either operate as a single committee and insure that all contributions received by the committee are lawful under Federal law or, in the alternative, set up a separate. Federal committee with a separate segregated account.

Principal Campaign Committee – Every candidate's "principal campaign committee" must register regardless of how much money the committee has spent or received.

Particulars of Expenditures – Committee treasurers must record and report the "particulars" of each expenditure. "Particulars" is defined as a sufficiently detailed description of expenditures as to establish their relationship to the campaign. For example, the transfer of funds to committee agents (walk-around money) requires disclosure of the ultimate payee of the funds. Only when a receipted bill is unavailable may the treasurer of a committee substitute a canceled check and some other document as proof of a disbursement. **(amendment)**

PART 103 – Campaign Depositories

Deposit of Contributions – A contribution must be deposited in the campaign depository within 10 days of its receipt by the candidate or the committee treasurer. (One or more accounts may be established in a depository.)

PART 104 – Reports by Political Committees and Candidates

Waiver of Quarterly Reports – No quarterly finance report is required of candidates or political committees in any quarter in which they do not receive or spend more than $1,000 (except that during the fourth quarter of an election year, a report must be filed if there are debts outstanding), and in the case of candidates and their authorized

PART 104 (continued)

committees in non-election years in any quarter in which they do not receive or spend a total of $5,000. However, they must "notify the Commission in writing" the first time this reporting exemption applies.

Itemized Contributions — Only contributions of more than $100 must be itemized in campaign finance reports. If a candidate or committee chooses to itemize contributions of $100 or less, it must be done on a list separate from the required larger contributions, and the two categories may not be commingled in the report.

In-Kind Contributions — Each in-kind contribution shall be identified as such and "shall be valued at the usual and normal charge on the date received."

PART 105 — Document Filing

Microfilm Copies — The Clerk of the House and the Secretary of the Senate shall transmit to the Commission both a microfilm copy and photocopy of each report filed initially with them for House and Senate races.

PART 106 — Allocation

Travel Expenses — When a candidate's trips include both campaign and noncampaign-related activities, the travel expenses to be reported as campaign expenditures must be "calculated on the actual cost-per-mile of the means of transportation actually used."

Campaign-Related Stop — A stop is campaign-related if a candidate conducts any campaign-related activity, and the travel expenses made must be reported. Travel expenses of a spouse or family member are campaign expenditures only if the spouse or family member conducts campaign-related activities.

Among Candidates — Expenditures on behalf of more than one candidate shall be attributed to each candidate (and reported) in proportion to the benefit derived by each candidate.

PART 107 — Convention Reports

Reports — Each host committee, national party committee, State party committee or its subordinate committee which deals with a Presidential Nominating Convention must file a convention report of receipts and expenditures in connection with the Convention within 60 days following the Convention's last session, but not later than 20 days before the general election.

PART 108 — States

Filing — Copies of reports required to be filed with State officers must be "true and legible copies," of the original report filed in Washington, and filed at the same time as the original report.

Preemption — Federal law preempts State law in Federal elections in areas such as committee organization, registration and reporting, and contribution and expenditure provisions, but does not preempt State laws relating to the administration of elections, such as candidate qualifications, voter registration, conduct of elections, or election fraud.

PART 109 — Independent Expenditures

Definition — " 'Independent expenditure' means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identifiable candidate which is not made with the cooperation or with the prior consent of, or in consultation with or at the request or suggestion of a candidate or any agent or authorized committee of the candidate."

"Cooperation and Consultation" — An expenditure is presumed not to be independent of a candidate's campaign when it is made "based on information about the candidate's plans, projects and needs," supplied by the campaign to the expending person "with a view towards having an expenditure made."

Agents — Similarly, expenditures will not be presumed "independent" if made by a person who has been authorized to raise or spend money for the campaign, or who has been a campaign committee officer, or who has been paid or reimbursed by the campaign.

Contribution In-kind — An expenditure not qualifying as an "independent expenditure" will be treated as a "contribution in-kind" to a candidate subject to contribution limits, and must be reported as an expenditure by the candidate.

Advertising — Any independent general public political advertising must contain a statement that the communication is not authorized by any candidate, and list who is responsible for it. This statement shall be "on the face or front page of printed matter" and "at the beginning or end of broadcast or telecast matter."

PART 110 — Contribution and Expenditure Limitations

Single Contribution Limit for Affiliated Committees — All political committees (including all affiliates, subsidiaries, locals, etc.) of a corporation, union, or other group of persons are subject to a single, combined contribution limit per candidate, per election. Indicia of "maintenance or control" of committees by a group which will bring them under this combined contribution rule include power to hire or fire officers and members, ownership or controlling interests, similar patterns of contributions, and substantial transfers of funds between the different committees.

Party Committees — National and State political party committees are entitled to separate contribution limits. Subordinate State party committees may have a contribution limit separate from the State central party committee contribution limit if they do not receive funds from, or make contribution decisions in coordination with, any other political party unit.

Spouses and Minors — Spouses are entitled to separate contribution limits, but minor children can be independent of their parents and make a separate contribution only if they own or control the money, knowingly and voluntarily make the contribution, and have not received the money for the purpose of the contribution.

PART 110 (continued)

Candidate's Personal Funds — The personal funds a candidate may spend in unlimited amounts in his or her own campaign must be funds to which he or she has "legal and rightful title," or "access and control over" prior to candidacy, and may include money from income, dividends, trusts, awards and prizes or personal gifts.

Anonymous Contributions — The amount of any anonymous contribution over $50 cannot be used in Federal elections, but may be used for any other lawful purpose.

Presidential Expenditures — A State, county, city or congressional district party committee may spend up to $1,000 to further the general election of its Presidential candidate provided the expenditure is made to benefit the campaign of the party's slate of nominees.

Advertising Disclaimers — Statements of authorization required in political advertisements are not required for "small items upon which the disclaimer cannot be conveniently printed," such as bumper strips, buttons and pens.

Contributions toward Independent Expenditures — Contribution limits apply to contributions made to committees making independent expenditures.

No Party Independent Expenditures — Political party committees may not make independent expenditures in connection with the general election campaigns of Federal candidates.

PART 111 — Complaint Procedures

Formal Complaint — In addition to being signed, sworn-to, and notarized, a complaint shall include the complainant's full name, address, telephone number and a statement of the alleged acts involved, and shall include any available documentation of the allegations.

Commission Action — Action following the three stages of initial processing, investigation, and conciliation must be by affirmative vote of four of the six members of the Commission.

Results — Public disclosure will be made of any determination by the Commission that no violation of the Act has occurred, and also of the results of any conciliation attempt, including any conciliation agreement entered into.

Ex Parte Communication — No interested person outside the FEC may make (and no FEC Commissioner or compliance staff member may receive) any ex parte communication relative to the factual merits of any enforcement action.

PART 112 — Advisory Opinions

Advisory Opinion Requests — Requests must be in writing and concern a "specific factual situation" involving the requestor, not hypothetical questions.

Public Comment Period — Advisory Opinion Requests will be made public at the Commission, or through publication for a 15-day written comment period.

PART 113 — Office Account Regulation

Office Account — An office account is "an account established for the purposes of supporting the activities of a Federal or State officeholder," consisting of funds other than Government appropriations or the officeholder's personal funds.

Reports — Reports of office accounts are due twice yearly, on April 15 and October 15.

Campaign Use — Any contribution to or expenditure from an office account for campaign purposes is subject to all campaign law limitations and prohibitions.

PART 114 — Corporations and Unions

Retired Employees — Former or retired employees are not included in the category of "administrative or executive personnel" who can be regularly solicited for a corporation's "political action committee."

Partisan Activities — Partisan "internal communications" may be made by a union to its members, or by a corporation to its "executive and administrative personnel" and stockholders. This communication may include distribution of internally generated printed material or operation of phone banks. The cost of communications "expressly advocating the election or defeat of a clearly identified candidate" must be reported when a corporation or labor organization spends over $2,000 in all primary elections and over $2,000 in the general election.

Nonpartisan Activities — Only nonpartisan communications may be made by a corporation or union to individuals outside its own class, including allowing candidates or party representatives to address employees so long as the same opportunities are made available to all candidates and parties; aiding nonpartisan voter registration and voting drives conducted by a nonprofit organization; and providing nonpartisan voter registration information.

Voluntary Contributions to PAC's — Contributions to separate segregated funds must be completely voluntary. A contributor cannot be compensated for a contribution, such as through a bonus or expense account.

PAC Solicitation — The regulations include numerous technical provisions concerning solicitations to separate segregated funds by corporations and unions, by membership organizations, and by trade associations.

Use of Facilities — Any individual using corporate or union facilities for volunteer political activity must reimburse the corporation for costs incurred (such as long-distance telephone calls).

Airplane — If a candidate uses a corporate or union plane (except for corporation licensed to provide commercial air travel), the candidate must pay for the service "in advance" at the first class air fare rate for cities served by a regularly scheduled commercial service, and at the usual charter rate for other cities.

PART 114 (continued)

Credit — Corporations may extend credit to political campaigns only in a commercially reasonable manner, in a way similar to extension of credit to nonpolitical debtors of similar risk and size of obligation. A corporation must pursue its remedies to collect any political debt in the same fashion and with the same intensity that it pursues nonpolitical debts.

Corporate and Union Disbursement of Registration Information — A corporation or union may distribute to the general public any registration or voting information, including registration-by-mail forms, which has been produced by election officials. **(amendment)**

PART 115 — Government Contracts

Government Contractors — Under the prohibition against contributions by Federal contractors, a partnership which has a Government contract may not contribute to Federal candidates, although individual partners or employees may make personal contributions. However, an individual or sole proprietor who has a Federal contract may not make political contributions from either business or personal funds under his or her control.

PART 120-125 — Convention Financing

Expenses — Public funds for national political party conventions may only be spent "for the purpose of conducting" the convention or "convention-related activities." These include physical site expenses, staff salaries, printing costs, the costs of providing a transportation system for persons attending the convention, and entertainment activities which are part of "official convention activity sponsored by the national committee."

Interest — Any interest earned by investment of the public subsidies will count against the total public fund entitlement of the party.

Reports — Convention committees must file a financial statement with the FEC within 60 days of the close of the convention, but not later than 20 days prior to the general election.

PART 130-134 — Primary Matching Funds

Nonmatchable Contributions — Contributions in the form of the purchase price paid for an item of "significant intrinsic and enduring value, such as a watch" and for chances to raffles, lotteries or "similar drawings" are not matchable.

ART 130-134 (continued)

Entertainment – The price of admission to entertainment, such as a concert or motion picture, is matchable only for the amount above the "fair market value" of the entertainment; the total admission price to an "essentially political program," such as "the traditional political dinner or reception," however, is fully matchable.

Disclosure Agreement – A candidate's failure to comply with the reporting and disclosure requirements of the FECA, and of the FEC proposed Disclosure Regulations, when adopted, may result in suspension of certification of matching funds for him or her.

Continuation of Certification – After the date of candidate "ineligibility," matching payments may be made only to defray "net outstanding campaign obligations" as of that date. If the candidate has no outstanding campaign debts, he or she may receive no more matching money.

Repayment of Matching Funds – All funds deposited into a candidate's depository are taken into account when the repayment formula of the Act is applied. The repayment ratio must be applied on the date of ineligibility. **(amendment)**

ART 140-146 – General Election inancing

Eligibility – Upon establishing eligibility, a general election candidate will be certified in full for the entire amount provided by law in Federal subsidies.

Reimbursement – Candidates may be reimbursed for media and Secret Service expenditures, such as airplane travel, initially incurred by the campaign.

Winding-down Costs – Public funds only may be utilized by the candidate receiving Federal subsidies up to 30 days after the date of the general election. Private contributions may be received to pay administrative expenses terminating the campaign committee incurred after the Federal cut-off date (30 days after the election), but such contributions must be isolated from the campaign funds, reported separately, and in no way commingled with the campaign funds.

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Appendix D

Selected FEC Opinions, 1976 (AO's, Re: AOR's, IC's)

Pending promulgation of Commission regulations, the Commission has issued two types of opinions:

1. **Advisory Opinions,** designated as AO's, concern the application of the Act to specific factual situations. Any person requesting an Advisory Opinion who in good faith acts in accordance with the findings of the opinion will not be penalized under the Act. The opinion may also be relied upon by any other person involved in a specific transaction which is indistinguishable in all material aspects from the activity discussed in the Advisory Opinion.
2. **Informational Responses to Advisory Opinion Requests,** designated as **Re: AOR's,** differ from AO's in that they are based in part on the Commission's proposed regulations and they offer no legal protection to recipients until the regulations on which they are based go into effect.

These opinions have been selected for synopsis because they are representative of the most significant questions asked of the Commission, and they are felt to be of most interest to those persons concerned with the application of the Act. These selections represent approximately 40 percent of all opinions issued by the FEC during 1976. For guidance to additional opinions, synopses of all opinion requests are published in the *Federal Register* when received. In addition, Appendix E gives a subject matter index to all 1975-76 Advisory Opinions (AO's).

Those seeking guidance for their own activity should consult the full text of an opinion and not rely on the synopsis given here. Copies of the full text of AO's and Re: AOR's are available from Public Records Office, Federal Election Commission. Please identify opinions by number as, for example: AO 1976-83 or Re: AOR 1976-98.

AO 1975-132: Payment for Tabulating Congressmen's Questionnaires

Payment by a multicandidate political committee for tabulating responses to a Congressman's questionnaire sent under the frank is not considered a contribution, as long as the tabulation is provided to aid the Congressman in the performance of his/her official duties — and not to influence an election.

AO 1975-143: Criteria for Determining Common Control of Political Committees

The independence of Environmental Action (a citizen's lobby) vis-a-vis the Dirty Dozen Campaign Committee (a political committee) was not established because: sensitive executive posts in both organizations are

occupied by the same individual; finances of both organizations are monitored by the same person; and staff of the political committee contribute to the magazine published by the lobbying group.

Re: AOR 1976-10: Act Preempts State Law on Use of Excess Campaign Funds

When a Federal candidate in Kentucky uses excess campaign funds for a purpose specifically stated in the statute or proposed regulations, the Act preempts Kentucky State law with regard to the use of excess campaign funds by Federal candidates or their authorized committees.

Re: AOR 1976-14: Contributions by County Party Committee

The decision of the Michigan State Republican Committee to accept responsibility for ensuring that the entire party organization stays within the expenditure limits (2 U.S.C.§441a(d)) does not, by itself affect the ability of an **otherwise independent** county committee to contribute up to the maximum (in this case, $5,000 per election) to each Federal candidate.

Re: AOR 1976-15: Reporting Requirements of Subordinate State Party Committees

If a congressional district club of the Washington State Republican Federal Campaign Committee (WSRFCC) receives and retains contributions aggregating over $1,000 or expends over $1,000 in connection with any Federal candidate's election, the club is considered a political committee under section 431(d) of the Act and required to register and file its own reports. If, on the other hand, the club merely serves as the receiving agent for the State committee and transfers to it all its proceeds in a timely fashion, it is not required to file separate reports. It must, however, keep records for any contribution over $50 and turn such information over to the WSRFCC within five days after the receipt of a contribution.

Re: AOR 1976-20: Contributions to an Unauthorized Single Candidate Committee

Contributions to Delaware Volunteers for Reagan, an unauthorized single candidate committee making independent expenditures on behalf of Governor Reagan, are considered contributions to Governor Reagan. The committee could not, therefore, accept contributions from persons who had already contributed their maximum to Governor Reagan's campaign.

Re: AOR 1976-22: Use of Bingo Proceeds to Influence Federal Elections

The transfer of funds from the Michigan Democratic Party's "bingo account" to its "Federal account" is permitted only if the bingo account contains no corporate or union contributions and all bingo players are informed that a portion of the purchase price of the bingo card counts against the individual's contribution limits under the Act. Additionally, the committee must comply with recordkeeping and reporting requirements, and all materials advertising the bingo event must state that party reports are filed with the FEC.

Re: AOR 1976-23: Payroll Deduction Plans Preempt State Laws; Solicitations by Corporate PAC's

The Act preempts those State laws which prohibit any use of payroll deduction plans. A corporation is required to give the labor organization representing its employees (or an independent mailing service) a list of the names and addresses of all its employees **only** if the corporation solicits it's lower echelon employees under the twice-yearly provisions (2 U.S.C.§441b(b)(4)(B)).

AO 1976-27: Solicitations by Trade Association PAC

When soliciting contributions at its annual meeting, Bread PAC, a trade association political action committee, must obtain prior approval from its member corporations before it may solicit their stockholders and executive or administrative personnel. "Solicitation" includes asking persons to purchase tickets to fundraisers (in this case, a cocktail party)

AO 1976-27 (continued)

and informing persons about the fundraiser. Solicitations conducted prior to or at the meeting may only be aimed at persons whom Bread PAC may legally solicit. (See also AO 1976-96.)

Re: AOR 1976-29: News Distributed by Newspaper or Station Owned by Federal Candidate

Campaign-related news accounts distributed by a publication or station owned by a Federal candidate are **not** subject to the Act's limits, prohibitions or reporting requirements, as long as the news accounts represent bona fide news and the media give reasonably equal coverage to all opposing candidates. Commentaries and editorials favorable to the candidate or unfavorable to his/her opponent would, however, be considered a contribution in-kind made by the media to the candidate or an illegal corporate contribution if the media were incorporated.

Re: AOR 1976-31: Donation of Membership List May Not Be A Contribution

A list of the membership of a local congregation is not considered a contribution as long as it has never been sold or leased, e.g., to a mail order marketing company, a magazine or to another political candidate.

Re: AOR 1976-37: Criteria for Determining Contribution Limits for State Subordinate Party Committees

The fact that various subordinate groups within the Minnesota Democratic Farmer Labor Party (MDFLP) may engage in joint fundraising activity does not, in itself, prevent each committee from establishing its independence in order to have its own contribution ceiling.

Any subordinate committee which has demonstrated its independence may qualify as a "multicandidate political committee" once it has satisfied all three criteria under 2 U.S.C.§441a(a)(4). If, however, the various committees within the MDFLP structure fail to establish their independence and are therefore considered one committee with the MDFLP for purposes of making contributions, they are automatically considered multicandidate committees if the State committee has already qualified as a multicandidate committee.

AO 1976-50: T-Shirts as a Corporate Contribution

A corporation may not underwrite the production and marketing expenses of a T-shirt and then transmit a $1.00 contribution to a given Federal candidate for every T-shirt sold.

AO 1976-51: Group of Contributors Constitutes Political Committee

A group of individuals bound by common concern about foreign policy, personal friendship and periodic communication concerning lobbying efforts constitutes a political committee when it collects and transmits to a Federal candidate or committee contributions exceeding $1,000. The individuals who make contributions to this committee, and the committee itself, are each subject to contribution limits.

AO 1976-53: Principal Campaign Committee May Pay for Candidate's Living Expenses

A principal campaign committee may rent office space in the candidate's home and pay for the candidate's groceries, heat, mortgage, etc. Such expenditures must, however, be reported by the principal campaign committee.

Re: AOR 1976-56: Complimentary Hotel Accommodations May Not Count as Contributions

Complimentary accommodations given to Federal candidates by Nevada hotels are not considered contributions as long as the accommodations are provided in the ordinary course of business (described specifically in the opinion) and are not offered in a partisan manner to select candidates.

Re: AOR 1976-59: Honoraria and Related Expenses

There is no limit on the amount of honoraria and related expenses received by Federal candidates who **are not** simultaneously Federal officeholders. In the case of a candidate who is a Federal officeholder, the payment of "related expenses" in connection with a speech or appearance is not limited, as long as the payment is made only to defray actual travel and subsistence costs.

Re: AOR 1976-63: Fundraising by Trade Association and its PAC

The American Hotel and Motel Association (AH&MA), a federation of trade associations, and its political action committee AHMPAC may solicit its **noncorporate members** (and the noncorporate members of its State and regional associations), but **not** the families, executive and administrative personnel or other employees of the noncorporate members.

While AH&MA, as a trade association, may solicit (or have AHMPAC solicit) executives, administrative personnel and stockholders (and their families) of its member corporations, it may not solicit the other employees of its member corporations. It may, however, solicit all of its **own** employees: Executive and administrative personnel (and their families) may be solicited at any time and other employees may be solicited in writing twice a year.

Corporate members of AH&MA and of its State or regional associations may not make any solicitations on behalf of AHMPAC. However, once a member corporation grants approval to AHMPAC for soliciting its employees or stockholders, it may give incidental aid to such solicitations. This restriction does not apply to sole proprietors or partnerships which are members of a State or regional association of AH&MA. They are free to solicit their employees or partners on behalf of AHMPAC.

Once a member corporation grants approval to solicitation by the trade association, there is no limit on the number of solicitations that may be made (unless the corporation has specified a limit in its original approval).

Re: AOR 1976-65: Corporate Advertising in Party Magazine

Corporate payments for advertising, used to defray the costs of preparing and distributing a magazine published by the Republican Executive Committee of Jefferson County, a registered political committee, are considered an illegal corporate contribution. The publication may, however, carry a corporate advertisement as long as the payments for the ad are not used to defray publication costs and are received by a separate committee established to raise and spend funds exclusively for non-Federal purposes. If the publication contains no specific or general reference to Federal candidates, corporate funds contributed to the non-Federal committee may be used to pay for the magazine costs.

Re: AOR 1976-72: Allocation of Party Overhead and Operating Expenditures Between Federal and Non-Federal Activities	Any method which uses ballot positions to determine the allocation of party overhead and operating expenses between Federal and non-Federal activities should give proportionately more weight to Federal candidates than to State candidates. Thus, in Illinois where 15 percent of the 1976 elections were for Federal offices, the Illinois Republican State Central Committee (IRSCC) should allocate one-third of its overhead to Federal activities and two-thirds to non-Federal. Additionally, unless the party committee establishes a separate committee for State and local candidates, the IRSCC may not receive corporate contributions. In any case, corporate and union treasury funds may not be used to fund any portion of a registration or get-out-the-vote drive conducted by a political party.
AO 1976-73: Designation of a Single Separate Segregated Fund by Two Organizations; Corporate Division as Sponsor of PAC	The Political Committee for Design Professionals may not be the separate segregated fund of two distinct organizations. A division of a corporation, not separately incorporated, may not establish and administer a separate segregated fund unless that fund is designated for the corporation.
Re: AOR 1976-78: Candidate's Use of Campaign Button to Support Multiple Candidates	Congressman Koch's principal campaign committee may purchase and distribute campaign buttons reading "Carter-Mondale-Koch" without the cost counting as a contribution in-kind to the Carter/Mondale Presidential campaign. (See also Re: AOR 1976-82 and Re: AOR 1976-93.)
Re: AOR 1976-80: Definition of Subordinate Party Committee	Democrats United (Texas) is considered a subordinate party committee because even though it was not formed, directed or controlled by the State or local Democratic Executive Committee, it supports the entire Democratic ticket and provides services normally performed by party organizations (e.g., voter registration, precinct organization, central campaign headquarters, media advertising for slate ticket, get-out-the-vote campaigns).
Re: AOR 1976-82: Candidate's Use of Brochure Supporting Multiple Candidates	Congressional candidate Walgren's principal campaign committee may purchase and distribute a brochure featuring a picture of Presidential candidate Carter and candidate Walgren without counting the cost as a contribution in-kind to the Presidential nominee. As a general rule, however, such an expenditure (unless paid out of public funds received by the Presidential nominee) would be illegal. (See also Re: AOR 1976-93.)
Re: AOR 1976-84: Family Payments to Candidate to Support Candidate's Living Expenses	Payments by family members to defray living expenses of a Federal candidate who has depleted his personal funds because of time spent campaigning count as contributions. These funds must, therefore, be disclosed and may not exceed $1,000 per donor, per election.
AO 1976-86: Billboard Advertising	The continuation of a billboard display (supporting a Federal candidate) beyond the contractual period does not constitute an illegal corporate contribution by a billboard company if, in its ordinary course of business, the company continues one client's display until a new advertisement is contracted as a replacement.

Re: AOR 1976-87: Spending by Subordinate Party Committee on Behalf of Presidential Campaign

The Montgomery County Democratic Central Committee (Maryland) may not spend more than $1,000 for a publication identifying Presidential, Vice-Presidential, senatorial and congressional candidates unless it is reimbursed for the costs exceeding $1,000 by other committees or candidates benefitting from the brochure. The difference between $1,000 and the actual publication costs may be reimbursed by either (or both) the Presidential campaign or the Democratic National Committee. Alternatively, the Senate and House candidates could reimburse the county committee for the cost of the proportionate share of the brochure devoted to their respective candidacies.

Re: AOR 1976-92: Corporate Pledge Program is a Political Committee

The Civic Pledge Program (CPP) of the Boeing Company, a membership organization composed of Boeing's management employees and administered by an advisory group, is considered a political committee. Members, who may receive recommendations from the advisory group, contribute to candidates of their choice largely through a payroll deduction plan. Any amount disbursed to a candidate is regarded as a contribution by the individual member and also by CPP. It is subject to reporting regulations applicable to earmarked contributions.

Re: AOR 1976-93: Candidate's Use of Advertisements Supporting Multiple Candidates

Congressional candidate Mitchell is not required to report the distribution of old campaign posters affixed with Carter/Mondale and Sarbanes (Senate candidate) bumper stickers, which he obtained at no expense.

If candidate Mitchell pays for a newspaper advertisement picturing himself with Carter and Sarbanes, a portion of the expense would be considered a contribution in-kind to each of the other two candidates. Under the Act's public financing provisions, that portion attributed to the Presidential candidate would be illegal. The advertising costs allocated to the Presidential candidate could, however, be absorbed by the Presidential campaign or a party committee.

AO 1976-95: Definition of National Party Committee

The Liberal Party Campaign Committee for 1976 does not qualify as a national party committee because its operations have historically focused on the State and city and it has not demonstrated sufficient activity on a national level.

AO 1976-96: Fundraising by Trade Association; Definition of Solicitation

A "solicitation" is made when Savings Bankers, a trade association, announces the activities of its political action committee at its annual meeting or when it informs those attending the meeting about a booth it has set up on the premises to display fundraising materials. Such solicitation activities require prior approval from corporate members whose representatives attend the trade association meeting.

AO 1976-100: All Principal Campaign Committees Must Register and Report

Each candidate for Federal office must designate a principal campaign committee even if the candidate does not plan to use the committee to receive or expend funds. The principal campaign committee must register and report regardless of the amount of contributions received or expenditures made.

Re: AOR 1976-101: Contributions Made to Retire Debts of 1976 Campaigns; Transition Costs

After the general election, a person who has not already contributed up to the applicable limit for the primary or for the general election may make a contribution to Senate candidate Moynihan to retire a debt incurred in either election, but only to the extent that the amount does not exceed net debts outstanding from the election. Any contribution

O/R 715: Rules Governing Expenditures by State and Subordinate Party Committees; $1,000 Presidential Expenditure

Generally, costs for registration or get-out-the-vote drives of party committees need not be attributed to individual candidates, as long as the activity is not made on behalf of particular candidates. This remains true even if a party identifies its candidates by using the slate card exemption in conjunction with a registration or get-out-the-vote drive.

Party committees which have established Federal campaign committees may allocate general operating costs between their Federal and non-Federal committees.

Each State, county, city or congressional district committee may expend up to $1,000 to further the general election campaign of the party's Presidential nominee or a group of nominees including the Presidential candidate. The committee need not allocate the cost among candidates supported since the $1,000 expenditure limitation is over and above any other limitations. While committees may consult each other or the nominees concerning the expenditure, they may not pool their limitations. Receipts and payments for the purpose of making the $1,000 expenditure may trigger registration and reporting requirements.

O/R 747: Receipts and Disbursements Related to Congressman's "Appreciation Dinners"

Receipts and expenses related to an "appreciation dinner" given for a Congressman count as reportable contributions and expenditures when the officeholder's candidacy is expressly or implicitly advocated.

O/R 755: Party Expenditures on Behalf of Candidates and Party Contributions to Candidates

Payments by a State party committee for the salaries of a Senate candidate's campaign staff may be handled in one of two ways. They could be made as an expenditure on behalf of the candidate and charged against the party spending limits of 2 U.S.C.§441a(d). Or they could be made as a contribution in-kind and charged against the State party's contribution limits.

O/R 777: Permissibility of Independent Expenditures by Individual Previously Associated With Candidate's Campaign

A prior association with a Presidential primary campaign would bar an individual from forming a political committee which would make independent expenditures advocating the election of the same candidate, particularly because the individual had "extensive involvement" with the campaign for more than six months and had been reimbursed for travel expenses.

O/R 782: Contributions Through Double Envelope Plan

The "double envelope plan," as proposed by the Central Vermont Public Service Corporation, would be prohibited under the proposed regulations because it identifies the corporation establishing the contribution plan. Under this scheme, employees would seal their personal contributions, together with a contribution card identifying the corporation, within an envelope marked "XYZ Company Political Contribution Plan." The corporation's plan coordinator would, in turn, receive and forward the envelope to the designated recipient.

O/R 784: Effect of the Act on Purely Commercial Activity

The Act does not apply to commercial activity involving the identification of a Federal candidate (e.g., advertisement for digital watch identifying the two Presidential candiates) as long as it is pursued exclusively as a business venture without any connection to or contact with the candidate, his committee or agent.

O/R 786: Effect of Private Fundraising Parties on Contributions and Independent Expenditures

When individuals defray expenses (not exceeding $500 per host or $1,000 per host couple) for a campaign-related party given in their home, the expenses are not reportable even if guests are solicited to make unearmarked contributions to party committees and even if representatives of a Presidential campaign speak on campaign operations.

O/R 789: Registration and Reporting Requirements for Party Committees

If a State or subordinate party committee receives contributions or makes contributions or expenditures to influence Federal elections in an amount not exceeding $1,000 per year, it need not register or report under the Act. When, however, an individual contributes to such a committee for the purpose of influencing Federal elections, the contribution is charged against his/her $25,000 annual limit.

O/R 790: Use of Corporate Funds to Publish Voting Records

The U.S. Chamber of Commerce, a trade association, may not use general treasury funds to distribute to nonmembers its ratings of how Senators and Representatives voted. The distribution could, however, be financed from voluntary contributions to a separate segregated fund or an individual or political committee could purchase and distribute the ratings to interested parties. (See also O/R 840.)

O/R 791: Honorarium; Definition of "Appearance"

A Federal judge may receive no more than the maximum honorarium of $2,000 in consideration for a 48-hour "appearance" at a college where he makes several subordinate speeches or appearances, including a formal address, remarks at one or two receptions and participation as a discussant in several classes.

O/R 802: Post-Election Contributions Made By Multicandidate Political Committees

A political committee expecting soon to qualify as a multicandidate committee may not pledge or promise more than $1,000 to a candidate. If it qualifies as a multicandidate committee after the general election, the committee may continue to make contributions up to a total of $5,000 per candidate per election, provided the candidate has outstanding campaign debts. If the candidate has no debts, the post-election contribution may count as either a contribution to his/her next election or a donation to the office account of the officeholder.

O/R 804: Solicitations by Corporations and Labor Organizations: Mutual Obligations

Twice a year, a labor organization representing employees at Alabama Power Company or its PAC may solicit in writing the stockholders and executive or administrative personnel of the corporation, regardless of whether the corporation or its PAC has exercised its twice-yearly right to solicit employees generally. If the corporation makes no solicitation of employees generally under the twice-yearly provision, it is not required to give the names and addresses of its employees to the labor organization or an independent mailing service (in connection with the union's twice-yearly solicitation). The corporation or its PAC must, however, make available to the labor organization any method it uses to solicit contributions from the company's executive or administrative personnel and stockholders (e.g., a computerized mailing system).

O/R 812: Use of Check-Off by Incorporated Membership Organization

Under the Act, it would be illegal for members of the Institute of Electrical and Electronics Engineers, Inc., an incorporated membership organization, to earmark a portion of their annual dues to a separate segregated fund by marking a box on their membership dues invoice. In effect, this check-off procedure would merely divert corporate treasury funds to a political fund to be used in connection with Federal elections.

O/R 829: Reporting Obligations for Internal Communications by Labor Organizations

A labor organization is not required to report the costs of preparing and distributing to members a 49-line letter containing a four-line postscript advocating the election of selected Federal candidates, as long as the letter is not primarily devoted to Federal election matters.

O/R 838: Donations to the 1977 Presidential Inaugural Committee

Donations to the 1977 Presidential Inaugural Committee (the Committee) are not considered campaign contributions and are not subject to the reporting requirements or limitations of the Act. The Committee need not register with the Commission and may accept funds from the treasuries of national banks, corporations and labor organizations. Surplus funds, however, may not be transferred to any Federal candidate, political committee or party organization.

O/R 840: Preparation and Distribution of Voter's Guide by Local Chamber of Commerce

The Greater Winston-Salem Chamber of Commerce may prepare and distribute a voter's guide to the general public if the guide is nonpartisan and the Chamber does not endorse any Federal candidate or political party. If the Chamber is partisan, it could still produce and distribute the guide to the public, but only by using voluntary contributions to a separate segregated fund.

Appendix E

Subject Index Terms
Subject Matter Index to Advisory Opinions, 1975-76
U.S. Code Section Index

Subject Index Terms — This list represents index terms used in the subject index to FEC opinions. When searching for opinions on a subject, it might be useful to glance through this list first.

Accountants' Fees
see Attorneys'/Accountants' Fees

Accounts

Administrative Expenses

Advertising/Solicitation

Allocation

Appearances By Candidate

Attorneys'/Accountants' Fees

Authorized Committees/Agents

Banks
see Corporation/Labor Union/Bank

Cash Contributions
see Contributions

Cash, Petty
see Petty Cash Fund

Common Control

Communication Exception
[2 U.S.C. s.431(f) (4) (C)]

Conduit
see Intermediary

Conferences, Educational
see Educational Conferences

Constituent Services Costs
see Office Accounts

Contribution

Contribution — In-Kind

Debts

Delegate Selection
see Nominating Conventions, National

Depository

Deposits For Services

Dual Candidacy

Earmarking

Educational Conferences

Election

Excess Funds

Expenditures

Expenditures — Independent

Family Of Candidate

Foreign Nationals

Filing
see Reporting

Franking Accounts

Fundraising

Get-Out-The-Vote Drives
see Voter Registration Drives

Gifts

Government Contractors

Honorarium

Immediate Family Funds
see Family Of Candidate

Independent Expenditures
see Expenditures—Independent

In-Kind Contributions
see Contribution—In-Kind

Intermediary Or Conduit

Intern Programs

Labor Unions
see Corporation/Labor Union/Bank

Legislative Hearings

Loan/Endorsement

Local Party
see National/State/Local Party

Matching Funds
see Public Funding

Membership Organization

Multicandidate Committee

National Convention
see Nominating Convention, National

National/State/Local Party

Newsletter Accounts
see Franking Accounts

Nominating

Nominating Conventions, National

Office Accounts

Officers Of Political Committees
see Political Committees

Opinion Polls
see Polling

PAC's
see Political Action Committees

Partnerships

Personal Assets

Personal Services (Voluntary)
see Volunteer Services

Petition Effort
see Election

Petty Cash Fund

Political Action Committees

Political Committees

Polling

Preemption Of State Law

Primary Election
see Election

Public Funding

Public Utility Holding Companies
see Corporation/Labor Union/Bank

Raffles
see Corporate Facilities/Goods; Fundraising

Requirements Relating To Reporting Campaign Advertising
see Advertising/Solicitation

Royalties

Runoff Election
see Election

Separate, Segregated Funds
see Accounts; Political Action Committees

Sole Proprietorship

Solicitation
see Advertising/Solicitation; Political Action Committees

Spouse
see Family Of Candidate

Special Election
see Election

State Law
see Preemption Of State Law

State Party
see National/State/Local Party

Telethon

Television Appearances
see Appearances By Candidate

Transfers

Trade Associations

Travel Expenses

Trustee Plan

Volunteer Services

Voter Registration Drives

Subject Matter Index to 1975-76 Opinions (Advisory Opinions)

NOTE: Numbers of Opinions beginning with the digits "75" are 1975 Opinions; digits "76" stand for 1976 Opinions.

Accountant's Fees *see* **Attorneys'/ Accountants' Fees**

Accounts

Explanation of depository and petty cash fund
A075/44

Separate State account for corporate contributions
A075/59

Separate State and Federal committees vs. total disclosure
– political committee
A075/20
– State party committee
A075/2,95

See Also: Allocation; fundraising; Petty cash fund; Family of candidate; Transfers

Administrative Expenses

Allocation as per Federal/State support
A075/21

Corporation may pay administrative costs of political action committees
A075/23,36

See Also: Corporation/labor union/bank; Debts; Contribution – In-kind

Advertising/Solicitation

"Expenditure" if (i) appears at time of candidacy and (ii) clearly identifies by unambiguous reference
A075/98

– name of chairman, treasurer not necessary in disclaimer
A076/35

Name of chairman, treasurer on billboards (2 U.S.C. §441d)
A075/67

Advertising/Solicitation (continued)	Solicitation definition – informing persons of a fundraising activity is a solicitation A076/27 **See Also:** Franking accounts; Fundraising; Expenditures, Independent
Allocation	Any accounting method which yields allocations reflecting billable time spent by worker on two campaigns acceptable A075/61 No allocation of costs of educational party conference on campaign techniques among participating candidates A075/87 (NRCC) Of contributions/expenditures between primary and general election efforts A075/53,120 Post-nomination contributions related to general election A075/44 **See Also:** Administrative expenses; Appearances by candidate; Educational conferences; Fundraising; Partnerships; Voter registration drives
Appearances by Candidate	Appearances before substantial number of people in electorate – costs are presumable expenditures A075/108,125 (travel from office account) Party building function A075/72,108 76/17 Televised appearance – compensation not honorarium or contribution A075/46 Televised newsletter of Congressman in nonelection year not expenditure A075/107 **See Also:** Common control; Contribution; Honorarium; Volunteer services
Attorneys'/Accountants' Fees	Campaign contributions/expenditures A075/27 **See Also:** Litigation costs; Partnerships
Authorized Committees/Agents	Duties A075/16,44 Expenses incurred are authorized expenditures A075/22,44 Officer of two fundraising committees A075/35
Banks *see* **Corporation/Labor Union/Bank**	
Cash Contributions *see* **Contributions**	

Cash, Petty *see* **Petty Cash Fund**

Common Control

Control of ownership by political party, political committee, or candidate (2 U.S.C. §431(f)(4)(A))
A075/143

"Dominion and control"
A075/32,108

Donation to third party sponsoring candidate appearance not contribution if no common control
A075/108

For purposes of contribution/expenditure limits
– political committee independence
A075/45
– State/local parties' independence
A075/2,29

Communication Exemption (2 U.S.C. §431(f)(4)(C))

Information expenses to committee members
A075/20

Newsletter of State/local party
A075/2

Conduit *see* **Intermediary**

Conferences, Educational *see* **Educational Conferences**

Constituent Services Costs *see* **Office Accounts**

Contributions

Anonymous cash contributions
– recordkeeping requirements
A075/140

Carry over, carry back
A075/74

Direct donation is not expenditure, but contribution
A075/120

Dominion and control
A075/32,108

Donation to third party sponsoring candidate appearances not contribution if no common control
A075/108

Escrowed contributions
A075/129

In-kind contribution
– bona fide gifts
A075/20
– public facilities may be offered without charge
A075/1

See Also: Attorneys'/Accountants' fees; Advertising/Solicitation; Corporation facilities/ goods; Expenditures-Independent; Fundraising; Gifts; National/State/local party; Travel expenses; Volunteer services

Contributions (continued)

Purpose test
A075/1,81

Refund of prohibited contribution is permissable use of campaign funds
A076/6

To unvictorious candidate attributable to $25,000 annual
A075/74

Wages for party-building activities paid to field worker who is also candidate are not contributions
A076/17

See Also: Accounts; Advertising/Solicitation; Allocation; Common control; Corporation/labor union/bank; Corporate facilities/goods; Debts; Dual candidacy; Earmarking; Educational conferences; Excess funds; Family of candidate; Franking accounts; Fundraising; Government contractors; Honorarium; Litigation costs; Loan/Endorsement; National/State/local party; Nominating convention, National — Delegate selection; Office accounts; Partnerships; Political action committees; Political committees; Polling; Preemption of State law; Public funding; Reporting; Sole proprietorship; Tax; Transfers; Trustee plan; Volunteer services

Conventions, National *see* **Nominating Conventions, National**

Corporate Facilities/Goods

Computer
A075/14

Nominating convention's use of facilities *see* Nominating conventions, National

"Normal and usual charge"
A075/94

Restaurant, typewriters, airplanes
A075/94

Vendor of food/beverage
A075/94

See Also: Administrative expenses; Contribution — In-kind; Corporation/labor union/bank; Fundraising; Nominating convention, National; Travel expenses; Volunteer services

Corporation/Labor Union/Bank

Corporation/Labor union
- corporation treasury money may not be used to raise funds from the general public
  A076/18
- incorporation exclusively for political/liability purposes
  A075/16,37
- leave of absence payment to candidate is prohibited contribution
  A076/70
- nonprofit incorporated professional organization
  A075/75
- payment for Members of Congress to attend courses not an unlawful contribution
  A076/98
- payment of production costs of fundraising item is a prohibited contribution
  A076/18,50

Corporation/Labor Union/Bank (continued)

- prohibited contribution is made if corporation deviates from normal course of business and deviation has effect of extending candidate's contract with corporation (billboards)
  A076/86
- State election contribution allowed only
  A075/59
- twice-yearly solicitation under 441b(b)(4)(B)
  - corporation soliciting employees is restricted to twice-yearly procedure
    A076/4

In general
- refund of prohibited contribution is permissable use of campaign funds
  A076/6
- stockholder, officer, employee in individual capacity
  A075/31

See Also: Administrative expenses; Advertising/Solicitation; Corporate facilities/goods; Debts; Educational conferences; Excess funds; Franking accounts; Government contractors; Loan/Endorsement; Membership organization; Nominating convention, National; Political action committees; Political committees; Public funding; Trade association; Trustee plan; Volunteer services.

Credit *see* **Debts**

Debts

Amounts in dispute must be reported
A076/85

Discharged by an adjudication of bankruptcy
A075/102

Incurred from January 1973 through December 1974
A075/6,52,57,60,64,68,82,88,106

Incurred prior to January 1, 1973
A075/5

Pledges for contribution
A075/44

Reporting of short-term or long-term debts
A075/44

Settlement
- with corporate creditor
  A075/39,50,102

Transfer of outstanding obligation (for loans made by candidate) to candidate's campaign committee is allowed
A076/60

Treatment of outstanding obligation
A075/18,28,102 A076/68

See Also: Excess funds; Family of candidate; Government contractors; Litigation costs; Loan/Endorsement; Personal assets; Tax Transfers

Delegate Selection *see* Nominating Conventions, National	
Depository	Transfer of funds from political committee to savings account need not be transferred to national or State bank A075/25 **See Also:** Accounts; Petty cash fund; Political committee; Public funding; Reporting; Transfers
Dual Candidacy	Any accounting method which yields allocations reflecting billable time spent by worker on two campaigns acceptable A075/61 Congress/Senate limits A075/11 Establish two separate committees A075/11 Senate/Presidential limits A075/11 **See also:** Allocation; Family of candidate; Personal assets; Transfers
Earmarking	"Unearmarked" to committee not attributable to candidate if (i) not single-candidate (ii) not principal campaign committee for authorized (iii) no knowledge A075/32,48,81,129 "Unearmarked" to multicandidate committee not attributable to candidate A075/74, 129 **See Also:** Political committees; Transfers
Educational Conferences	Agricultural A075/14 Independent expenditure for educational seminars for dairy farmers A075/20 No allocation of costs of educational party conference on campaign techniques among participating candidates A075/87 (NRCC) **See Also:** Appearances by candidate; Corporation/labor union/bank; Office accounts
Election	Convention or caucus – party convention held to endorse candidate, under circumstances whereby a candidate may be considered party nominee, is a separate election A076/58 Primary – party caucus or convention which does not select nominee is part of primary election A075/105,54 – petition effort A075/53,44 – unopposed candidate for primary election A075/9

Election (continued)	See Also: Allocation
Excess Funds	After liquidation of debt, turned over to principal campaign committee – reporting A075/60 – authorized in writing A075/82,88 Any "lawful purpose" – computer terminal A075/51 A076/57 – employee compensation A076/90 Transferred to office account A075/144 **See Also:** Candidacy; Nominating convention, National; Personal assets; Transfers
Expenditures	Any expense "made for purpose" is expenditure (especially travel, advertising) A075/30,81,98 Direct donation not expenditure A075/120 Disbursements made and reported by campaign committee as expenditures are deemed for the purpose of influencing candidate's election A076/17 Gift to State candidates may be "expenditure" under certain conditions A075/111 **See Also:** Advertising/solicitation; Appearances by candidate; Authorized committees/agents; Educational conferences; Fundraising; Voter registration drives News story, commentary, editorial exception (2 U.S.C. §431(f)(4)(A)) A075/143 No restrictions on use to which campaign funds may be put A076/53,64 **See Also:** Advertising/solicitation; Allocation; Appearances by candidate; Attorneys'/Accountants' fees; Authorized committee/agent; Candidacy; Communication exemption; Dual candidacy; Educational conferences; Franking account; Fundraising; Litigation costs; National/State/local parties; Nominating conventions, National – Delegate selection; Office accounts; Personal assets; Political committees; Polling; Preemption of State law; Public funding; Reporting; Transfers; Travel expenses; Voter registration drives.
Family of Candidate	Immediate family funds – contribution to candidate A075/65 – contribution to candidate made before January 30, 1976, need not be returned if over $1,000 limit so long as not over $25,000 aggregate. A076/74

Family of Candidate (continued)

— contribution to candidate made between January 30, 1976, and May 11, 1976, need not be returned if over $1,000 limit so long as not over $25,000 aggregate.
A076/26
— dual President/Senate candidate
A075/11
— limit applicable to pre-1975 campaign debts
A075/6,106
— loans
A075/57

Spouse
— contribution limit
A075/31

Foreign Nationals

Green card holders are not foreign nationals
A076/4,9

Filing *see* **Reporting**

Franking Accounts

Corporate contributions prohibited
A075/7

Costs of preparing frankable material not expenditure
A075/3

Costs of tabulating responses to questionnaires sent under the frank not considered a contribution if not made for primary purpose of influencing an election.
A075/132

Questionnaire mailed under frank as contribution
A075/14

See Also: Office accounts

Fundraising

Corporation's payment of production costs of fundraising item is a prohibited contribution
A076/18, 50

Costs as contributions/expenditures
A075/15,22,49,62,97 76/50

Items included in fundraising costs
A075/49,78,97

Payment out of campaign funds for the printing of labels by a computer firm would be proper under the Act.
A076/32

Political committee's operation of business to raise "profits" — reporting
A075/15

Raffle legitimate activity
A075/60

20 percent exemption from expenditure limitation
— in general
A075/62,97
— need not be prorated State-by-State for Presidential State-wide limits, except where targeted
A075/33

Fundraising (continued)	Use of lists of contributions on reports filed with Secretary of State A075/124 **See also:** Accounts; Advertising/Solicitation; Authorized committees/ agents; Political committees – Officers; Reporting
Get-Out-the-Vote Drives *see* **Voter Registration Drives**	
Gifts	"Bona fide" not in-kind contribution A075/20 To charity not honorarium or contribution A075/55 **See Also:** Expenditures; Contributions – In-kind
Government Contractors	Employee contribution in individual capacity A075/31 No difference between negotiated or competitive bid A075/110 Scope – applies to construction contracts A075/110 – does not apply to person holding a Federal-aid construction contract with non-Federal agency A075/110 – Federal elections only A075/99,110 **See Also:** Debts
Honorarium	"Acceptance" where active or constructive receipt A075/8,55,89,93 Agent's or speaking bureau's fees A075/84 As contributions – no longer contributions under §441i A075/119 – test and reporting under 1974 Amendments A075/8,20,63 Award in recognition of public achievements A075/85 Contract for televised commentary stipends A075/46 Royalty for book not honorarium A075/77 Travel and subsistence expenses A075/8,13 **See Also:** Appearances by candidate; Gifts

Immediate Family Funds *see* **Family of Candidate**	
In-Kind Contributions *see* **Contributions — In-Kind**	
Intermediary or Conduit	Committee serving as a conduit must register and report A076/51
Intern Programs	Corporation interns assigned to congressional offices, committees A075/100 Interns' time not a contribution in-kind so long as they are engaged in pursuit of legislative business or they receive no compensation A075/100
Labor Unions *see* **Corporation/ Labor Union/Bank**	
Legislative Hearings	Reimbursed travel A075/20
Loan/Endorsement	As "contribution" A075/4,57 Existence of written instrument determinative of loan A075/69 Promissory note is "loan" and therefore contribution A075/50 Remains contribution to extent of unpaid balance A075/69 **See Also:** Debts; Family of candidate; Personal assets; Tax; Telethon
Local Party *see* **National/State/ Local Party**	
Matching Funds *see* **Public Financing**	
Membership Organization	Unincorporated division of an incorporated membership organization is not an appropriate entity to establish and administer a separate segregated fund unless that fund is designated for the corporation. A076/73
Multicandidate Committee	PAC's (see also Political Action Committees) — Multicandidate PAC's may give $15,000 to national political party committee A076/41 **See Also:** Political committees
National Convention *see* **Nominating Convention, National**	

National/State/Local Party	Contribution limit – County committee A075/29 Definition of national party A076/95 Direct donation of money not party expenditure under §441a(d) A075/120 Expenditure limit – §441a(d) A075/2,120 **See Also:** Accounts; Appearances by candidate; Common control; Communication exemption; Debts; Election; Nominating convention, National – Delegate selection; Political committee; Reporting; Telethon; Transfers
Newsletter Accounts *see* **Franking Accounts**	
Nominating Conventions, National	Defraying delegate costs with public money by national parties (and State and local parties) A075/91 Delegate selection – selection (in general) A075/12 "Extraordinary and unforeseen circumstances" A075/91 Municipal corporation contribution A075/1,47 Private corporation contributions – to party convention committee A075/1,47 Scope of "convention expense" A075/1,74 **See Also:** Attorneys'/Accountants' fees; Excess funds; Public funding; Transfers
Office Accounts	Appropriated funds – expenses of mobile office used during but not for the campaign not attributable to contribution/expenditure limits A076/44 Generally A075/14 Reporting obligations A075/7 **See Also:** Account; Appearances by candidate; Franking accounts; Polling; Transfers; Travel expenses
Officers of Political Committees *see* **Political Committees**	
Opinion Polls *see* **Polling**	

PAC's *see* Political Action Committees	
Partnerships	Counts against each independent partner's limit in proportion to share of profits A075/17,104 Partner makes in individual capacity A075/31 Partnership agreements to allocate — necessary provisions A075/104 Statutory maximum limit for a partnership is $1,000 A075/17 **See Also:** Corporation/Labor union/Bank; Political action committees
Personal Assets	Advance to political campaign committee by candidate A075/57,111 Applicable to dual Senate/Presidential candidate A075/11 Limitations applicable to pre-1975 debts (unconstitutionality of 18 U.S.C. §608(a)) A075/65 **See Also:** Debts; Excess funds; Litigation costs; Loan/Endorsement; Preemption of State law; Transfer; Travel expenses
Personal Services (Voluntary) *see* Volunteer Services	
Petition Effort *see* Election	
Petty Cash Fund	No check to the order of "cash" may be made for over $100 A075/44 **See Also:** Accounts
Political Action Committees	Establishment, administration A075/23,36 Multicandidate PAC's may give $15,000 to national political party committee A076/41 One political committee may not serve as the separate, segregated fund of more than one sponsoring corporation or labor organization A076/73 Partnership, sole proprietor may not establish PAC A075/31 Unlawful to make a contribution or expenditure by money obtained in a commercial transaction A076/18 **See Also:** Corporation/Labor union/Bank; Membership organization; Multicandidate committee; Trade association; Trustee plan

Political Committees

Administrative expenses *see* Administrative expenses

"Affiliated committees" and "connected organizations" defined
A075/44

Definition
- committee organized to assure "option of alternative independent slate of electors" within definition
A075/81
- group of individuals acting in concert who are likely to assert their association when contributing and who collect and distribute checks in a batch to candidates or committees is a political committee
A076/51
- research committees funded solely by legislatively appropriated funds are not political committees required to register and report
A076/34

Officers
- national multicandidate committee can establish State committees which have the same treasurer
A075/45
- individuals serving as officers of more than one fundraising committee
A075/35

Principal campaign committee
- candidate must designate committee even if committee makes no contributions or expenditures
A076/100
- may give "occasional, isolated, incidental" support to other Federal candidates
A076/5
- may make unlimited contributions to non-Federal candidates
A076/5
- may pay for candidate's living expenses
A076/53
- may purchase auto for candidate
A076/64
- may rent office space in candidate's private home
A076/53

See Also: Reporting

Termination
A075/28,102

See Also: Accounts; Administrative expenses; Common control; Communication exemption; Corporation/Labor union/Bank; Dual candidacy; Earmarking; Excess funds; Fundraising; Personal assets; Polling; Reporting; Transfers; Travel expenses

Polling

Expenditure for "attitudinal research" from office account
A075/7

See Also: Candidacy

Preemption of State Law	Ballot access A076/8 Establishment of committees A076/8 Qualifying of candidate, date and place of election A075/124 76/8
Primary Election *see* **Election**	
Principal Campaign Committee *see* **Political Committees**	
Public Funding	Defraying delegate costs with public money A075/91 **See Also:** Accountants'/Attorneys' fees; Nominating convention, National; Transfers
Public Utility Holding Companies *see* **Corporation/Labor Union/Bank**	
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Requirements Relating to Campaign Advertising *see* **Advertising/Solicitation**	

Royalties	As contributions – books A075/77 – candidate's image A075/15
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Special Election *see* **Election**	
State Law *see* **Preemption of State Law**	
State Party *see* **National/State/ Local Party**	
Telethon	Guarantee/endorsement of loan to telethon A075/4
Television Appearances *see* **Appearances by Candidate**	
Trade Association	Solicitations under §441 (b)(4) – informing persons of a fundraising activity is a solicitation; permission from member corporations to solicit must be obtained prior to solicitation A076/27,96
Transfers	Between campaign committees for dual candidate A075/11 From – political campaign committee to another account (savings account, office account) A075/10,41,144 76/25 – previous Federal account to political campaign committee A075/10,26,40,66 – primary to general election account A075/53 – State election account to principal campaign committee – generally A075/10,66 **See Also:** Accounts; Common control; Excess funds; Political committees

Travel Expenses	Cost of travel (to a fundraiser) supported by individual is an in-kind contribution — not a contribution or expenditure if traveler is not a candidate A075/123 "Expenditure" if candidate and campaign-related activities (speeches, meetings with advisors) A075/98 Reimbursement by political campaign committee to volunteer A075/97 Reimbursement by political committee to members for attending election — related activities A075/20 Reimbursement to candidate by political campaign committee is expenditure A075/30 Related to party building activities are not expenditures A075/72 **See Also:** Appearances by candidate; Contributions — In-kind; Corporation/Labor union/Bank; Dual candidacy; Excess funds; Honorarium, Legislative hearings; National/State/Local party
Trustee Plan	Establishment, administration A075/23
Volunteer Services	Entertainment and services not contribution A075/97 On employee time — in-kind? A075/94 Use of workers receiving Social Security funds A075/124 Volunteer intern in congressional office — college credit not reimbursement A075/100 **See Also:** Contribution — In-kind; Travel expenses
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U.S. Code Section Index to 1975-76 Opinions (Advisory Opinions) Note: Numbers of Opinions beginning with the digits "75" are 1975 Opinions; digits "76" stand for 1976 Opinions.

Appendix F

FEC Federal Register Notices, 1976

NOTICE	HEADING	APPROVAL DATE	PUBLICATION DATE	CITATION
1976-1	AO's 1975-33, 61 and 89	Jan. 5, 1976	Jan. 12, 1976	41 FR 1862
1976-2	AOR's 1975-125 and 127 thru 130 and 132 and 133	Jan. 5, 1976	Jan. 12, 1976	41 FR 1863
1976-3	AOR 1976-1	Jan. 6, 1976	Jan. 12, 1976	41 FR 1865
1976-4	Proposed Compliance Reg.	Jan. 12, 1976	Jan. 15, 1976	41 FR
1976-5	AO 1975-87	Jan. 13, 1976	Jan. 20, 1976	41 FR 2940
1976-6	AOR's 1975-134 thru 139	Jan. 14, 1976	Jan. 20, 1976	41 FR 2941
1976-7	AOR 1976-2	Jan. 15, 1976	Jan. 19, 1976	41 FR 2803
1976-8	AO's 1975-44, 100, 110 and 111	Jan. 16, 1976	Jan. 26, 1976	41 FR 3832
1976-9	AOR's 1975-140 thru 144	Jan. 19, 1976	Jan. 22, 1976	41 FR
1976-10	AO 1975-81	Jan. 20, 1976	Jan. 26, 1976	41 FR 3834
1976-11	Four Calendars of Filing Deadlines	Jan. 20, 1976	Jan. 23, 1976	41 FR 3708
1976-12	OC 1975-14	Jan. 21, 1976	Jan. 27, 1976	41 FR 3990
1976-13	AO's 1975-98, 102 and 120	Jan. 26, 1976	Jan. 29, 1976	41 FR
1976-14	Supplement to AOR 1975-43	Jan. 27, 1976	Feb. 2, 1976	41 FR 4875

NOTICE	HEADING	APPROVAL DATE	PUBLICATION DATE	CITATION
1976-15	Cancellation Compliance Hearing	Feb. 3, 1976	Feb. 5, 1976	41 FR
1976-16	AO's 91, 94, 104, 108, 124, and 129	Feb. 3, 1976	Feb. 9, 1976	41 FR 5752
1976-17	Index of Notices	Feb. 6, 1976	Feb. 13, 1976	41 FR
1976-18	Proposed Forms	Feb. 27, 1976	Mar. 3, 1976	41 FR
1976-19	1975 Index of Notices	Mar. 4, 1976	Mar. 16, 1976	41 FR 11132
1976-20	1976 Index of Notices	Mar. 4, 1976	Mar. 16, 1976	41 FR 11154
1976-21	Short Forms for Reporting	Mar. 8, 1976	Mar. 16, 1976	41 FR
1976-22	1975 Index of Notices (March)	Mar. 30, 1976	April 5, 1976	41 FR
1976-23	1976 Index of Notices (March)	Mar. 30, 1976	April 5, 1976	41 FR
1976-24	1975 Index of Notices (April)	May 4, 1976	May 12, 1976	
1976-25	1976 Index of Notices (April)	May 4, 1976	May 12, 1976	41 FR
1976-26	Clearinghouse Notice of Hearing	May 17, 1976	May 20, 1976	41 FR 20803
1976-27	Proposed Regulations	May 24, 1976	May 26, 1976	41 FR 21572
1976-28	Amendment to Hearings on Proposed Regulations	May 25, 1976	May 27, 1976	41 FR 21652
1976-29	[Correction] Convention Financing Regs.	June 1, 1976	June 7, 1976	41 FR 22911
1976-30	Payment of Delegates Travel and Subsistence [Policy Stmt.]	June 10, 1976	June 16, 1976	41 FR 24513

NOTICE	HEADING	APPROVAL DATE	PUBLICATION DATE	CITATION
1976-31	General Election Funding Regs.	June 22, 1976	June 25, 1976	41 FR 26397
1976-32	AOR's 1975-144 and 1976-3 thru 26	June 25, 1976	June 30, 1976	41 FR
1976-33	Proposed Regs. on Polling Expenses	July 2, 1976	July 9, 1976	41 FR 23413
1976-34	Index to Statements & Reports	July 7, 1976	July 15, 1976	41 FR
1976-35	AOR's 1976-27 thru 42	July 8, 1976	July 14, 1976	41 FR
1976-36	AOR's 1976-43 thru 47	July 13, 1976	July 19, 1976	41 FR
1976-37	AOR's 1976-48 thru 55	July 27, 1976	August 11, 1976	41 FR
1976-38	Proposed Regs.	August 3, 1976	August 25, 1976	41 FR 35932
1976-39	AOR's 1976-56 thru 58	August 4, 1976	August 10, 1976	41 FR
1976-40	AOR's 1976-59 thru 70	August 17, 1976	August 24, 1976	Part 3
1976-41	AOR's 1976-71 thru 75	September 2, 1976	September 10, 1976	38555
1976-42	Prop. Rulemaking Amendment	September 3, 1976	September 10, 1976	38522
1976-43	AOR's 1976-76 thru 78	September 10, 1976	September 16, 1976	Part 2
1976-44	AOR's 1976-79 thru 82	September 9, 1976	September 22, 1976	41 FR
1976-45	Privacy Act	September 17, 1976	September 29, 1976	41 FR
1976-46	Policy Statement	September 22, 1976	October 6, 1976	41 FR 44130
1976-47	AOR's 1976-83 thru 87	September 27, 1976	September 30, 1976	41 FR
1976-48	AOR's 1976-88 and 89	September 30, 1976	October 5, 1976	41 FR

NOTICE	HEADING	APPROVAL DATE	PUBLICATION DATE	CITATION
1976-49	Effectiveness of Regs.	[NOT PUBLISHED]		
1976-50	Policy Stmt. Family Members Contribution Limits	October 1, 1976	October 6, 1976	41 FR
1976-51	Index to Multi-candidate Comm.	October 1, 1976	October 6, 1976	41 FR
1976-52	AOR's 1976-90 and 94	October 7, 1976	October 6, 1976	41 FR
1976-53	Amendment to Matching Fund Regs.	October 12, 1976	October 18, 1976	41 FR 45952
1976-54	Amendments to Disclosure Regs.	October 12, 1976	October 18, 1976	41 FR
1976-55	Notice of Authorization of Political Communications	October 12, 1976	October 18, 1976	41 FR
1976-56	Policy Stmt. Application of Calendar Year Limitation Provisions	October 12, 1976	October 18, 1976	41 FR 45954
1976-57	Notice to Membership Organization Report-ing Requirements	October 1976	October 18, 1976	41 FR 45957
1976-58	Modification of Advisory Opinions	October 15, 1976	October 20, 1976	41 FR 46416
1976-59	AOR's 1976-95 thru 97	October 28, 1976	November 3, 1976	41 FR 48473
1976-60	Update to Index of Multicandidate Committees	November 2, 1976	November 9, 1976	41 FR 49619
1976-61	AOR's 1976-98 and 97	November 3, 1976	November 9, 1976	41 FR 49619

NOTICE	HEADINGS	APPROVAL DATE	PUBLICATION DATE	CITATION
1976-62	AOR 1976-100	November 15, 1976	November 22, 1976	41 FR 51547
1976-63	AOR's 1976-101 and 102	November 17, 1976	November 23, 1976	41 FR 51779
1976-64	Acknowledgement of Receipt Form (20)	November 19, 1976	November 30, 1976	41 FR 52623
1976-65	AOR's 1976-103 and 104	November 24, 1976	December 3, 1976	41 FR 53223
1976-66	AOR's 1976-105 and 106	December 1, 1976	December 9, 1976	41 FR 53927
1976-67	(Privacy Act) System of Records	December 3, 1976	December 14, 1976	41 FR 54718
1976-68	(Privacy Act)	December 3, 1976	December 14, 1976	41 FR 54718
1976-69	Clearinghouse Advisory Comm. Notice of Hearing	December 9, 1976	December 16, 1976	41 FR 55077
1976-70	AOR's 1976-107 thru 109	December 15, 1976	December 22, 1976	41 FR 55825
1976-71	AOR's 1976-110 and 111	December 15, 1976	December 22, 1976	41 FR 55825
1976-72	AOR's 1976-112 thru 115	December 30, 1976	January 12, 1977	42 FR 2624
1976-73	Policy Statement Contribution Limits to Contributions Made After General Election	January 3, 1977	January 12, 1977	42 FR 2624

Appendix G

FEC Publications and Clearinghouse Studies

Newsletter

THE FEC RECORD

Published as a four- to eight-page binder insert, the newsletter serves as the primary means of informing candidates, political committees, parties and other persons interested in Federal elections about Commission activity. During 1976, eight issues covered the following topics:

- Proposed Regulations
- Interim Guidelines
- Advisory Opinions
- Policy Statements and Letters
- Compliance Matters
- Reporting Notices

Back issues are available from the Public Communications Division of the Office of Information Services.

Pamphlets

Campaign Guide Series

Six color-coded pamphlets comprise the Federal Election Commission **Campaign Guide** series, a reference tool prepared by the FEC to assist the public in complying with the Federal Election Campaign Act of 1971, as amended (the Act). Each guide, prepared as a binder insert, has a distinct focus, as described below:

No. One Campaign Guide for Committees

Outlined within this pamphlet are the registration and reporting requirements for a political committee supporting Federal candidates. Definitions of various types of committees are provided, as well as guidelines for accepting, recording, and reporting campaign contributions and for making and disclosing expenditures.

No. Two Campaign Guide on Contributions and Expenditures

Designed to aid candidates and political committees, this guide explains distinctions between various kinds of contributions, volunteer activities, independent expenditures, and expenditures by candidates and committees. Limitations on contributions and expenditures are discussed. Examples illustrate how these requirements affect individuals, committees and candidates.

No. Three Campaign Guide for Federal Candidates

This brochure helps Federal candidates and their campaign committees comply with the Act by explaining the provisions governing the establishment of candidacy, the acceptance of contributions and the disclosure of receipts and expenditures.

Pamphlets (continued)

No. Four Campaign Guide for the 1976 General Election
Illustrating the law in action, this guide briefly explains how the Act and the proposed regulations applied to the 1976 general election. The amount of public funds available to Presidential candidates, requirements for eligibility for these funds, and guidelines for their use are described. Funding for House and Senate campaigns is also considered, with information on contribution and expenditure limits and disclosure requirements.

No. Five Campaign Guide for State and Subordinate Party Committees
This pamphlet explores the role that party committees play in the financing of Federal campaigns. Topics covered include: terminology, committee registration requirements, contributions to candidates, allocable and non-allocable expenditures for congressional and Presidential campaigns, and a checklist of "do's and don't's" for party committees.

No. Six Campaign Guide on Post-Election FECA Requirements
In the aftermath of the 1976 general election, the responsibilities of candidates and political committees are not yet over. This guide outlines post-election requirements for all Federal candidates, as well as the specific regulations for Presidential candidates receiving Federal funds. It explains the retirement of campaign debts, the use of excess campaign funds, reporting requirements, and procedures for terminating registration.

Copies of the guides are available from the Public Communications Division of the Office of Information Services.

Booklets

Annual Report 1975 Federal Election Commission (March 1976)
This first Annual Report to the President and Congress provides a comprehensive review of the establishment of the Commission, and its initial organization and operation during the first nine months of its existence. 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 Federal Election Campaign Act, Amendments of 1976 (May 1976). As Codified in Title 2, United States Code §431-456
This blue booklet was a special version of the campaign finance laws published immediately after the passage of the 1976 Amendments to the FECA which included all language deleted as well as all language added by the 1976 Amendments. Included were the original Title 18 provisions deleted from Title 18 by the 1976 Amendments and added to Title 2. This version did not include the sections of the FECA relating to public financing in connection with Presidential elections, which are codified in Title 26, United States Code.

Booklets (continued)

Federal Election Campaign Laws, Compiled by the Federal Election Commission, including the "Federal Election Campaign Act Amendments of 1976," Public Law 94-283 (June 1976).
This brown booklet is a complete compilation of Federal election campaign laws covering disclosure, campaign limitations and public financing, which reflects the 1976 changes in the law. There are three major sections:

1. **Text of "The Federal Election Campaign Act (FECA) of 1971"** as amended by the FECA Amendments of 1974 (P.L. 93-443), and by the FECA Amendments of 1976 (P.L. 94-283), as codified in Titles 2 and 26 of the United States Code;
2. **Text of additional provisions** of the United States Code, not in the FECA or under the jurisdiction of the FEC, but which are relevant to persons involved with Federal elections; and
3. **Title 2 Index:** A special index, prepared by the FEC, relating to the disclosure and limitations sections of the FECA codified in Title 2, but excluding the public financing provisions in Title 26.

Bookkeeping and Reporting Manual for Candidates and Political Committees (2nd edition, June 1976).
This booklet presents and explains a recommended method of bookkeeping to assist Federal candidates and political committees in maintaining records required by the Federal Election Campaign Act. This edition has been updated to reflect the changes made by the FECA Amendments of 1974 and 1976.

Clearinghouse Research Studies

Currently Available

Federal-State Election Law Survey: An Analysis of State Legislation, Federal Legislation, and Judicial Decisions:
This quarterly report, issued under agreement with the American Law Division of the Library of Congress' Congressional Research Service, compiles and summarizes all Federal and State legislation and litigation relating to elections. Each volume contains a State-by-State 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.

Analysis of Federal and State Campaign Finance Law; June 1975, Two Volumes.
Issued under agreement 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 50 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. The District of Columbia and the Commonwealth of Puerto Rico are also covered.

Clearinghouse Research Studies (continued)

Handbook of State Election Agencies and Election Officials, August 15, 1976.
This report, which will be updated periodically, provides a comprehensive State-by-State synopsis of which State election officials perform what election functions, a tabular presentation of these officials and functions, and a telephone and mailing address list of all key State and local election officials.

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.

Studies Currently Underway

The Qualification and Certification of Candidates for Federal Office: An Analysis of Laws and Procedures in the United States, August 1977.
Each State has developed its own requirements, procedures, and time constraints for candidate entry into the political arena. These may vary even within each State by:

- type of office being sought (Presidential, senatorial, congressional or delegate)
- type of selection system (general election, primary election or convention)
- status of candidate (major party, minor party, independent, or write-in)
- administration or legal mechanisms for contest and appeal
- filtering mechanisms (cash deposit, petitions, etc.)

This study will provide a comprehensive analysis of the varying State laws and procedures relating to candidate certification.

Voter Registration: An Analysis of the Implementation of State-Wide and State Mail Registration Systems, October 1977.
A number of States have adopted State-wide registration as a means of standardizing procedures as well as ensuring against multiple registration by individuals in several jurisdictions. Other States (17) have adopted mail registration systems. This two-part project is designed to review the experiences of States which have adopted State-wide or mail systems in order to identify the problems which were encountered and which are likely to be encountered in certain legal, structural, or socio-economic settings.

The products of this research will be general technical guidelines for implementing either State-wide or State mail registration systems with fairly detailed procedures for implementing State-wide systems. These products should, in turn, substantially reduce design costs at the State level and at the same time facilitate the process of transition by providing an analysis of pooled experience.

Clearinghouse Research Studies Currently Underway (continued)

Voting Equipment 1976: A Guide for Administrators and Legislators, April 1977.
This project, which is an update of a continuing service of reports on voting equipment, is a recognition of the need to provide detailed, unbiased information on voting systems to State and local election administrators and legislators. Many State and local election jurisdictions purchase voting systems with little or no thought given to whether these systems offer adequate vote security or if the voters can understand ballot choices presented to them. Similarly, State legislators often enact voting equipment legislation that is inadequate in terms of testing and approval procedures as well as in other areas. Often legislators and administrators turn to the vendors of voting equipment for information as there has been simply no place else to turn to for this information. The purpose of this project is to provide these critical data.

The project is divided into two parts. The first, aimed at State legislative needs, is a State-by-State synopsis of voting equipment laws accompanied by suggested elements for inclusion in model State voting equipment legislation. The second part contains information on voting system procurement and contract procedures, vendors of voting equipment as well as detailed comparisons of the 14 voting systems currently being marketed in the United States.

Contested Elections and Recounts: An Analysis of Laws and Procedures in the United States, October 1977.
This project examines State legislation, regulations, standards, procedures and guidelines as they relate to election recounts. There is an enormous variation in standards, procedures and guidelines for recounting elections at the State level. Yet because the rapid and certain outcome of an election is essential to public confidence in the democratic process, State administrators and legislators are eager to establish laws and procedures which will provide the basis for an honest and expeditious resolution of challenged election outcomes. This study will compile the information needed for this effort.

An Analysis of the Administration of Federal Bilingual Requirements by State and Local Elections Offices, March 1978.
Many State and local election administrators have requested information on successful administrative procedures as they relate to implementation of bilingual amendments. Yet there is not, at present, any one source these administrators can turn to for information nor is there much data on what State and local election jurisdictions have done in the way of implementing these requirements. The purpose of this study is to pull together the shared experiences of the affected State and local jurisdictions into a comprehensive report supplemented by an analysis of Federal financial and informational resources for use by State and local election administrators.

Election Management: Budget Planning and Management Procedures for Local Election Offices, March 1978.
Many election administrators have noted that new Federal legislation, regulation, and procedures as well as increased demands for voter services have put additional pressure on already limited election office budgets and staff. Yet, for a number of reasons, many of these same administrators have not adequately planned for these new contingencies. The purpose of this project is to provide management guidelines for State and local election administration to use in planning, budgeting and accounting for their election systems.

Appendix H

Campaign Disclosure Documents in FEC Public Records

1975-76: 459,916 pages of documents from:

	Candidates	Political Committees	Other	Campaigns
House	2,377	2,408		2,671
Senate	415	460		473
Pres.	230	234 (authorized) 166 (unauthorized)		246
Party-Related		73 (National level) 285 (State level) 730 (Local level)		
Non-Party Related		1,295		
Independent Expenditures			139	
Delegate			199	
Communication Costs			38	
Totals	**3,022**	**5,651**	**376**	**3,390**
Total Filers	9049			

1972-74: 806,381 pages of documents previously filed with the Clerk of the House of Representatives, the Secretary of the Senate, or the General Accounting Office.

Appendix I

Biographic Data on Commissioners and Statutory Officers

Vernon W. Thomson, Chairman	Mr. Thomson, 70, the Commission's second chairman, 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 and for three years when the Commission was reconstituted.
Thomas E. Harris, Vice Chairman	Presently Vice Chairman, Mr. Harris, 64, 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. A native of Little Rock and a 1932 graduate of the University of Arkansas, Mr. Harris 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 and upon reconstitution received a three-year appointment.
Joan D. Aikens	At the time of her initial appointment, Joan Aikens was a vice president and account executive for LH/C (Lew Hodges/Communications) in Valley Forge, Pa. Aikens, 47, 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 and later for five years.
William L. Springer	Mr. Springer, an attorney by profession, served as State's Attorney of Champaign County, Illinois, 1940 to 1942. After military service in the Navy, he returned to Champaign, Illinois, and served as County Judge from 1946 to 1950. In 1950 he was elected to the 82nd Congress and reelected to each succeeding Congress from the 22nd Congressional District of Illinois until his retirement at the close of the 92nd Congress. President Nixon appointed him a Commissioner of the Federal Power Commission in 1973. He resigned in December 1975 and was appointed to the Federal Election Commission by President Ford in 1976. Mr. Springer is a graduate of DePauw University and the University of Illinois Law School. He has received LL.D. degrees from Millikin University in 1953, Lincoln College in 1966, and DePauw University in 1972.

Neil O. Staebler	The Commission's first vice chairman, Mr. Staebler, 72, 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. Originally appointed for three years in 1975, he was reappointed upon reconstitution for a one-year term.
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. Originally appointed for two years, he later received a five-year term.
	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 1955-72. He received a B.S. degree from the University of Maryland in 1954, attended George Washington University Law School from 1955-56.
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 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 the 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, 1975-1976	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.
William C. Oldaker — General Counsel, 1977-	Mr. Oldaker began serving as General Counsel January 1, 1977, after being Assistant General Counsel for Compliance and Litigation since 1975. A holder of B.A. and J.D. degrees from the University of Iowa, he also attended the Graduate School of Business at the University of Chicago. Prior to coming to the Commission, Mr. Oldaker served with the Federal Communications Commission and Federal Employment Opportunity Commission.

Appendix J

FEC and the Privacy and Freedom of Information Acts

The Privacy Act

The stated purposes 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 is required to develop and publish its Systems of Records, and to publish regulations which outline 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.

The Commission initially published its Systems of Records in the *Federal Register* on August 22, 1975 (40 F.R. 36875). The Commission, upon further review, revised and updated its systems, in order to incorporate larger categories of individuals, changes in equipment and information collected, as well as amendments to the FECA which occurred in May 1976. On December 14, 1976, the following systems were published in the *Federal Register* (41 F.R. 45718):

1. Requests for opinions and responses;
2. Audits and investigations;
3. Compliance actions;
4. Public information mailing list;
5. Personnel and travel;
6. Candidate reports and designations;
7. Certification for primary matching funds and general election campaign funds;
8. Payroll records.

Systems 2 and 7 were published in final. The other systems identified above were published for comment. System 4 is a new system which evolved as a result of the numerous requests we receive for information about the Commission's activities. System 8 has been in existence since the inception of the FEC but was inadvertently omitted from the initial publication.

The Commission's regulations were published initially on August 22, 1975, for comment (40 F.R. 36872). They were published in final on September 29, 1976 (41 F.R. 43064), and became effective on October 29, 1976.

Most of the information in the FEC record systems is regularly open for public review and examination, the exceptions being information contained in compliance and audit and investigation files, personnel and payroll records. There is therefore, little need for the public to invoke the formal Privacy Act procedures to review records.

Freedom of Information Act

The Freedom of Information Act, 5 U.S.C. Sec. 552, requires that Federal executive agencies make available for public review and dissemination certain information about the agencies' operations and its decision unless the information falls within nine specified categories. Much of the information maintained by the Commission is already subject to public review by statute or policy: the Commission must make available campaign financial disclosure reports filed by candidates and committees and other persons; advisory opinion requests and responses thereto; the result of any conciliation attempts in compliance actions, including any conciliation agreement entered into, and any determination by the Commission that no violation of the Act has occurred. As a matter of policy, the Commission also makes available minutes of its meetings, information requests for opinions and responses thereto; proposed regulations and comments thereto; and reports prepared by the General Counsel in compliance matters at the conclusion of a case.

Because of the openness of this agency, requests under the Freedom of Information Act have been minimal. During 1976, there were only three or four requests which asked for information not already available, either by statute or policy decision. The Commission has appointed a Freedom of Information Act officer to coordinate all requests.

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