Federal Election Commission

Annual Report 1984

Federal Election Commission
Washington, D.C. 20463

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 1, 1985

The President of the United States
The U.S. Senate
The U.S. House of Representatives

Dear Sirs:

We submit for your consideration the tenth annual report of the Federal Election Commission, as required by the Federal Election Campaign Act of 1971, as amended. The Annual Report 1984 describes the activities performed by the Commission in carrying out its duties under the Act. It also includes a number of legislative recommendations adopted by the Commission in March 1985.

Respectfully,

John Warren McGarry
Chairman

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Introduction

Predominant among the Federal Election Commission's activities in 1984, its tenth year of operation, was the administration of the Presidential public funding program, the third in the Nation's history. The agency's supervision of the 1984 public financing program is described in Chapter 1, along with the legal issues that developed in this area.

In response to the growing interest in campaign finance information, the Commission launched a new program for sharing its computerized data base with several State election offices throughout the country. For the first time, researchers outside Washington, D.C. had direct access to a wealth of information on Federal campaign finance by means of computer terminals located in State election offices. This project is described in Chapter 2, which reports on 1984 activities related to the Commission's administration of the campaign finance law. The chapter also examines the non-Presidential legal issues that were resolved during the year.

In 1984, the Commission, the General Services Administration and the Congress all agreed that the agency should seek new quarters to resolve safety and operational problems experienced in its current building. Additional funds were appropriated to relocate the agency during fiscal year 1985. Total funding for the fiscal year was established at $12,900,000, of which $1,155,000 was earmarked for the move (both one-time costs and the estimated rent increase). Both the agency's budget and relocation are discussed in Chapter 3. The Commission's recommendations for legislative change are listed in Chapter 4. Several appendices supplement material in the first three chapters.

Chapter 1
The 1984 Presidential Elections

The 1984 matching fund program was noteworthy in several respects. President Reagan, the first publicly funded candidate to run unopposed in the Presidential primaries, was also the first primary candidate who raised enough matchable contributions to qualify for the maximum amount of matching funds — $10.1 million. (The maximum entitlement is half of the national spending limit for the primary campaign — $10 million adjusted by a cost-of-living increase. In 1984, the cost-of-living adjustment brought the spending limit to $20.2 million; the maximum entitlement was therefore $10.1 million.)[1]

Sonia Johnson became the first third party candidate to qualify for primary matching funds.[2] Although in 1980 John Anderson received public funds as a third party candidate, the funding was for his general election campaign. He received primary matching funds as a Republican Party candidate in the 1980 Presidential primaries.

Another "first" in the 1984 matching fund program was the Commission's initial refusal to qualify a candidate for matching funds because he had failed to uphold an agreement signed with respect to a previous election. On January 26, 1984, the agency rejected Lyndon LaRouche's eligibility for primary matching funds because of his failure to honor an agreement he had signed to qualify for 1980 matching funds. To become eligible for public funds, a candidate must agree to repay public funds to the U.S. Treasury, if necessary,[3] and to pay any civil penalties included in a conciliation agreement entered into with the Commission because of legal violations. When the Commission first considered Mr. LaRouche's 1984 eligibility, he had failed to uphold the 1980 agreement on both accounts.[4] In response to the Commission's initial determination, Mr. LaRouche repaid 1980 public funds and

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[1]See the table on spending limits, page 8.

[2]See "Third Party Candidates," page 10.

[3]See "Audits," page 8, for an explanation of when repayments are required.

[4]Litigation concerning the payment of the civil penalty is discussed on page 22.

also paid the outstanding civil penalty incurred by his 1980 campaign. The Commission then certified his eligibility for 1984 matching funds in April.

This chapter opens with an overview of how public funding works and describes operational improvements to the program. The chapter goes on to discuss the public funding programs for the primaries, conventions and general election, and concludes with a discussion of current legal issues related to Presidential elections.

Overview of the Public Funding Program

The major elements of the public financing program have remained largely the same since the first publicly financed Presidential elections in 1976. Basically, public funding encompasses:

- Primary matching funds for Presidential primary candidates who have broad-based public support;
- Federal grants to sponsor Presidential nominating conventions of political parties; and
- Full public funding for the general election campaigns of major party nominees and partial financing of qualified minor and new party nominees.

The financing for the public funding program comes from the Presidential Election Campaign Fund. This Fund consists of dollars checked off by taxpayers on their Federal income tax returns. The checkoff neither increases the amount of taxes owed nor decreases any refund due.

As the agency assigned to administer the public funding program, the Commission first determines whether those requesting Federal funds qualify to receive them by meeting the law's eligibility requirements. The agency then certifies the funds to the candidate or nominating convention committee. The U.S. Treasury makes the actual payments from the Presidential Election Campaign Fund. Under the law, the Commission also audits public funding recipients to ensure that Federal funds are spent in accordance with the law's requirements.

Revised Regulations

To provide fuller guidance to public funding recipients, the Commission revised its regulations on public financing. The revised rules, prescribed in 1983, clarify provisions that had caused uncertainty in the past and incorporate procedures and policies that the Commission had developed in previous elections. (For a summary of the revised rules, see the *Annual Report 1983,* pages 59-62.)

Assistance to Campaigns

Like the regulatory revisions, the Commission's outreach program for 1984 campaigns broadened the scope of available information. Three FEC publications were revised and expanded: the *Guideline for Presentation in Good Order,* a guide for Presidential primary candidates seeking public funds, and the *Financial Control and Compliance Manuals* for publicly funded candidates, one directed to primary campaigns and another addressed to general election campaigns. Updated Presidential reporting forms also aided the 1984 campaigns. Finally, the agency continued to provide personal assistance by designating an auditor for each campaign. From the earliest stages of the campaign, the auditors were available to answer questions and offer guidance.

GAO Staff Assistance

Because auditors participate in every phase of the public funding program — reviewing matching fund submissions and conducting mandated audits — the audit workload increases dramatically during a Presidential election year. To meet this need for more personnel, without significantly increasing permanent audit staff, the Commission hired temporary part-time clerks to help auditors in the matching fund process and, for the first time, turned to the General Accounting Office (GAO) for assistance. GAO support allowed the

Commission to shoulder public funding responsibilities in the most cost-efficient way possible.

GAO provided ten auditors temporarily assigned to the Commission on a nonreimbursable basis — five, from April through December 1984, and five more, from December 1984 through June 1985. GAO personnel performed well, and their contribution was critical to the successful execution of the public funding program for the 1984 elections. Further, the interagency detail precluded the need for additional funding to cover increased staff costs and administrative expenses associated with expanding staff and then cutting back after the public funding program winds down.

Primary Matching Funds

Partial public financing is available to Presidential primary candidates in the form of Federal matching payments. Candidates seeking nomination to the Presidency can qualify to receive matching funds by showing broad-based public support: A candidate must raise over $5,000 in each of 20 States (i.e., over $100,000). Although an individual may contribute up to $1,000 to a primary candidate, only a maximum of $250 per contributor applies toward the $5,000 threshold in a State.

Primary candidates seeking matching funds must also agree to limit national spending for all primary elections to $10 million (increased each election cycle by a cost-of-living adjustment).[5] Moreover, candidates must limit spending in each State to a specified amount.

Once they have qualified for matching funds, candidates may receive public funds to match contributions from individual contributors, up to $250 per individual. The individual contributions must be in the form of a check or other negotiable written instrument. Even if candidates are no longer actively campaigning in primary elections, they may continue to request matching funds to pay off campaign debts until early in the year following the election. The maximum amount of matching funds a candidate may receive is limited to half of the overall spending ceiling.

Certification of Matching Funds

By March 29, 1985, the Commission had certified $36,513,809 to the eleven Presidential primary candidates who qualified for Federal matching funds. Once eligible, candidates could request funds twice a month in one of two ways: Either through a matching fund submission[6] or, during the election year, by letter request — an innovation to streamline the matching fund process in 1984.

A letter request merely specifies the amount of matchable contributions a campaign raised since its last submission and includes bank documentation, such as validated deposit slips, to show that the campaign actually received and deposited the contributions. The campaign's next matching fund request must be a fully documented submission covering contributions in the letter request and those received afterwards. Only eligible candidates may submit letter requests; once ineligible,[7] candidates may nevertheless continue to make full matching fund submissions to retire campaign debts incurred before becoming ineligible and to defray certain winding down expenses of the campaign.

As the Commission had anticipated, letter requests greatly reduced the number of full matching fund submissions (which require substantial

[5]See the table on spending limits, page 8.

[6]A full matching fund submission contains: 1) a list of matchable contributions, including the amount of each contribution and each contributor's name and address; 2) a photocopy of each check (or other written instrument); 3) supporting bank documentation showing that the funds were deposited; and 4) a list of nonpayable contributions (e.g., insufficient funds in the donor's account). Matchable contributions must be submitted in accordance with the Commission's *Guideline for Presentation in Good Order.*

[7]A candidate becomes ineligible if he or she ceases to campaign actively in more than one State or if the candidate receives less than 10 percent of the popular votes cast for all the Presidential candidates of the same party in two consecutive primary elections.

processing time) while ensuring matching fund payments twice a month.

At the request of several campaigns, the Commission extended the cutoff date for matching fund submissions from January 28 to February 28, 1985. Campaign staff explained that they had engaged in significant fundraising activity during December 1984 to retire campaign debts. (Contributions submitted for matching funds must be deposited by December 31 of the election year.) They anticipated, based on past experience, that preparation of matching fund submissions for December contributions would require two months' processing time. For this reason, the Commission granted the extension to the original requesters and made the extension available to other campaigns, upon written request.

As in the 1980 matching fund program, the Commission used a statistical sampling technique to see if the matching fund submissions contained proper documentation verifying that the contributions were matchable. To conduct statistical sampling, the Commission first entered into the computer information taken from matching fund submissions. This process was considerably facilitated by the committees themselves, which provided the Commission with magnetic tapes containing data on their submissions.

The Commission found that submissions from 1984 campaigns had a very small percentage of errors, with the result that campaigns received, on the average, 97.3 percent of the matching funds they requested, while 1980 campaigns received, on the average, 90 percent. The agency attributed the significant improvement over 1980 submissions to the greatly expanded *Guideline for Presentation in Good Order,* which addressed difficulties encountered by previous campaigns. The table below presents information on the matching fund activity of 1984 Presidential candidates (as of March 29, 1985).

Table I
Matching Fund Activity of 1984 Primary Candidates

Candidate	Matching Funds Requested	Donors of Matchable Contributions	Matching Funds Certified
Reubin Askew	$ 986,655	6,013	$ 975,901
Alan Cranston	2,157,879	40,647	2,113,736
John Glenn	3,347,866	34,987	3,325,383
Gary Hart	5,546,708	123,380	5,328,467
Ernest Hollings	833,735	6,486	821,600
Jesse Jackson	3,128,176	87,144	3,053,185
Sonia Johnson	197,022	5,672	193,735
Lyndon LaRouche	501,215	5,297	494,146
George McGovern	634,829	17,314	612,735
Walter Mondale	9,819,910	203,772	9,494,921
Ronald Reagan	10,421,010	255,465	10,100,000
Totals	$37,575,006	786,177	$36,513,809

Campaign Finance Information on Primary Candidates

Responsive to the public's need for immediate and accurate information, the Commission released financial data on 1984 Presidential primary candidates through a two-step process. Presidential Campaign Summary Reports, issued within 10 days after the Presidential monthly reports were filed, were designed to give an overall picture of Presidential primary activity as quickly as possible. The Reports listed amounts raised and spent by each Presidential campaign with financial activity exceeding $100,000. Included in the Reports were total receipts for a campaign and the sources of those receipts (e.g., matching funds, loans, contributions). The Reports also listed a campaign's expenditures subject to the overall spending limit and disbursements for legal and accounting services. (Legal and accounting expenses incurred solely

to ensure compliance with the law are exempt from expenditure limits.) All information was adjusted for repayments of loans and offsets to operating expenditures, giving the press and the public the most accurate representation of campaign activity possible.

As a second step, the Commission published the *Interim Reports on Financial Activity* for Presidential primary campaigns. While not as timely as the Summary Reports, the *Interim Reports* contained more detailed and refined information. The Commission released them only after verifying the data. The 1984 series included, for the first time, tables showing various categories of campaign receipts for each reporting period. Researchers could analyze how the sources of campaign money varied as the campaign progressed. The financial tables showed, besides the sources of funds, the distribution of large and small contributions; the amount of money received from political action committees (PACs); expenditures allocated to the spending limits for particular States; independent expenditures made by individuals and committees for and against the candidates; and expenditures for internal communications made by corporations and unions in support of and against the candidates.

Convention Funding

Each major political party may request public funds to finance the national convention held to nominate its Presidential candidate. However, the party may not spend more than the public funding grant.[8] A qualified minor party may become eligible for partial convention funding based on its Presidential candidate's share of the popular vote in the preceding general election. No minor party has yet sought to qualify for convention funding.

Since a major party may receive a public funding grant in the year preceding the convention, the Commission, in June 1983, certified Federal funds to the Democratic and Republican Parties. Each party received $5.871 million for its convention committee, representing the statutorily prescribed grant of $3 million increased by the 1982 cost-of-living adjustment. In February 1984, when figures became available for the 1983 cost-of-living adjustment, the Commission certified $189,000 more to each party.

On July 11, 1984, President Reagan signed a bill (Pub. L. 98-335) that increased the public funding grant for the Presidential conventions from $3 million to $4 million (26 U.S.C. Section 9008). Members supporting the measure in the House and Senate floor debates pointed out that the extra funding would replace discontinued Federal grants from the Law Enforcement Assistance Administration, which had subsidized police and security services for host cities of past conventions. The day after the bill was signed, the Commission certified an additional $2.020 million to each party, bringing total funding for each convention to $8.080 million ($4 million plus the cost-of-living adjustment). The Commission also amended its regulations to conform with the statutory increase in convention funding (11 CFR 9008.1(a) and 9008.3(a)). The technical amendments became effective upon publication in the *Federal Register* in July 1984 (49 *Fed. Reg.* 30461).

The 1984 Democratic nominating convention was held in San Francisco, California, July 16-20, and the Republican convention took place in Dallas, Texas, August 20-24.

General Election Funding

Of the 17 Presidential candidates representing numerous political parties on the 1984 general election ballot in several States throughout the country, only the two major party nominees received Federal financing. Under the law, the Presidential nominee of each major party is entitled to full public financing for the general election campaign. Nominees accepting public funds must limit spending to the amount of the grant

[8]See the table on spending limits, page 8.

(see the table on spending limits, below). However, private funds, subject to contribution limits, may be raised for legal and accounting costs incurred to comply with the campaign finance law.

The Commission approved funding for Walter Mondale, the Democratic nominee, on July 26, 1984, and for President Ronald Reagan, the Republican nominee, on August 27. Unlike the public grant for party nominating conventions, the statutory entitlement for major party nominees has remained at $20 million (adjusted for inflation) since the law was enacted.

Audits

The campaign finance law requires the Commission to audit all public funding recipients to ensure that Federal funds are spent in compliance with the law. Commission staff conduct on-site audits at the campaign headquarters of the Presidential candidates and at the location of the party convention committees. The auditors write reports on their findings, which are reviewed by legal staff and then considered for approval by the Commissioners. Once approved, the final audit report is released to the public.

Table II
Presidential Spending Limits as Increased by Cost-of-Living Adjustments

	Unadjusted Limit	1976	1980	1984
COLA*	–	9.1%	47.2%	102%
Primary Election Limit**	$10 million	$10.9 million	$14.7 million	$20.2 million
General Election Limit	$20 million	$21.8 million	$29.4 million	$40.4 million
Party Convention Limit				
1976	$2 million	$2.2 million		
1980	$3 million		$4.4 million	
1984	$4 million			$8.1 million

*COLA means the cost-of-living adjustment, which the Department of Labor annually calculates using 1974 as the base year.

**Primary candidates receiving matching funds must comply with two types of spending limits: A national limit (listed in the above table) and a separate limit for each State. The State limit is $200,000 or 16 cents multiplied by the State's voting age population, whichever is greater. (Both amounts are adjusted for increases in the cost of living.) The maximum amount of primary matching funds a candidate may receive is half of the national spending limit.

Table III
Party Spending Limit for Presidential Nominee

	Formula	1976	1980	1984
VAP*	–	146.8 million	157.5 million	171.4 million
COLA**	–	9.1%	47.2%	102%
General Election Limit***	2 cents x VAP, adjusted by COLA	$3.2 million	$4.6 million	$6.9 million

*Voting age population of United States.
**Cost-of-living adjustment.
***Limit applies to expenditures made by the national committee of a political party on behalf of its nominee in the general election, regardless of whether the nominee receives public funding. The expenditures are sometimes called "coordinated party expenditures" or "441a(d) expenditures." They are not considered contributions and do not count against a publicly funded candidate's expenditure limit.

The law requires that a campaign or convention committee repay public funds to the U.S. Treasury if audit findings show, for example, that:

- The amount of public funds exceeded the amount to which the recipient was entitled;
- Spending limits were exceeded;
- Public funds were used for nonqualified campaign expenses;
- Surplus funds remained after debts and obligations had been paid;
- Interest was earned on invested funds; or
- Spending of public funds was not sufficiently documented.

Presidential candidates and convention committees may appeal a repayment determination and, under a 1983 revision to FEC regulations, candidates may also be granted an oral hearing by the Commission. In 1984, the Commission revised its formula for determining repayments.[9]

As prescribed by law, the agency audited publicly funded campaigns in 1984 and will complete the audit reports in 1985. As circumstances warrant, the Commission will issue addenda to reports based on follow-up audit fieldwork or repayment determinations.

Legal Issues

During 1984, several legal issues related to the Presidential elections were the subject of court cases, FEC advisory opinions (AOs)[10] and, in one instance, a closed compliance case.[11] This sec-

[9]See "Repayment of Public Funds," page 13.

[10]Advisory opinions are issued to persons who raise questions about the application of the law or Commission regulations to a specific activity that the requesting person proposes to undertake. Any person who requests an advisory opinion and acts in accordance with the opinion is not subject to any sanctions under the law. The opinion may also be relied upon by another person involved in an activity "indistinguishable in all its material aspects" from the activity discussed in the advisory opinion. 2 U.S.C. Section 437f(c). See also page 19.

[11]Compliance cases, referred to as Matters Under Review or MURs, stem from possible violations of the campaign finance law that come to the Commission's attention through formal complaints filed with the Commission, through referrals from other government agencies or as a result of the Commission's own monitoring procedures. The campaign finance law requires that investigations remain confidential until the Commission makes a final determination and the case is closed. At that point, the case file is made available to the public. See also page 21.

tion discusses these issues — first, those dealing with primary candidates, then questions pertaining to general election activity and, finally, the repayment of public funds.

Third Party Candidates

Two Presidential primary candidates seeking nomination by non-major political parties asked the Commission's advice concerning matching funds.

Eligibility Requirements. In AO 1983-47 (issued in 1984), the Commission said that Sonia Johnson, as a candidate of the Citizens Party, satisfied the requirement that a candidate seek nomination by a "political party." The principal question addressed in the opinion was whether the Citizens Party qualified as a political party, as defined under FEC regulations. The Commission decided that the Citizens Party met the definition of political party because it was planning to hold a nominating convention in 1984 and had a record of political activity. Since 1980, Citizens Party candidates had entered 169 races in 24 States.

Dennis Serrette also asked whether he would meet the eligibility requirement discussed in the above opinion. In AO 1984-11, the Commission said that, in seeking nomination as the 1984 Presidential candidate of several independent parties organized in different States, Mr. Serrette satisfied the requirement that a candidate seek nomination by a political party "in more than one State."

Matching Payment Period. In that same opinion and in another opinion requested by Sonia Johnson (AO 1984-25), the Commission clarified when the matching payment period ended in the case of third party candidates. Under the campaign finance law, qualified campaign expenses for the primary — payable with matching funds — may be incurred during the matching payment period, that is, the period during which the candidate retains his or her eligibility status. Once a candidate becomes ineligible,[12] the matching payment period ends and the candidate may receive matching funds only for outstanding primary debts incurred before the ineligibility date and for certain expenses associated with winding down the campaign. In the case of a major party candidate who remains eligible throughout the primaries, the matching payment period ends on the last day of the national nominating convention held by the candidate's party.

In the opinion requested by Mr. Serrette, AO 1984-11, the Commission said that, assuming he qualified for matching funds and remained an eligible candidate, his matching payment period would end on the earlier of two dates: the date of his last nomination for the Presidency by a State political party or on the last day of the later major party convention (i.e., the Republican convention, which ended August 24).

The request concerning Ms. Johnson explained that she was seeking not only the nomination of the Citizens Party, but also the nomination of two State political parties, all holding separate conventions. In its response, AO 1984-25, the Commission stated that Ms. Johnson's matching payment period would end on the date of the last convention held by the political parties, provided this convention was held no later than the last day of the Republican convention.

Ballot Access Costs. In both opinions (AOs 1984-11 and 1984-25), the Commission also concluded that expenses associated with gaining access to the general election ballot would be qualified campaign expenses of a primary campaign if incurred within the matching payment period. As qualified campaign expenses, they would be payable with matching funds. The Commission recognized that, in the case of third party candidates, efforts to qualify for a position on the general election ballot are similar in purpose to

[12]See footnote 7, page 5, for an explanation of when a candidate becomes ineligible.

seeking nomination in a primary election or other nominating process.

Delegate Committees

On November 29, the Commission closed the file on MUR 1704, a compliance case that received national attention.[13] Two separate complaints, later consolidated, alleged that the committee of a 1984 Presidential primary candidate receiving matching funds (the Presidential Committee) and well over 100 delegate committees were affiliated under the campaign finance law. The delegate committees supported individuals who favored the Presidential candidate and who were seeking selection as delegates to the Democratic national convention. The complaints stated that the Presidential Committee encouraged and advised the individuals to form committees and coordinated their operations.

Under the law, expenditures made by committees affiliated with a Presidential committee count against the spending limit imposed on the candidate, as a recipient of matching funds. The complainants alleged that aggregate expenditures by the delegate committees and the Presidential Committee caused the candidate to exceed public funding spending limits. Moreover, because affiliated committees share a collective contribution limit, the complainants further contended that combined contributions to the Presidential Committee and the delegate committees from the same donors exceeded the law's limits.

The Commission, finding reason to believe the Presidential Committee had exceeded the contribution and expenditure limits by virtue of its affiliation with the delegate committees, began a preliminary investigation. In the interest of resolving the matter, the Presidential Committee sought to enter into a conciliation agreement. For purposes of the agreement, the Presidential Committee agreed to treat the delegate committees as its affiliates.

By the terms of the agreement, effective November 29, 1984, the Presidential Committee had to pay $350,000 to the U.S. Treasury, an amount representing an estimate of the excessive contributions received by the Committee and the delegate committees. Because aggregate spending by the Committee and its affiliates exceeded the spending limit in New Hampshire, the Committee also agreed to repay to the Treasury $29,640 in matching funds. Finally, the agreement included an $18,500 civil penalty for the Committee's violations of the law. Total payments stipulated in the agreement amounted to $398,140.

Commissioners Frank P. Reiche and Joan D. Aikens voted against the conciliation agreement.

Restrictions on Expenditures (26 U.S.C. §9012(f))

Section 9012(f) of the Presidential Election Campaign Fund Act (26 U.S.C.) places a limit on campaign expenditures by political committees to further the election of a publicly financed candidate during the Presidential general election. Several political action committees (PACs) have challenged the provision, arguing that Section 9012(f) is an unconstitutional violation of their free speech rights under the First Amendment. In defense of the statute, the Commission has stated that Section 9012(f) is an integral part of the public financing scheme and serves compelling governmental interests.

In September 1980, the U.S. District Court for the District of Columbia ruled that Section 9012(f) was unconstitutional, as applied to the expenditures of three PACs that had planned on independently spending millions of dollars on behalf of 1980 Presidential nominee Ronald Reagan. The Commission appealed this decision to the Supreme Court.[14] In January 1982, the Court

[13]A court case arising from this MUR, *Hettinga v. FEC*, is summarized on page 22.

[14]Under 26 U.S.C. Section 9011(b), three-judge court actions brought pursuant to that provision may be directly appealed to the Supreme Court.

voted 4 to 4 on the issue, thus affirming the lower court decision, with Justice Sandra O'Connor not participating. However, because a matter decided by an equally divided Court has no precedential value, the constitutionality of Section 9012(f) remained unresolved.

The debate over Section 9012(f) resumed in May 1983, when the Democratic Party filed suit in the U.S. District Court for the Eastern Division of Pennsylvania claiming that two PACs were planning to make expenditures, again on behalf of Presidential nominee Ronald Reagan, in violation of the provision. The Commission intervened, seeking dismissal of the suit. One of the agency's arguments was that it had exclusive primary jurisdiction over civil enforcement. At the same time, the Commission filed its own suit against the same PACs, the National Conservative Political Action Committee (NCPAC) and the Fund for a Conservative Majority (FCM). The agency asked a three-judge panel of the Pennsylvania district court to declare that Section 9012(f) prohibited the two PACs from making expenditures in excess of $1,000 on behalf of the Republican nominee. The Commission also asked the court to rule that Section 9012(f) was constitutional.

On December 12, 1983, the Pennsylvania district court issued a decision in the consolidated cases filed by the FEC and the Democratic Party *(FEC v. NCPAC* and *Democratic Party of the U.S. v. NCPAC)*. The court ruled that Section 9012(f) does prohibit such expenditures, but that it is unconstitutional. The court based its decision on the Supreme Court's 1976 opinion in *Buckley v. Valeo* (which dealt with various constitutional challenges to key provisions of the campaign finance law).

The Commission and the Democratic Party appealed the decision to the Supreme Court, which accepted the case but declined to rule on it before the November election. The Court heard oral argument on November 28, 1984, but had not handed down a decision by the end of 1984.[15]

Payment of Disputed Claim

The city of Cupertino, California paid $16,812 in security and protection services for a Reagan-Bush '84 campaign rally held in the city. When billed for these services, the Presidential committee contended that it had not authorized the expense and, for that reason, was precluded from paying it under the campaign finance law. (An unauthorized expense is not considered a "qualified campaign expense," payable with public funds.) The mayor of Cupertino asked the Commission if this was, in fact, the case.

In AO 1984-58, the agency said that whether the city had a valid legal claim for payment of the disputed debt was a factual and legal question outside the Commission's jurisdiction. Because, however, the services were provided in connection with a campaign event, and because both the event and the billing date were within the expenditure report period (during which a qualified campaign expense may be incurred), the Commission said that the committee could pay the debt as a qualified campaign expense but was not required to pay it under the campaign finance law.

Commissioner Joan D. Aikens dissented from AO 1984-58 because she believed the Presidential committee could pay the debt only if the committee had authorized the expense during the expenditure report period. Otherwise, the statute would preclude payment.

Party's Presidential Advertisements

AO 1984-15 concerned the timing of coordinated party expenditures — those expenditures that a party's national committee may make on behalf of the party's Presidential nominee in the general election. Coordinated party expenditures are not considered contributions to the candidate (which,

[15]On March 18, 1985, shortly before this Report went to press, the Supreme Court issued its decision, finding Section 9012(f) unconstitutional.

in the case of a publicly funded nominee, would be prohibited); nor are they considered expenditures by the Presidential campaign (i.e., they do not count against the campaign's expenditure limit). Instead, coordinated party expenditures are subject to a separate limit applicable to the political party that makes them.[16]

The Commission said that expenditures by the Republican National Committee (RNC) for television ads aired before the major parties selected their nominees would be coordinated party expenditures on behalf of the Republican Party's eventual Presidential nominee. The Commission explained that the RNC's national television ads — which challenged the positions and record of a Democratic Presidential contender and concluded with the statement "Vote Republican" — clearly advocated the election of the yet-to-be-determined Republican candidate and thus sought to influence the outcome of the general election. Because of this, the expenditures would have to be characterized as either in-kind contributions to the eventual Republican nominee — not permissible if he accepted public funds — or coordinated party expenditures on his behalf, which the Act refers to as expenditures made "in connection with the general election campaign."

Repayment of Public Funds

A 1984 appeals court ruling on the repayment of matching funds by two 1980 Presidential campaigns caused the Commission to revise its regulations governing the repayment of public funds.

On May 15, 1984, the U.S. Court of Appeals for the District of Columbia Circuit, in *Kennedy for President Committee v. FEC,* reversed the Commission's determination concerning repayment of 1980 matching funds by the Kennedy Committee. The same day, in a separate suit, the court also vacated an FEC repayment determination made with regard to the 1980 matching funds certified to the Reagan campaign (*Reagan for President Committee v. FEC*).

In their suits, the 1980 Kennedy and Reagan campaigns had challenged the repayment formula contained in Commission regulations, which required repayment of the entire amount of nonqualified campaign expenses[17] incurred by a campaign, including those paid with private contributions. The campaigns argued that the campaign finance law required the repayment of only the portion of nonqualified campaign expenses paid with matching funds.

Finding in favor of the Presidential committees, the appeals court held that the Commission's statutory authority limited the agency's repayment determinations to a reasonable estimate of the amount of Federal funds used for nonqualified campaign expenses. However, the court did not dictate the repayment formula to be used.

To make its regulations consistent with the court's ruling, the Commission drafted revised regulations governing repayment of public funds (11 CFR Parts 9007 and 9038). The scope of these proposed regulations is broader than that of the court's decision. The draft rules apply, not only to primary campaign repayments, but also to minor and new party candidates receiving partial public funding in their general election campaigns and to major party nominees who accept private contributions because there is a deficiency in the Presidential Election Campaign Fund. The revised repayment formula is based on the ratio of Federal funds certified to the candidate to total funds (both contributions and Federal funds) deposited by the candidate's committee. The proposed rules were published in the *Federal Register* in August 1984 (49 *Fed. Reg.* 33225) and were submitted to Congress later that month. However, because 30 legislative days had not accrued before the 98th Congress adjourned, the

[16]See the table on party spending limits, page 9.

[17]Nonqualified campaign expenses include expenses unrelated to the campaign, certain expenditures made before or after candidacy and expenditures exceeding the limits for publicly funded campaigns.

Commission did not prescribe the rules but will resubmit them in 1985.

Even though the amended regulations were not prescribed, the Commission recalculated the Reagan and Kennedy repayments based on the new formula. As a result, the Commission refunded part of the 1980 Reagan campaign's repayment and reduced the amount owed by the Kennedy campaign.

The Commission decided not to reconsider repayment determinations it had made with regard to five other 1980 primary campaigns that had incurred nonqualified campaign expenses. In support of the finality of those determinations, the agency's General Counsel cited the legal principle of claim preclusion: "It is a long-standing legal principle that a party who has had a chance to litigate a claim before a proper tribunal ought not to have another chance to do so." Moreover, in the case of two campaigns which had, like the Kennedy and Reagan campaigns, challenged the Commission's repayment determinations in court, but lost, the General Counsel noted that "there is a substantial question as to whether the Commission is free to alter the decision[s] reached by the Court of Appeals." Finally, the General Counsel pointed out the impracticality of altering the FEC's decision since several campaign committees had terminated. One of the committees affected, the Carter-Mondale Presidential Committee, filed an appeal that had not been decided by the end of 1984.

Chapter 2
Administration of the Law

Two developments stand out in the Commission's overall administration of the campaign finance law. First, the agency began a pilot project in seven cities giving residents direct access to FEC data through local computer terminals. Second, 1984 court decisions and Commission advisory opinions clarified the law, particularly the provisions affecting the activities of corporations and labor organizations and candidates' receipt and use of campaign funds.

Disclosing Campaign Finance Information

Each major reporting period, thousands of campaign finance reports flow into the Commission.[1] As required by law, the Commission makes copies of reports available to the public within 48 hours, frequently within 24 hours, and promptly indexes these documents in its data base. In carrying out this mandate, the agency issues press releases on the campaign finance activities of candidates and committees and provides detailed listings of data in a variety of computerized formats (see Appendix 6). Further, the Commission publishes comprehensive studies on each election cycle in its *Reports on Financial Activity* series.

All this is possible through the use of computer programs that organize data, which are taken directly from reports and then entered into the Commission's data base. The Commission emphasizes the importance of maintaining a data base that is accurate, complete and current.

The agency preserves the accuracy of the data base through a series of internal controls. Trained coders highlight information on reports that will be entered into the data base, clarifying any ambiguities or illegible entries. The coded reports are then turned over to contracted keypunchers. Each item is separately entered by two individuals as a way of catching errors. Finally, senior computer staff examine the entire data base searching for and correcting inconsistencies between files.

As to the completeness of the data base, the Commission captures, in addition to summary data, many of the detailed transactions reported. Moreover, the data base cross references the sources and beneficiaries of funds. In this way, for example, an independent expenditure, which is reported only by the committee or individual expending the funds, will appear in a computer index giving information on the candidate named in the communication.

Finally, the Commission enters the data as quickly as it can without jeopardizing accuracy. While summary information is entered within 48 hours or sooner, data entry of itemized information requires more time. Over the past fiscal year, the median time frame was 24 days from receipt of the report, despite increases in both the number of reports and the number of transactions on each report.

During fiscal year 1984, the agency invested over $700,000 and some 33 staff years in maintaining the FEC data base. The Commission also took steps to make information from this data base more accessible to people throughout the country.

State Access to Data

Six States joined the Commission in a 1984 pilot project to broaden the accessibility of computerized campaign finance information. The primary objective was to give those located outside of Washington, D.C. immediate access to several FEC computer indexes.

The pilot project was conducted in seven cities: Los Angeles and Sacramento, California; Denver, Colorado; Atlanta, Georgia; Chicago, Illinois; Boston, Massachusetts; and Olympia, Washington. At each State election office, a computer terminal was linked to an FEC computer through a national

[1] Each State maintains and discloses copies of reports filed by committees that support Federal candidates seeking election in that State.

telecommunications system. The Commission handled technical requirements and paid for computer time and telecommunications expenses, while each participating State provided the local computer hardware. Since the specifications for a usable terminal were not rigid, States were free to select whatever type of equipment they preferred or, in some cases, to use existing terminals or personal computers.

To evaluate public use of the new service and its cost-effectiveness, the Commission asked State personnel to complete a questionnaire by the end of December 1984. Using survey results, the Commission will assess the project in a formal report slated for completion in early 1985. Preliminary, informal reactions were positive. The additional staff costs of running printouts of requested information seemed to be offset by a savings in staff time previously spent locating paper copies of reports for the public. Moreover, the project enabled State offices to provide better service. Local access to data reduced researchers' time and money spent in obtaining campaign finance information. The State terminals also expanded the scope of available information. Researchers could have access to financial information on all Federal candidates and political committees throughout the country; normally State offices maintain only those reports filed by candidates seeking election within that State and the political committees that support them.

Growing interest in the program prompted the Commission to expand the project. During 1985, Montgomery, Alabama; Lansing, Michigan; Trenton, New Jersey; and Providence, Rhode Island will join the project. In its initial budget request, the agency requested funds for fiscal year 1986 to extend the service nationwide.

Campaign Finance Studies

October 1984 saw the release of three studies on campaign finance. One of these was a new publication, *PAC Money Contributed to U.S. House and Senate Candidates,* based on the FEC's *Reports on Financial Activity* series for 1977-78, 1979-80 and 1981-82. For each two-year cycle, the publication lists total PAC contributions to each Senate and House candidate actively seeking election.

The Commission also issued two interim studies in its *Reports on Financial Activity* series for the 1983-84 election cycle, one on House and Senate candidates and the other on PAC and party activity. Both reports covered financial activity during the first 18 months of the election cycle. The interim report on Congressional candidates gave more information on sources of campaign funding than previous FEC reports. The 1984 report identified the total contributions from individuals, candidates' contributions and loans to their own campaigns and other loan activity.

The interim report on PACs and party committees also included new information on contributions to candidates and was supplemented with a November press release on spending by the major parties' national committees, covering the 1984 cycle through October 17, 1984.

Facilitating Disclosure

The Public Records Office and the Press Office respond to the needs of the public and the press for information on Federal campaign finance. Both offices experienced significant growth in activity during 1984.

Located on the street floor, the Public Records Office maintains paper and microfilmed copies of campaign finance reports and other research documents. In addition, the office handles orders for computer indexes, copies of reports and other materials. Professional office staff, either in person or on the toll-free telephone line, assist researchers in locating the information they need and provide computer printouts of requested data. As a longstanding practice, the office extends its weekday hours and remains open on weekends during heavy reporting periods. The number of computer printouts provided by the of-

fice in response to specific requests increased substantially between 1982 and 1984:

- In 1982, 65,343 printouts were provided;
- In 1983, 60,922; and
- In 1984, 95,372.

The Press Office, also on the Commission's street floor, responds to requests from callers and visitors representing the media. Office staff issue releases on Commission activities, campaign finance statistics and public funding decisions; prepare press packets; schedule interviews; and make arrangements for television crews covering Commission activities. The office also handles requests made under the Freedom of Information Act.

Visitors to the Press Office in 1984 included a significant number of foreign reporters, representing approximately 10 countries. They were interested in public funding, the cost of Congressional races, the increase and influence of PACs and other aspects of Federal campaign finance. During the 1984 Presidential election year, the total number of phone calls and visitors to the Press Office nearly doubled over 1980, the previous Presidential election year.

Regulations on Access to Information

During 1984, the Commission revised regulations that affect the activities of the Press Office, which handles requests made under the Freedom of Information Act (FOIA), and the Public Records Office (11 CFR Parts 4 and 5). Published in the *Federal Register* in July 1984 (49 *Fed. Reg.* 30458) and prescribed in October, the new rules updated fees to reflect actual costs of providing documents. The regulations also changed billing procedures for the sale of FEC microfilm and computer tapes. The amended rules provide that individuals who purchase these materials pay the firm that reproduces them, rather than the FEC. Finally, the revised regulations make clear that the FEC does not charge for staff time devoted to duplicating information to fill FOIA requests.

The agency also prescribed new regulations that provide for programs and auxiliary aids to ensure handicapped persons' access to Commission information and facilities.[2]

Assisting Committees

Materials and Services

Promoting voluntary compliance with the law, the Commission's information program encompasses a wide range of activities. The toll-free "800" line offers the most immediate assistance to those who have questions or who need informa-

[2]For a summary of these rules, made final in November 1984, see page 31.

Table IV
Press Office Activity

	1980	1981	1982	1983	1984
Telephone Inquiries	8,403	6,161	9,843	8,664	15,317
Visitors	849	858	813	1,073	1,922
Total	9,252	7,019	10,656	9,737	17,239

Table V
Information Activity

	1980	1981	1982	1983	1984
Telephone Inquiries	53,738	36,556	53,298	49,394	84,665
Requests for Materials	14,154	8,052	10,321	9,770	16,669

tion on the law. Like the disclosure activities described above, the number of telephone calls received on the toll-free and local lines during 1984 reached a new high, as did mail and phone orders for materials.

Central to the Commission's outreach effort have been "how to" publications targeted for particular audiences. In 1984, the Commission updated two brochures and two *Campaign Guides* to conform with recently revised regulations. A new brochure explained rules that are unique to trade associations and another defined the boundaries between State and local campaign laws and the Federal campaign finance law.

The Commission was especially pleased that its *Campaign Guide for Nonconnected Committees* took first place in the Blue Pencil Awards sponsored by the National Association of Government Communicators. The Guide was chosen as the best two-color technical publication produced by a government agency in 1983.

In 1984, the Commission launched a new outreach service, a campaign finance clinic held on Monday afternoons at the agency. FEC auditors, reports analysts and public affairs specialists provided personal assistance and guidance to staff members of political committees and others interested in the law. Commissioners and staff also addressed meetings around the country and offered workshops at three conferences cosponsored by the Commission and State election officials. The 1984 conferences were held in Princeton, New Jersey; Richmond, Virginia; and Seattle, Washington.

Survey on 1983 Conferences

In 1984, the Commission conducted a survey to evaluate the five regional conferences cosponsored with State and local election agencies during 1983. The agency mailed questionnaires to the 1,800 conference participants. Of the 467 who responded, 82 percent rated the conferences as excellent or very good; 95 percent indicated they would attend another, if offered; and 72 percent were favorable to the idea of the Commission's holding conferences every two years instead of every four years, the current cycle.

Generally, most participants were pleased with the workshop panelists, the format and the materials. An average of 79 percent of participants found the workshop materials useful in performing their jobs. Half of the participants (51 percent) reported making changes in their procedures as a result of attending the conference and an overwhelming percentage — an average of 93 percent — affirmed that they better understood the campaign finance law as a result of attending a conference.

The administrative expertise of the cosponsoring State and local offices, and their willingness to provide financial support, contributed to the success of the 1983 conferences. Another factor was

the refinement in Commission materials and services since the 1979 round of FEC conferences. Improved publications and more experienced staff enabled the agency to conduct a professional and highly effective series of conferences.

Clarifying the Law

In addition to providing assistance to committees, the Commission encourages compliance with the law through regulations, which clarify the law, and through advisory opinions,[3] which answer specific questions on the law. Of the 59 advisory opinions issued in 1984, those that addressed significant questions or that covered new ground are discussed later in this chapter under "Legal Issues."[4]

With regard to regulations, in 1984 the Commission prescribed rules affecting corporations and labor organizations and began work on other rules the agency wished to clarify.[5] The agency also considered rulemaking petitions submitted by outside organizations.

Rules on Corporations and Labor Organizations

Two sets of revised regulations concerning the activities of corporations and labor organizations were prescribed in 1984. Final rules on partisan and nonpartisan communications by corporations and unions were published in the *Federal Register* in November 1983 (48 *Fed. Reg.* 50502) and prescribed in March 1984.[6] The Commission also prescribed final rules modifying procedures for corporate authorization of trade association solicitations. These rules appeared in the *Federal Register* in October 1983 (48 *Fed. Reg.* 48650) and were prescribed in February 1984. Summaries of the communications rules (11 CFR 114.3 and 114.4) and the trade association rules (11 CFR 114.8) appear on pages 66-68 of the *Annual Report 1983.*

Testing the Waters

In preparation for future elections, the Commission drafted modifications to rules governing "testing the waters," that is, activities undertaken by an individual to test the feasibility of a potential candidacy. The Commission, in January 1984, first published an advance notice of proposed rulemaking in the *Federal Register,* seeking comments on the scope of permissible testing-the-waters activities and the application of contribution limits and prohibitions to testing the waters (49 *Fed. Reg.* 1995).

In July, the agency published a second notice specifically requesting comments on proposed revisions that would clarify the difference between testing the waters and active campaigning (49 *Fed. Reg.* 30509). Additionally, the suggested rules would apply the law's contribution limits and prohibitions to funds raised to test the waters.

The agency also asked for comments on:

- Whether the testing-the-waters concept should be addressed in the regulations;
- Whether funds raised and spent to test the waters should apply to the law's $5,000 threshold on campaign activity, which, once exceeded, triggers "candidate" status under the law; and
- Whether funds raised and spent for testing the waters should be exempt from reporting unless the individual becomes a candidate, even if the funds are otherwise considered "contributions" and "expenditures" subject to the law.

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[3]The term advisory opinion is defined in footnote 10, page 9.

[4]See also Chapter 1 for a discussion of legal issues pertinent to the public funding of Presidential elections.

[5]Revised regulations on the repayment of public funds, another 1984 project, are summarized in Chapter 1, page 13. The Commission also wrote new rules related to other statutes under which the agency has responsibilities. New regulations under the Freedom of Information Act are summarized on page 17; those under the Sunshine Act and Rehabilitation Act are described on pages 31 and 32.

[6]See also page 26 for a discussion of advisory opinions and court cases on corporate communications.

The Commission plans to complete work on testing-the-waters regulations in 1985.

Rulemaking Petitions

On June 27, 1984, the Commission held a public hearing on a petition by the National Council of Farmer Cooperatives to amend the definition of "member" in the current regulations (11 CFR 114.1(e)). The National Council, in a 1983 rulemaking petition, had proposed changing the definition of member to permit a federated regional or national cooperative to solicit donations for its PAC from indirect members, i.e., members of State and local cooperatives affiliated with the federation (48 *Fed. Reg.* 13265). Under current rules, federated regional and national cooperatives may solicit only their direct members. The Commission also reviewed written comments on an advance notice of proposed rulemaking published in May 1984 (49 *Fed. Reg.* 20831).

At a November 1984 meeting, the Commission, voting 3 to 3, could not reach agreement on whether to broaden the definition of member. Consequently, in December, the agency published a *Federal Register* notice that it would take no action on the petition (49 *Fed. Reg.* 48201).

In another rulemaking petition the National Taxpayers Legal Fund recommended narrowing the term "political party" in a public funding provision (11 CFR 9002.15). The change would have made it more difficult for third party Presidential candidates to qualify for public funding in the general election. The Commission considered comments received in response to a 1983 *Federal Register* notice on the petition (48 *Fed. Reg.* 39295). However, in light of legislative history and past Commission policy on the issue, the agency decided to deny the petition and published a notice to this effect in the *Federal Register* in February 1984 (49 *Fed. Reg.* 4846).

Monitoring the Law

Commission analysts review the reports filed by political committees to ensure accurate and complete disclosure of financial activity and to encourage compliance with the law's reporting requirements. When a reporting problem is discovered, the committee is notified in a Request for Additional Information (RFAI), a letter that explains the mistake and asks for clarification or correction. The Commission may audit or take enforcement action against those committees that do not adequately respond to the letters. The table below summarizes the review process over the past three years.

Table VI
Reports Review Activity

	1982	1983	1984
Number of Committees Reviewed	2,807	5,510	3,906
Number of Reports Reviewed	20,598	39,837	30,154
Number of RFAIs Sent	4,633	5,319	6,292
Presidential	5	78	246
Senate	444	392	496
House	2,106	1,403	2,302
Party	399	413	714
Nonparty (PACs)	1,658	2,989	2,494
Other	21	44	40

Enforcing the Law

Matters Under Review

Possible violations of the law come to the Commission's attention either through the agency's own monitoring procedures or through formal complaints originating outside the agency. Potential violations receive case numbers and become MURs, "Matters Under Review."

The law requires that all phases of the MUR process remain confidential until a case is closed and put on the public record. The respondents (those alleged to have violated the law) are afforded a reasonable opportunity to demonstrate that no action should be taken against them. If the Commission, after investigation, believes there is sufficient evidence to show that a violation has occurred, the agency must try to reach a conciliation agreement with the respondent before authorizing suit. (Conciliation may also be initiated by the respondent.) If unable to reach agreement with the respondent, the agency may seek enforcement through litigation.

During 1984, the Commission experienced nearly a three-fold growth in its caseload of MURs. The growth was particularly pronounced in the number of cases originating through complaints as opposed to internally generated matters. The increased number of external MURs reflected the heightened activity of an election year and a growing public awareness of the MUR process as an avenue for pursuing possible violations. The table below compares the MUR caseload over the last five years.

Table VII
Caseload of MURs

	1980	1981	1982	1983	1984
Cases Pending at Beginning of Year	152	214	113	93	78
Cases Opened During Year	255	66	113	103	283
External Cases	133	24	78	42	163
Internal Cases	122	42	35	61	120
Cases Closed During Year	193	167	133	118	189
External Cases	91	64	67	58	103
Internal Cases	102	103	66	60	86
Cases Pending at End of Year	214	113	93	78	172

Processing MURs

While the Commission takes action on the majority of MURs within 120 days, action on some cases takes longer due to various factors. Under a provision of the law, 2 U.S.C. Section 437g(a)(8), a complainant may seek court intervention if the Commission fails to act on a complaint within 120 days from its filing. During 1984, several complainants, invoking this provision, brought suit against the agency.

In *Hettinga v. FEC,* the U.S. District Court for the District of Columbia ruled that the Commission had not acted contrary to law in its handling of a complaint.[7] In its opinion of October 31, 1984, the court rejected plaintiffs' argument that Section 437g(a)(8) requires the agency to resolve a complaint within 120 days. Rather, the court held that the time period "is jurisdictional in nature, marking the time at which judicial intervention is permissible if appropriate." The court further remarked that, after the 120-day period, "a court **may** declare agency inaction to be contrary to law... but has discretion to conclude otherwise."

Although plaintiffs wanted the court to order the FEC to resolve the complaint before the November 6 election day, the court denied the request, finding that the law "does not provide for pre-election resolution of every complaint... implicating the campaign of a candidate for office. Especially in an election year, the FEC workload exceeds its resources, and a decision to expedite the consideration of plaintiffs' complaint would necessarily delay resolution of other pending matters. The Commission's judgment as to the priority each case deserves... should not be ignored."

However, in two suits, *Citizens for Percy '84 v. FEC* and *Congressman Charles E. Rose v. FEC,* the court concluded that the Commission's delay in acting on a complaint was contrary to law, and ordered the agency to take action within 30 days.

As a matter of record, the Commission is infrequently challenged for alleged failure to act within 120 days. By the end of 1984, only 10 such cases reached the courts out of 440 external complaints filed with the agency since 1980.

Conciliation Agreements

The exclusive binding nature of the conciliation agreement, as a compliance mechanism, was affirmed by court action during 1984. In *FEC v. Citizens for LaRouche,* the LaRouche campaign claimed that the terms of a conciliation agreement included oral promises allegedly made by FEC staff with the approval of the Commission and that these promises had been breached.

On September 17, 1984, the U.S. District Court for the District of Columbia ruled that the written conciliation agreement represented the only agreement the court would consider because the alleged oral agreement had not been voted on by the Commissioners, as had the written agreement; nor had the written agreement made any reference to a supplemental oral agreement. Ruling in the Commission's favor, the court held that Lyndon LaRouche, as well as his campaign, was liable for payment of the $15,000 civil penalty included in the conciliation agreement for legal violations related to his 1980 Presidential campaign.

Late Filers

In the interest of maintaining a complete and up-to-date public record of political campaign finance, the Commission adopted a 1984 policy of rigid enforcement of the law with regard to late filers. During the year, the agency initiated 53 enforcement cases against political committees that were late in filing their reports. Civil penalties attached to these cases reflected the agency's view that the late filing of reports thwarts the purpose of disclosure.

Legislation Affecting Enforcement Cases

The Federal District Court Reorganization Act (Pub. L. 98-620), which President Reagan signed into law on November 8, 1984, repealed provisions

[7]The complaint in question, MUR 1704, is discussed on page 11.

of the campaign finance law that called for expedited handling of FEC-related suits in the Federal district and appellate courts and in the Supreme Court.[8] Designed to improve the Federal court system, the new law also abolished similar provisions in about 80 other civil statutes. The Court Reorganization Act was supported by the present Administration upon recommendation by the Department of Justice and the Supreme Court.

Legal Issues

During 1984, a substantial number of legal issues were clarified through litigation and advisory opinions. This section summarizes legal decisions affecting corporate involvement in Federal elections and other areas of the law.

Prohibited Corporate Contributions

In a direct challenge to the prohibition on corporate contributions and expenditures, Athens Lumber Company filed suit in 1981 *(Athens Lumber Company v. FEC),* claiming that 2 U.S.C. Section 441b abridged rights protected under the First and Fifth Amendments to the Constitution. On March 19, 1984, the Supreme Court, in dismissing Athens' appeal, left standing the *en banc* opinion of the U.S. Court of Appeals for the Eleventh Circuit. The appeals court upheld the constitutionality of Section 441b restrictions, stating that the constitutional issues had already been resolved by the Supreme Court in another case, *FEC v. National Right to Work Committee* (discussed below).

In Advisory Opinion (AO) 1984-52, the Commission affirmed the prohibition on corporate giving. The agency said that, although Representative Marty Russo (D-IL) had unknowingly accepted corporate funds disguised as personal contributions from corporate employees, his committee was not excused from returning the funds once their prohibited nature was established through criminal prosecution of the corporation. Because the corporation, rather than the employees, was the actual source of the contributions, the Commission concluded that the committee should refund the contributions to the corporation.

In her dissent to AO 1984-52, Commissioner Joan D. Aikens argued that the Russo committee should refund the contributions to the individual donors because, otherwise, the committee's forthcoming report would show an unexplained refund to the corporation, obscuring the public record. Commissioner Aikens further stated: "To reimburse the corporation would be to unjustly enrich the entity which instigated the illegal ruse...."

Definition of Member

During 1984, the definition of "member" — relevant to PAC solicitations by incorporated membership organizations — was the subject of litigation and several advisory opinions.

In *FEC v. National Right to Work Committee* (NRWC), the Commission claimed that NRWC had violated the law by soliciting contributions for its PAC from individuals who were not bona fide members of the organization. (Under 2 U.S.C. Section 441b(b)(4)(A), a nonstock corporation like NRWC, in addition to soliciting its executives and their families, may request PAC contributions only from its members and their families.)

The Supreme Court, in its ruling of December 13, 1982, unanimously overturned a previous appeals court decision. The high Court stated that the lower court's "determination that NRWC's 'members' include anyone who has responded to one of the corporation's essentially random mass mailings would...open the door to all but unlimited solicitations and thereby render meaningless the statutory limitation to members." The

[8]The 1984 law repealed two provisions of the Federal Election Campaign Act (2 U.S.C. Sections 437g(a)(10) and 437h(c)) and deleted the last sentence of two provisions in the Presidential Election Campaign Fund Act (26 U.S.C. Sections 9010(c) and 9011(b)(2)).

Court found that "some relatively enduring and independently significant financial or organizational attachment is required to be a member under §441b(b)(4)(C)." Rejecting NRWC's claim that the law's restriction violated its constitutional rights, the Court said such associational rights were overborne by the important purpose Section 441b was designed to serve, i.e., to prevent corporate money from corrupting Federal elections.

The Court remanded the case to the U.S. Court of Appeals for the District of Columbia to consider, among other things, the imposition of a $10,000 civil penalty on NRWC. The court of appeals found a $10,000 penalty unwarranted because, in its view, NRWC's violation had not been knowing and willful. The court remanded the case to the U.S. District Court for the District of Columbia, which, on October 4, 1984, approved a consent order entered into by the parties. The order directed NRWC to refund PAC contributions to nonmembers who had received and responded to unlawful solicitations. The order also required NRWC to pay a $5,000 civil penalty to the U.S. Treasury and $4,484 in court costs to the FEC. The order further provided for NRWC to donate to the Salvation Army any uncashed refund checks and $15,000, representing interest accrued since April 1980 on the illegal contributions, the civil penalty and the court costs.

The Commission had to consider the unique facts and circumstances presented in several advisory opinion requests from organizations that asked whether certain categories of their membership qualified as solicitable "members" under the law. For example, relying on the Supreme Court decision in *National Right to Work Committee,* the Commission advised the American Stock Exchange that one of its four classes of membership was not eligible for solicitations. In reaching this decision in AO 1984-22, the Commission considered two factors it had applied in previous opinions:

- Whether the members had the right to participate in the governance of the organization, such as the right to vote for officers; and
- Whether the members had an obligation to sustain the organization through regular payments of a predetermined minimum amount.

The Exchange's allied members did not qualify as "members" because they were not obligated to pay any dues and, furthermore, lacked privileges enjoyed by two other membership categories. By a tie vote, the Commission was unable to agree whether the Exchange's associate members, a fourth class, were solicitable. This group could, to a limited extent, participate in the governance of the Exchange and was obliged to pay annual fixed dues, but associate members had no trading privileges on the Exchange and could execute transactions only through a regular member.

The Commission was also unable to decide whether associate members of the Wisconsin Citizens Concerned for Life (WCCL) and its affiliate organization, the Education Fund, could be solicited for contributions to WCCL's PAC. The advisory opinion request, AOR 1984-4, explained that an associate member had to donate at least $3 every 22 months either to WCCL or to the Education Fund. Associate members had the right to vote for an at-large member of WCCL's Board of Governors, attend Board meetings (with advance notice) and receive WCCL's publications. By a 3-to-3 vote, the Commission was unable to issue an opinion on the solicitable status of WCCL's associate members.

The situation presented in AO 1984-33, although different from the two described above, again entailed the issue of membership. The Commission concluded that allied members of the National Restaurant Association lacked sufficient attachment to the Association to be considered "members" and, for that reason, could not underwrite the costs of a PAC fundraising event. Allied members were required to pay regular membership dues but could neither vote for Association officers nor be elected as officers.

Nonconnected Committees vs. Separate Segregated Funds

While nonconnected committees and separate segregated funds are commonly called PACs (political action committees), the two types of committees differ substantially with respect to how they are financed.

A separate segregated fund (SSF) is financed by a connected organization, either a corporation or a labor organization, which may absorb the costs of the SSF's operation, including expenses related to soliciting contributions to the SSF. By contrast, a nonconnected committee is financially independent and uses the contributions it raises both for its administrative costs and for its support of candidates. However, this disparity is balanced by the fundraising restrictions that apply to SSFs. SSFs may solicit only certain groups of individuals specifically identified in the law and must, additionally, adhere to special solicitation procedures spelled out in the law. Nonconnected PACs, on the other hand, are free to solicit the general public and, furthermore, are bound by no specific solicitation procedures beyond those generally applicable to all regulated political committees.

The Commission considered the differences between nonconnected PACs and SSFs in AO 1984-12, which addressed the question: May members of an incorporated membership group establish a nonconnected committee rather than an SSF?

Acting unofficially, members of the Board of Regents of the American College of Allergists, Inc., a tax-exempt Section 501(c)(3) organization, wanted to set up a nonconnected PAC. As a nonconnected committee, the Independent Allergists PAC could solicit anyone but would have to finance its operations through the contributions it received, accepting no administrative support from the College, since this support would translate into prohibited corporate contributions.

The Commission approved this proposal, since nothing in the law bars individuals associated with an incorporated group from establishing a nonconnected committee. The opinion emphasized the independent nature of the PAC, noting that an accountant would review the financial records of both the College and the PAC to ensure that the PAC was self-supporting; the PAC would pay a management firm the usual charge for services, without receiving preferential treatment even though the College employed the same firm; and the PAC's governing board, composed of contributors, would include individuals who were not members of the College.

Connected Organization as Vendor to PAC

In two advisory opinions, the Commission considered whether a separate segregated fund (corporate PAC) could make in-kind contributions to candidates by providing them with services purchased from the PAC's connected organization. In these opinions, the PACs planned to purchase the services of their corporations' employees, and, in one case, to make use of corporate facilities incidental to the services. In each opinion, the Commission based its decision on the proposed methods of paying the corporate sponsor.

In AO 1984-37, the Commission approved two payment plans proposed by the American Medical Association (AMA) and its separate segregated fund, AMPAC. The plans were permissible because neither involved advances or initial payments made with AMA corporate funds — transactions that would have resulted in prohibited corporate contributions. Instead, AMPAC would pay for the services before they were provided to the candidates.

On the other hand, in AO 1984-24, the Commission rejected the payment plans proposed by the Sierra Club and its separate segregated fund, the Sierra Club Committee on Political Education (SCCOPE). Although, under the plans, SCCOPE ultimately would reimburse the Club for the services and incidental use of corporate facilities, the Sierra Club's initial financing of the goods and services would constitute prohibited corporate

contributions to the candidates. The Commission also rejected the Club's claim that Sections 114.9 and 114.10 of the regulations permitted the proposed reimbursement plans.

Commissioner Lee Ann Elliott dissented from AO 1984-24. In her view, Sections 114.9 and 114.10 specifically permit PACs to reimburse their connected organizations for the use of facilities and for employees' time.

After AO 1984-24 was issued on July 13, 1984, the Sierra Club and SCCOPE challenged the opinion by filing suit in the U.S. District Court for the District of Columbia *(The Sierra Club v. FEC)*. In its November 5 decision, the court upheld AO 1984-24 as a reasonable interpretation of the law's prohibition on corporate contributions, noting that "the Federal Election Commission is the type of agency to which considerable weight and deference should presumptively be accorded...." The court also rejected the Club's claim that the opinion violated its First Amendment rights, which, the court stated, were "overborne by the interests Congress has sought to protect in enacting Section 441b [the provision prohibiting corporate contributions]." The Sierra Club appealed this decision, but the appellate court had not ruled by the end of 1984.

Voting Records and Voter Guides Prepared by Corporations

A corporation (and labor organization) may participate in the Federal election process by using treasury funds to make partisan communications directed to its restricted class and specific types of nonpartisan communications addressed to the general public. New regulations on corporate communications prescribed in March 1984 prompted several requests for advisory opinions.

In 1984-17, the Commission approved the nonpartisan communications proposed by two nonprofit, tax-exempt corporations, the National Right to Life Committee (NRLC) and the Right to Life of Greater Cincinnati.

NRLC planned to distribute to the general public voting records that tabulated how each Member of Congress voted on abortion-related legislation, noting whether the vote was "pro-life," "pro-abortion" or for or against a measure. The Commission approved the distribution of the proposed voting records because they met the nonpartisan standard in the revised regulations, i.e., they did not serve an election-influencing purpose.

The Commission also approved the public distribution of a voter guide the Cincinnati group proposed to publish in its newsletter. The guide contained issue-related questions and candidates' responses. The opinion noted that the criteria for determining whether a voter guide is nonpartisan are not applicable to voter guides prepared by nonprofit, tax-exempt corporations, such as the Cincinnati group, that do not support, endorse or oppose candidates. Under the new regulations, voter guides prepared and distributed to the general public by these tax-exempt corporations must comply with only one standard: The guides must not favor one candidate over another. The Cincinnati group's voter guide satisfied this requirement. The opinion cautioned, however, that if the Cincinnati corporation established a PAC, the corporation, by virtue of its control over the PAC, would become an organization that supports, endorses or opposes candidates or parties. The corporation's voter guides would then be subject to the same criteria as guides prepared by partisan corporations.

Shortly after the revised regulations on corporate communications became effective (March 1984), the United States Defense Committee (USDC), another nonprofit, tax-exempt corporation, asked the Commission to reconsider USDC's proposed public distribution of voter guides and voting records which had been rejected in an earlier opinion (AO 1983-43). The new opinion, AO 1984-14, affirmed the Commission's previous conclusions. USDC's materials could not be

distributed to the general public because, under the revised rules, they were partisan: The voter guides favored particular candidates, and the voting records served an election-influencing purpose.

In her concurring opinion, Commissioner Joan D. Aikens said that she voted to approve AO 1984-14 with some reluctance since she did not agree with the six restrictive provisions contained in the FEC's regulations. But, because those regulations were in effect and the opinion was based on them, she voted to approve the opinion.

USDC filed suit in the U.S. District Court for the Northern District of New York in March 1984. In *United States Defense Committee v. FEC,* USDC asked the court to certify certain constitutional questions to an *en banc* court of appeals. USDC claimed that its First Amendment rights were violated by provisions of the law and regulations that prohibit USDC from distributing to the general public materials addressing public issues. Furthermore, USDC argued that the law abridged constitutional rights by discriminating between incorporated nonprofit organizations, like USDC, and news media corporations, whose expenditures for coverage of political events (news stories and editorials) are exempt from the law's broad prohibition on corporate expenditures (provided the news corporation is not owned or controlled by any political party, committee or candidate). This case was still pending at the end of 1984.

In other litigation involving similar issues, *FEC v. Massachusetts Citizens for Life, Inc.* (MCFL), the U.S. District Court for the District of Massachusetts handed down its decision on June 19, 1984. It ruled that public distribution of MCFL's newsletter, which contained partisan voting records and voter guides, did not violate the law. The court concluded that MCFL's publication costs were not prohibited corporate expenditures, as the Commission had contended, because, among other things, they were not coordinated with any candidate and because the newsletter contained news and editorial comments.

Alternatively, the court ruled that if MCFL's publication costs were not exempt from the statutory prohibition on corporate expenditures (2 U.S.C. Section 441b), then the provision was unconstitutional as applied to MCFL's expenditures. The prohibition abridged MCFL's free speech, press and association rights because, the court maintained, the expenditures were "(a) independent of any candidate or party, (b) [made] by a nonprofitmaking corporation formed to advance an ideological cause and (c) for the purpose of publishing direct political speech." The court held that, under these circumstances, the compelling governmental interest served by banning the distribution of newsletters to the general public as prohibited corporate expenditures was not justified. The Commission's appeal before the U.S. Court of Appeals for the First Circuit was still pending at the end of 1984.

Candidate Appearances and Endorsements of Candidates

In AO 1984-13, the Commission said that a public affairs conference to be sponsored by the National Association of Manufacturers (NAM), an incorporated trade association, would be a partisan activity and could therefore be attended only by NAM's restricted class, not the general public. The opinion determined that the conference would be a partisan event because NAM, with the help of Republican Party committees, planned to ask several Republican candidates to speak at the function and because it was scheduled to take place simultaneously with the Republican Party's national convention in August — shortly before several Congressional primaries and about two months before the 1984 general election.

Commissioner Lee Ann Elliott filed a concurring opinion stating that she agreed with the conclusion reached in AO 1984-13 but not for the reasons given in the opinion. In her view, the NAM conference should have been considered a non-

partisan event, which still would have closed it to the general public. The regulations governing nonpartisan candidate appearances limit the audience to the sponsoring corporation's restricted class and corporate employees outside that class.

Two opinions dealt with endorsements of candidates, one by a corporate executive and the other by a corporation itself. In AO 1984-43, the Commission said an executive of the Brunswick Corporation could make a statement favorable to the work of Representative Jim Jones (D-OK) in a television advertisement paid by the Jones reelection committee, assuming the executive would be volunteering his time in making the endorsement. Although the speaker would be identified as a company official in the ad, his statement by itself would not result in a prohibited corporate contribution or expenditure.

In AO 1984-23, the Commission said that the Associated Builders and Contractors (ABC), an incorporated trade association, could endorse a Presidential candidate and publicly announce the endorsement through press releases if distributed on the same basis as other ABC releases. The Commission said, however, that ABC could not publicize the endorsement in its monthly magazine because a significant portion of its subscribers (13.7 percent) were outside of ABC's restricted class. As such, they could not receive partisan communications such as endorsements. ABC could, nevertheless, publish the endorsement in its newsletter because its circulation was almost entirely limited to ABC members.

Federal Contractors

In addition to prohibiting contributions by corporations and labor unions, the law prohibits contributions from the funds of businesses with Federal government contracts. The Commission applied this prohibition in AO 1984-10, requested by Arnold & Porter, a law partnership under Federal contract. The firm wanted to set up a plan to facilitate partnership contributions to candidates. Although the Commission had approved similar plans in past advisory opinions, it did not approve Arnold & Porter's proposal because, as a Federal contractor, it was prohibited from making contributions from a business account. The opinion stated that individual partners of firms with Federal contracts could make contributions by check, only if written on their personal accounts.

In another opinion, AO 1984-53, the Commission said that members of the National Association of Realtors who, as individuals, leased real property to Federal agencies were considered Federal contractors. As such they were prohibited from making contributions, including those to the Association's PAC.

Designated Contributions

In AO 1984-32, issued to the Pease for Congress Committee, the Commission considered the handling of contributions designated for a candidate's primary campaign and dated before the primary election, but received by the committee after the election. The Commission said that, because the check had been designated for the primary election, it had to be attributed to the primary, but only to the extent that the campaign had net outstanding debts on the date the contribution was made. The Commission specified that, in this case, the "date the contribution was made" could not have been any earlier than the date it left control of the contributor and was received by the committee.

If the primary campaign had no outstanding debts, the Commission determined that the contribution would have to be returned to the donor. Alternatively, the donor could redesignate the contribution in writing for the general election campaign provided he or she had not already exceeded the contribution limit for that election.

Use of Excess Campaign Funds

Although the law, under 2 U.S.C. Section 439a, prohibits candidates from using their excess campaign funds for personal use, the provision makes

an exception for Members of Congress who held office on January 8, 1980. In AO 1984-47, the Commission permitted Peter Peyser, who had been a Member of Congress before the cut-off date, to convert to personal use the excess campaign funds remaining from his unsuccessful primary campaigns of 1982 and 1984. The opinion noted that because Section 439a does not require continuous membership in Congress as a condition for the exemption, Mr. Peyser's current status as a non-Member was not relevant.

Election Administration

Clearinghouse Activities

The Commission's National Clearinghouse on Election Administration continued research on the Congressionally mandated project to develop voluntary standards for voting equipment used in the United States. In 1984, the Clearinghouse sent to Congress a preliminary report on the feasibility of developing standards and began work on the first phase of the project: developing hardware standards and management guidelines for punchcard and marksense voting systems. The Clearinghouse enlisted the support of 30 leading State and local officials with experience in the voting systems under study. With the cooperation of various vendors, this voluntary standards panel will advise and assist the Clearinghouse and its contractor on the entire project.

The Clearinghouse also initiated a three-phase study on the applications of computer technology to the administration of elections. This project, also being conducted under contract, will survey election officials on their experience in using computers and will eventually yield a general model of a totally automated system incorporating the most effective and efficient application of computer technology.

Both the standards project and the computer applications project were among the topics discussed at the tenth Clearinghouse Advisory Panel meeting held in March 1984. The 17-member panel, composed of State and local election officials, also discussed Federal legislation on handicapped access to polling places (see below) as well as Clearinghouse assistance to a number of foreign nations, including, during 1984, the Philippines, Venezuela and Chile.

Finally, the Clearinghouse conducted workshops at several conferences held throughout the country and answered hundreds of inquiries from Members of Congress, election officials and the general public.

Voting Access

The Commission received new responsibilities under a new law, approved on September 28, 1984. The Voting Accessibility for the Elderly and Handicapped Act (Pub. L. 98-435) stipulates that registration and polling places for Federal elections must be accessible to handicapped and elderly individuals. For the next five election cycles, the States will report to the Commission on difficulties faced and actions taken to enhance accessibility. The Commission will compile the State information and forward its first summary to Congress in 1987.

Chapter 3
The Commission

Commissioners

Commisson officers during 1984 were Chairman Lee Ann Elliott and Vice Chairman Thomas E. Harris. On December 18, 1984, the Commission elected its officers for 1985: John Warren McGarry as Chairman and Joan D. Aikens as Vice Chairman. Mr. McGarry, who served as Chairman in 1981, is the only Commissioner to have been elected Chairman twice. Biographies of the Commissioners appear in Appendix 1.

Administrative Activities

Relocation

On March 1, 1984, the Commission voted to move to new facilities, basing its decision on a report by The Cooper-Lecky Partnership, an architectural firm retained by the General Services Administration (GSA). Faced with the decision of either renovating current FEC headquarters at 1325 K Street or moving to a new site, the Commission chose the less expensive option—to move.

The Cooper-Lecky report, completed after a survey of the present facility, pointed out multiple deficiencies in the building. According to the report, the building lacks several fire and safety features required under GSA standards. Installation of protective devices to meet these standards would cost about $700,000, a cost that could be saved by moving to new GSA-approved quarters.

Apart from safety hazards, the report cited three problems in the present allocation of space. First, the limited space set aside for public use—the Commission hearing room, the public records area and the library—is no longer adequate due to the growth of public and media interest in the Commission. Second, the office layout is not functional. The current arrangement separates staff with related functions, on the one hand, while intermingling public areas with offices that should be secure, on the other. Third, the ratio of private office space to staff exceeds GSA directives. The building's structure, however, does not permit a satisfactory resolution of these problems, even with expensive renovations.

The report also pointed out several maintenance problems, including voltage fluctuations affecting the computer system, which jeopardize critical agency activities.

The study's estimated cost of renovation, $5,891,204, was more than double that of relocation, $2,858,557. Relocation would require structural work to tailor the new space to Commission needs. Because GSA and the lessor of the new building would bear some of these costs, the Commission estimated it would need about $1.2 million for the relocation. To cover most of this one-time cost, the agency requested an additional $850,000 in fiscal year 1985 funds. Congress approved this amount as part of its appropriation for the agency.[1] The Commission hopes to move to a new site in the fall of 1985.

Sunshine Act Regulations

The Commission sought public comment on proposed revisions to regulations implementing the Government in the Sunshine Act (5 U.S.C. Section 522b) in a December 1984 *Federal Register* notice (49 *Fed. Reg.* 49306). Generally, the draft rules clarify current regulations, with revisions based on legislative history and recent court decisions. The agency will continue working on these regulations in 1985.

Assisting the Handicapped

The Commission prescribed new regulations to implement and enforce Section 504 of the Rehabilitation Act of 1973. The new rules, adapted from prototypes developed by the Department of Justice, prohibit discrimination on the basis of handicap in Commission programs and activities. Under the regulations (11 CFR Part 6), the agency will conduct an evaluation of its compliance with Section 504 within one year of the effective date of the regulations (November 2, 1984).

The rules provide that the FEC's new headquarters will comply with the provisions of the Architectural Barriers Act of 1968 (as adopted in the

[1]See page 34.

Rehabilitation Act). The rules stipulate, however, that the Commission's existing space does not have to meet these standards.

The 1984 installation of a telecommunications device for the deaf (TDD), which allows hearing impaired individuals to telephone the FEC, partly fulfilled another requirement in the rules: The agency's obligation to provide services and devices that enable handicapped individuals to take part in FEC activities. The Commission also publicized the availability of the TDD.

To ensure that handicapped job applicants and employees are not discriminated against, the Commission will use existing Equal Employment Opportunity Commission (EEOC) procedures to resolve grievances. The rules also establish compliance procedures for processing grievances.

Published in the *Federal Register* in August 1984 (49 *Fed. Reg.* 33206), the rules were prescribed in November.

Report on Financial Controls

In December 1984, the Commission issued its first report under the Federal Managers' Financial Integrity Act. The 1982 Act requires Federal agencies to submit yearly statements on the status of internal financial controls.

In preparing its report, the Commission first asked the managers of divisions involved in the exchange of money to submit an evaluation of administrative controls. Using a self-scoring checklist, the managers assessed their operation's vulnerability to fraud, waste and abuse. These self-assessments were then reviewed by Commission staff with expertise in financial matters to ensure uniform scoring throughout the agency. The reviewers also analyzed the assessments, recommending remedial action where needed. This documentation formed the basis of the Commission's 1984 financial report, submitted to the President and Congress in December 1984. Similar methods of examining internal controls will be used for the 1985 report.

The Commission's Budget

Fiscal Year 1984

The Commission submitted a budget request of $10,343,139 for fiscal year 1984. Although $446,179 more than the agency's funding for the 1983 fiscal year, the requested amount was needed to finance the stepped-up activities of a Presidential election year. During Congressional hearings on the budget held in the spring of 1983, Commissioner Lee Ann Elliott, then Vice Chairman, described the request as a "bare-bones, no-frills budget."

The Committee on House Administration unanimously endorsed a fiscal year 1984 authorization of $10,849,139, over $500,000 more than the Commission had requested. In recommending the higher amount, the Committee recognized that the Commission's request was austere and also considered the additional personnel costs imposed by new legislation (e.g., Social Security, Medicare) as well as the agency's need for new equipment.

While the House Committee's recommended funding level was not adopted, the final Congressional appropriation of $10,649,000 still exceeded the Commission's request by $300,000. In August 1984, the agency received supplemental funding of $95,000 to cover part of the 1984 pay increase, bringing the agency's total funding for the fiscal year to $10,744,000.

In budgeting for fiscal year 1984,[2] the Commission shifted resources to carry out activities related to the Presidential elections, particularly within the Audit Division, which plays a major role in the public funding program. Although the agency marginally increased staffing to handle the election workload, the staff level did not reach the peak of 1980, the preceding Presidential year. The Commission was able to keep personnel costs down by using auditors detailed from the General Accounting Office on a nonreimbursable basis, temporary part-time clerks to assist with match-

[2]See also Appendix 4.

ing fund submissions and a contractor to handle almost all computer entry of data from reports.

Generally, the Commission's management projections for fiscal year 1984 matched actual costs and workload levels for agency programs. Where workload exceeded projections, productivity increased as well.

The Commission's management plan for the fiscal year included funding for computer linkups giving seven cities direct access to FEC campaign finance data.[3] The initial success of the project prompted the Commission to request fiscal year 1986 funding to extend computer access to more States.

The Commission also set aside funds for new equipment. To enhance disclosure, the Commission purchased a second Dybell machine, which produces paper copies from the microfilmed reports received from the House and Senate offices where Congressional committees file their original reports. The new machine reduces processing time and saves money by eliminating the need to use a contractor for work overloads. With the introduction of low-cost microcomputers, another new purchase, the Commission gained the capacity to graphically illustrate campaign finance information disclosed in press releases and publications. The microcomputers also helped the agency plan and manage its budget.

Fiscal Year 1985

Commissioner John Warren McGarry, chairman of the agency's finance committee, testified on the FEC's fiscal year 1985 budget at four Congressional hearings held in March and April 1984. Accompanied by Chairman Lee Ann Elliott and Commissioner Joan D. Aikens, Mr. McGarry addressed the difference between the agency's $13,648,000 request for fiscal year 1985 and the Administration's corresponding proposal of $10,230,000, which he said was "inconsistent with the Federal Election Commission's compelling need for alternative quarters, as well as our unique responsibilities in 1984 and 1985 [resulting from the Presidential elections]. We assume that, in making the proposal, the Administration actually intended to defer to Congress as to our justifiable needs."

Describing the components of the budget request, Commissioner McGarry testified that the agency needed $850,000 for its relocation to new quarters, although "the additional cost in 1985 will actually be closer to $1,200,000." He also said that, in light of the GSA facilities study, "the Commission has no choice or control over this matter."

The budget request included additional funds to administer the Presidential public funding program, which Commissioner McGarry described as "a major undertaking, beginning in 1984 and continuing well into 1985." The Commission's request also included funding to hire additional staff for audit and enforcement functions. In the area of computer services, the agency asked for funds to renew its data processing contract, which expires in April 1985. Commissioner McGarry testified that, in renewing the contract, the agency must "obtain the most current and efficient technology available" to handle "the explosive growth in campaign spending." The Commission identified some supplemental needs as well: Funds to restore computer functions previously reduced because of budget cuts and funding for completion of the Congressionally mandated study on voting system standards and for other research programs under the Clearinghouse on Election Administration. Commissioner McGarry underlined the direct benefit of Clearinghouse research to "those state and local election officials who are essential to proper administration of federal elections."

In their deliberations over the Commission's fiscal year 1985 authorization bill, the Committee on House Administration and the Senate Committee on Rules and Administration both agreed that the Commission required operational funding suf-

[3]See page 15.

ficient to support 245 full-time equivalent positions and recommended an additional $1,155,000 to cover the costs attendant to relocating the agency to new quarters. The House and Senate Appropriations Committees concurred, and the final funding included in the continuing resolution for fiscal year 1985 was $12,900,000, of which $1,155,000 was earmarked for the move. This latter sum comprised $850,000 for the one-time costs predicted for the move and $305,000 estimated as the increased rent charge for part of the year. The Commission is separately accounting for this $1,155,000, and any funds unused for the move will be returned to the Treasury.

Fiscal Year 1986 Budget Request

In August 1984, the Commission submitted its budget request for fiscal year 1986 to the Office of Management and Budget and to Congress. The agency requested $13,080,000 but explained that, if the Voting Accessibility for the Elderly and Handicapped Act was passed, the Commission would need an additional $50,000 to carry out its responsibilities under the Act during the fiscal year. The legislation was adopted in September 1984[4]; the Commission accordingly increased its request to $13,130,000.

The request pointed out that, in developing its budget for fiscal year 1986, the Commission "carefully reviewed a long list of proposed enhancements....The benefit of each proposal was carefully weighed against the projected cost. Only five items, totaling roughly a half million dollars, passed muster as providing maximum improvement to the program at minimum cost. Many other worthwhile projects and activities were deferred pending a less constrictive fiscal environment."

Of the total amount specifically requested for the enhancement of Commission programs, about half the funds were earmarked for the expansion of the service providing State offices with computerized access to the Commission's data base of campaign finance information.[5] The Commission asked for funds to extend this service nationwide, projecting that about half of the States would request to participate.

The President's budget, released February 1985, recommended a fiscal year 1986 funding level of $12,433,000 for the Commission. The budget also recommended $116,000 in additional funding for the previous fiscal year, 1985, to cover part of the salary increase for that year.

Personnel and Labor Relations

The Commission's 1984 campus recruitment efforts culminated in the selection of nine law-clerk/attorney appointees. To attract capable candidates, the Commission interviewed students at law schools throughout the Nation and offered nine students the opportunity to be hired as law clerks soon after graduation. They may retain that status for 14 months; after passing the Bar exam, they may be promoted to attorneys. Because of the success of this program, the Commission is considering an agency-wide recruitment program, based on staffing needs, in conjunction with an Equal Employment Opportunity career development plan.

The agency's training program for employees was somewhat broader than in past years and emphasized managerial training and courses in self-development and communications skills.

During the latter part of 1984, the Commission began to prepare for the renegotiation of the existing labor contract with the National Treasury Employees Union, which expires in June 1985.

[4]See page 29.

[5]See page 15.

Chapter 4
Legislative Recommendations

The Federal Election Campaign Act requires the Commission to transmit each year to the President and Congress "any recommendations for any legislative or other action the Commission considers appropriate. . . ." 2 U.S.C. Section 438(a)(9). The 24 recommendations in this chapter were approved by the Commission in 1985. Of these, 19 reiterate the recommendations submitted in March 1984. Five new recommendations concern campaign-cycle reporting, monthly reporting, reporting payments for goods and services, seeking inunctions in enforcement cases and election period limitations.

Definitions

Draft Committees

Section: 2 U.S.C. §§431(8)(A)(i), 431(9)(A)(i), 441a(a)(1) and 441b(b)

Recommendation: Congress should consider the following amendments to the Act in order to prevent a proliferation of "draft" committees and to reaffirm Congressional intent that draft committees are "political committees" subject to the Act's provisions.

1. *Bring Funds Raised and Spent for Undeclared but Clearly Identified Candidates Within the Act's Purview.* Section 431(8)(A)(i) should be amended to include in the definition of "contribution" funds contributed by persons "for the purpose of influencing a clearly identified **individual** to seek nomination for election or election to Federal office. . . ." Section 431(9)(A)(i) should be similarly amended to include within the definition of "expenditure" funds expended by persons on behalf of such "a clearly identified **individual**."

2. *Restrict Corporate and Labor Organization Support for Undeclared but Clearly Identified Candidates.* Section 441b(b) should be revised to expressly state that corporations, labor organizations and national banks are prohibited from making contributions or expenditures "for the purpose of influencing a clearly identified **individual** to seek nomination for election or election. . ." to Federal office.

3. *Limit Contributions to Draft Committees.* The law should include explicit language stating that no person shall make contributions to any committee (including a draft committee) established to influence the nomination or election of a clearly identified **individual** for any Federal office which, in the aggregate, exceed that person's contribution limit, per candidate, per election.

Explanation: These proposed amendments were prompted by the decisions of the U.S. Court of Appeals for the District of Columbia Circuit in *FEC v. Machinists Non-Partisan Political League* and *FEC v. Citizens for Democratic Alternatives in 1980* and the U.S. Court of Appeals for the Eleventh Circuit in *FEC v. Florida for Kennedy Committee.* The District of Columbia Circuit held that the Act, as amended in 1979, regulated only the **reporting requirements** of draft committees. The Commission sought review of this decision by the Supreme Court, but the Court declined to hear the case. Similarly, the Eleventh Circuit found that "committees organized to 'draft' a person for federal office" are not "political committees" within the Commission's investigative authority. The Commission believes that the appeals court rulings create a serious imbalance in the election law and the political process because any group organized to gain grass roots support for an **undeclared** candidate can operate completely outside the strictures of the Federal Election Campaign Act. However, any group organized to support a declared candidate is subject to the Act's registration and reporting requirements and contribution limitations. Therefore, the potential exists for funneling large aggregations of money, both corporate and private, into the Federal electoral process through unlimited contributions made to draft committees that support undeclared candidates. These recommendations seek to avert that possibility.

Volunteer Activity

Section: 2 U.S.C. §431(8)(B)

Recommendation: Congress may wish to consider whether the exemption for volunteer activity, contained in 2 U.S.C. §431(8)(B)(i), was meant to include professional services donated primarily for fundraising purposes rather than for actual campaigning.

Explanation: The Act places no limit on the services that a professional may donate to a candidate. For example, a professional entertainer may participate in a concert for the benefit of a candidate without the proceeds of that concert counting toward the entertainer's contribution limitations. Similarly, an artist may create artwork for a campaign to be used for fundraising or to be disposed of as an asset of the campaign. In both cases, the "volunteer" has thereby donated goods or services the value of which greatly exceeds the amount of the contributions which that individual or any other individual could otherwise make under the law.

Registration and Reporting

Commission as Sole Point of Entry for Disclosure Documents

Section: 2 U.S.C. §432(g)

Recommendation: The Commission recommends that it be the sole point of entry for all disclosure documents filed by Federal candidates and political committees.

Explanation: A single point of entry for all disclosure documents filed by political committees would eliminate any confusion about where candidates and committees are to file their reports. It would assist committee treasurers by having one office where they would file reports, address correspondence 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 would also reduce the costs to the Federal government of maintaining three different offices, especially in the areas of personnel, equipment and data processing.

The Commission has 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. Separate points of entry also 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. If the Commission received all documents, it would transmit on a daily basis file copies to the Secretary of the Senate and the Clerk of the House, as appropriate. The Commission notes that the report of the Institute of Politics of the John F. Kennedy School of Government at Harvard University, *An Analysis of the Impact of the Federal Election Campaign Act, 1972-78,* prepared for the House Administration Committee, recommends that all reports be filed directly with the Commission (Committee Print, 96th Cong., 1st Sess., at 122 (1979)).

Insolvency of Political Committees

Section: 2 U.S.C. §433(d)

Recommendation: The Commission requests that Congress clarify its intention as to whether the Commission has a role in the determination of insolvency and liquidation of insolvent political committees. 2 U.S.C. §433(d) was amended in 1980 to read: "Nothing in this subsection may be construed to eliminate or limit the authority of the Commission to establish procedures for—(A) the determination of insolvency with respect to any political committee; (B) the orderly liquidation of an insolvent political committee, and the orderly application of its assets for the reduction of outstanding debts; and (C) the termination of an insolvent political committee after such liquidation and application of assets." The phrasing of this provision ("Nothing . . . may be construed to . . . limit") suggests that the Commission has such authority in some other provision of the Act, but the Act contains no such provision. If Congress intended the Commission to have a role in determining the insolvency of political committees and the liquidation of their assets, Congress should clarify the nature and scope of this authority.

Explanation: Under 2 U.S.C. §433(d)(1), a political committee may terminate only when it certifies in

writing that it will no longer receive any contributions or make any disbursements and that the committee has no outstanding debts or obligations. The Act's 1979 Amendments added a provision to the law (2 U.S.C. §433(d)(2)) possibly permitting the Commission to establish procedures for determining insolvency with respect to political committees, as well as the orderly liquidation and termination of insolvent committees. In 1980, the Commission promulgated the "administrative termination" regulations at 11 CFR 102.4 after enactment of the 1979 Amendments, in response to 2 U.S.C. §433(d)(2). However, these procedures do not concern liquidation or application of assets of insolvent political committees.

Prior to 1980, the Commission adopted "Debt Settlement Procedures" under which the Commission reviews proposed debt settlements in order to determine whether the settlement will result in a potential violation of the Act. If it does not appear that such a violation will occur, the Commission permits the committee to cease reporting that debt once the settlement and payment are reported. The Commission believes this authority derives from 2 U.S.C. §434 and from its authority to correct and prevent violations of the Act, but it does not appear as a grant of authority beyond a review of the specific debt settlement request, to order application of committee assets.

It has been suggested that approval by the Commission of the settlement of debts owed by political committees at less than face value may lead to the circumvention of the limitations on contributions specified by 2 U.S.C. §§441a and 441b. The amounts involved are frequently substantial, and the creditors are often corporate entities. Concern has also been expressed regarding the possibility that committees could incur further debts after settling some, or that a committee could pay off one creditor at less than the dollar value owed and subsequently raise additional funds to pay off a "friendly" creditor at full value.

When clarifying the nature and scope of the Commission's authority to determine the insolvency of political committees, Congress should consider the impact on the Commission's operations. An expanded role in this area might increase the Commission's workload, thus requiring additional staff and funds.

Waiver Authority
Section: 2 U.S.C. §434

Recommendation: Congress should give the Commission authority to grant general waivers or exemptions from the reporting requirements of the Act for classifications and categories of political committees.

Explanation: In cases where reporting requirements are excessive or unnecessary, it would be helpful if the Commission had authority to suspend the reporting requirements of the Act. For example, during the past election cycle, the Commission encountered several problems relating to the reporting requirements of authorized committees whose respective candidates were not on the election ballot. The Commission had to consider whether the election-year reporting requirements were fully applicable to candidate committees operating under one of the following circumstances:

- The candidate withdraws from nomination prior to having his or her name placed on the ballot.
- The candidate loses the primary and therefore is not on the general election ballot.
- The candidate is unchallenged and his or her name does not appear on the election ballot.

Moreover, a Presidential primary candidate who has triggered the $100,000 threshold but who is no longer actively seeking nomination should be able to reduce reporting from a monthly to a quarterly schedule.

In some instances, the reporting problems reflect the unique features of certain State election procedures. A waiver authority would enable the Commission to respond flexibly and fairly in these situations.

In the 1979 Amendments to the Act, Congress repealed 2 U.S.C. §436, which had provided the Commission with a limited waiver authority. There remains,

however, a need for a waiver authority. It would enable the Commission to reduce needlessly burdensome disclosure requirements.

Campaign-Cycle Reporting
Section: 2 U.S.C. §434

Recommendation: Congress should revise the law to require authorized candidate committees to report on a campaign-to-date basis, rather than a calendar year cycle, as is now required.

Explanation: Under the current law, a reporter or researcher must compile the total figures from several year-end reports in order to determine the true costs of a committee. In the case of Senate campaigns, which may extend over a six-year period, this change would be particularly helpful.

Monthly Reporting for Congressional Candidates
Section: 2 U.S.C. §434(a)(2)

Recommendation: The principal campaign committee of a Congressional candidate should have the option of filing monthly reports in lieu of quarterly reports.

Explanation: Political committees, other than principal campaign committees, may choose under the Act to file either monthly or quarterly reports during an election year. Committees choose this option when they have a high volume of activity. Under those circumstances, accounting and reporting are easier on a monthly basis because fewer transactions have taken place during that time. Consequently, the committee's reports will be more accurate.

Principal campaign committees can also have a large volume of receipts and expenditures. This is particularly true with Senatorial campaigns. These committees should be able to choose a more frequent filing schedule so that their reporting covers less activity and is easier to do.

Monthly Reports
Section: 2 U.S.C. §434(a)(3)(B) and (a)(4)(B)

Recommendation: Congress should consider changing the reporting deadline for monthly filers to some earlier date in the month.

Explanation: Throughout the years, reporters and the public have indicated they would like to see financial data earlier than 20 days after the close of books. In the fast-paced Presidential primary period, in particular, by the time the 20-day report is filed, it is already out of date. In some cases, several primary elections have even passed during this interim. An earlier report would give the public more timely information without unnecessarily burdening the staff of political committees.

Reporting Payments to Persons Providing Goods and Services
Section: 2 U.S.C. §434(b)(5)(A), (6)(A), (6)(B)

Recommendation: The current statute requires reporting "the name and address of each . . . person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure." Congress should clarify whether this is meant, in all instances, to require reporting committees to disclose only the payments made by the committee or whether, in some instances, 1) the reporting committees must require initial payees to report, to the committees, their payments to secondary payees, and 2) the reporting committees, in turn, must maintain this information and disclose it to the public by amending their reports through memo entries.

Explanation: The Commission has encountered on several occasions the question of just how detailed a committee's reporting of disbursements must be. See, e.g., Advisory Opinion 1983-25, 1 *Fed. Election Camp. Fin. Guide* (CCH), para. 5742 (Dec. 22, 1983) (Presidential can-

didate's committee not required to disclose the names, addresses, dates or amounts of payments made by a general media consultant retained by the committee); Advisory Opinion 1984-8, 1 *Fed. Election Camp. Fin. Guide* (CCH), para. 5756 (Apr. 20, 1984) (House candidate's committee only required to itemize payments made to the candidate for travel and subsistence, not the payments made by the candidate to the actual providers of services); *Financial Control and Compliance Manual for General Election Candidates Receiving Public Financing,* Federal Election Commission, pp. IV 39-44 (1984) (Distinguishing committee advances or reimbursements to campaign staff for travel and subsistence from other advances or reimbursements to such staff and requiring itemization of payments made by campaign staff only as to the latter). Congressional intent in this area is not expressly stated, and the Commission believes that statutory clarification would be beneficial. In the area of Presidential public financing, where the Commission is responsible for monitoring whether candidate disbursements are for qualified campaign expenses (see 26 U.S.C. §§9004(c) and 9038(b)(2)), guidance would be particularly useful.

Verifying Multicandidate Committee Status
Section: 2 U.S.C. §§438(a)(6)(C), 441a(a)(2) and 441a(a)(4)

Recommendation: Congress should consider modifying those provisions of the Act relating to multicandidate committees in order to reduce the problems encountered by contributor committees in reporting their multicandidate committee status, and by candidate committees and the Commission in verifying the multicandidate committee status of contributor committees. In this regard, Congress might consider requiring political committees to notify the Commission once they have satisfied the three criteria for becoming a multicandidate committee, namely, once a political committee has been registered for not less than 6 months, has received contributions from more than 50 persons and has contributed to at least 5 candidates for Federal office.

Explanation: Under the current statute, political committees may not contribute more than $1,000 to each candidate, per election, until they qualify as a multicandidate committee, at which point they may contribute up to $5,000 per candidate, per election. To qualify for this special status, a committee must meet three standards:

- Support 5 or more Federal candidates;
- Receive contributions from more than 50 contributors; and
- Have been registered as a political committee for at least 6 months.

The Commission is statutorily responsible for maintaining an index of committees that have qualified as multicandidate committees. The index enables recipient candidate committees to determine whether a given contributor has in fact qualified as a multicandidate committee and therefore is entitled to contribute up to the higher limit. The Commission's Multicandidate Index, however, is not current because it depends upon information filed periodically by political committees. Committees inform the Commission that they have qualified as multicandidate committees by checking the appropriate box on their regularly scheduled report. If, however, they qualify shortly after they have filed their report, several months may elapse before they disclose their new status on the next report. With semiannual reporting in a nonelection year, for example, a committee may become a multicandidate committee in August, but the Commission's Index will not reveal this until after the January 31 report has been filed, coded and entered into the Commission's computer.

Because candidate committees cannot totally rely on the Commission's Multicandidate Index for current information, they sometimes ask the contributing committee directly whether the committee is a multicandidate committee. Contributing committees, however, are not always clear as to what it means to be a multicandidate committee. Some committees erroneously believe that they qualify as a multicandidate committee merely because they have contributed to more than one Federal candidate. They are not aware that they must have contributed to 5 or more Federal candidates and also have more than 50 contributors and have been registered for at least 6 months.

Local Party Activity

Separate §441a(d) Limit for Local Party Committees in Presidential Elections

Section: 2 U.S.C. §441a(d)

Recommendation:[1] Congress should amend the statute to provide a separate limit, under §441a(d), on expenditures made by local party committees in the Presidential elections.

Explanation: Local party committees share the State party's §441a(d) limit for Congressional elections but have no statutory role under that section for Presidential elections. The 1979 Amendments to the Act did establish certain exemptions for State and local party committees, including a provision for get-out-the-vote activity during the Presidential election. The exemptions, however, are limited to activities involving volunteers. Payments for general public political advertising do not qualify under these provisions. Therefore, under the present statute, a local party which wants to purchase a newspaper ad on behalf of the party's Presidential nominee may make such an expenditure only when authorized to do so under the national party's §441a(d) limit.

Many local committees are unaware of this restriction and make minor expenditures on behalf of the party's Presidential nominee, which are difficult for the national committee to track. It would be preferable for the local committees to have a small Presidential spending limit of their own (in addition to the Presidential spending limit given to the national party committees). This would aid national committees in administering their own 441a(d) limit for Presidential elections and avoid unnecessary compliance actions, while still ensuring that local parties do not introduce significant amounts of unreported (and possibly prohibited) funds into the Presidential election process. (It is assumed that the national committee would delegate its authority with respect to spending by State party committees in Presidential elections.)

If Congress were to consider this recommendation, it would be necessary for Congress to define, with some degree of precision, "local party committee."

[1]Commissioners McDonald and Harris filed the following dissent: The Commission's legislative recommendation of a separate §441a(d) limit for a local party committee to the Congress would further expand "party building" loopholes already carved by Congress and certain rulings of the Commission. The Commission's recommendation would provide a local party with a small limit of its own in Presidential elections.

This recommendation has nothing to do with the real activities of local parties. We strongly support local parties and will work for any proposal that enhances their efforts to increase participation. This recommendation will only provide a means of circumventing the Presidential expenditure limits.

Presently a local party may make expenditures for get-out-the-vote activities involving volunteers in a Presidential campaign. The recommendation our colleagues have made would in no way build up these local parties and would quite likely make these committees merely another paper entity, existing only in a bank account, for their national party and its Presidential nominee. Section 441a(a)(4) of the FECA allows unlimited transfers between national, State and local committees of a political party. No definition of local party exists in the statute. Each precinct could form as many paper committees to receive national money as the national party desires. If the Commission's recommendation is enacted, an unlimited number of local committees could be formed and the national party could transfer the local limit to each local entity. This process could provide unlimited funds to a Presidential candidate in whatever locale desired, completely undermining the delicate balance constructed by Congress to provide each major party candidate for President with an equal amount of public funds. Under the present system, each party has ample ability to participate in the Presidential campaign through get-out-the-vote activities and the national party §441a(d) limit (which is spent in local communities around the country selected by the national party). Local party headquarters are run on a ticket-wide basis and include the Presidential nominee in their efforts. Already corporate and labor funds are contributed to State and local parties to be used in a ratio of soft and hard money in the get-out-the-vote efforts in areas which are critical to the Federal candidates. Why do we need yet another loophole to give the Presidential campaigns unlimited spending power?

If the Congress enacts this proposal, it will not increase activity at the local level, it will only increase the ability to circumvent the process at the national level. This result will limit participation in Presidential campaigns rather than broaden it.

Enforcement

Modifying "Reason to Believe" Finding

Section: 2 U.S.C. §437g

Recommendation: Congress should consider modifying the language pertaining to "reason to believe," contained in 2 U.S.C. §437g, in order to reduce the confusion sometimes experienced by

respondents, the press and the public. One possible approach would be to change the statutory language from "the Commission finds reason to believe a violation of the Act *has* occurred" to "the Commission finds reason to believe a violation of the Act *may have* occurred." Or Congress may wish to use some other less invidious language.

Explanation: Under the present statute, the Commission is required to make a finding that there is "reason to believe a violation has occurred" before it may investigate. Only then may the Commission request specific information from a respondent to determine whether, in fact, a violation has occurred. The statutory phrase "reason to believe" is misleading and does a disservice to both the Commission and the respondent. It implies that the Commission has evaluated the evidence and concluded that the respondent has violated the Act. In fact, however, a "reason to believe" finding simply means that the Commission believes a violation may have occurred if the facts as described in the complaint are true. An investigation permits the Commission to evaluate the validity of the facts as alleged.

If the problem is, in part, one of semantics, it would be helpful to substitute words that sound less accusatory and that more accurately reflect what, in fact, the Commission is doing at this early phase of enforcement.

In order to avoid perpetuating the erroneous conclusion that the Commission believes a respondent has violated the law everytime it finds "reason to believe," the statute should be amended.

Seeking Injunctions in Enforcement Cases
Section: 2 U.S.C. §437g(a)(1)

Recommendation:[2] Congress should amend the enforcement procedures set forth in the statute so as to empower the Commission to promptly initiate a civil suit for injunctive relief in order to preserve the status quo when there is clear and convincing evidence that a substantial violation of the Act is about to occur. Under criteria expressly stated, the Commission should be authorized to initiate such civil action in a United States district court without awaiting expiration of the 15 day period for responding to a complaint or the other administrative steps enumerated in the statute. The person against whom the Commission brought the action would enjoy the procedural protections afforded by the courts.

Explanation: On certain occasions in the heat of the campaign period, the Commission has been provided with information indicating that a violation of the Act is about to occur (or be repeated) and yet, because of the administrative steps set forth in the statute, has been unable to act swiftly and effectively in order to prevent the violation from occurring. In some instances the evidence of a violation has been clearcut and the potential for an impact on a campaign or campaigns has been substantial. The Commission has felt constrained from seeking immediate judicial action by the requirements of the statute which mandate that a

[2]Commissioner Elliot filed the following dissent: The Act presently enables the Commission to seek injunctive relief after the administrative process has been completed and this is more than sufficient. (See 2 U.S.C. §437g(a)(6)(A)).

I am unaware of any complaint filed with the Commission during the last three years which, in my opinion, would meet the four standards set forth in the legislative recommendation. Assuming a case was submitted which met these standards, I believe it would be inappropriate for the Commission to seek injunctive relief prior to a probable cause finding.

First, the very ability of the Commission to seek an injunction, especially during the "heat of the campaign," opens the door to allegations of an arbitrary and politically motivated enforcement action by the Commission. The Commission's decision to seek an injunction in one case while refusing to do so in another could easily be seen by candidates and respondents as politicizing the enforcement process.

Second, the Commission might easily be flooded with requests for injunctive relief for issues such as failure to file an October quarterly or a 12-day pre-general report. Although the Commission would have the discretion to deny all these requests for injunctive relief, in making that decision the Commission would bear the administrative burden of an immediate review of the factual issues.

Third, although the courts would be the final arbiter as to whether or not to grant an injunction, the mere decision by the Commission to proceed to seek an injunction during the final weeks of a campaign would cause a diversion of time and money and adverse publicity for a candidate during the most important period of the campaign.

For these reasons, I disagree with the recommendation to expand the power of the Commission to seek injunctive relief except as presently provided for in the Act.

person be given 15 days to respond to a complaint, that a General Counsel's brief be issued, that there be an opportunity to respond to such brief, and that conciliation be attempted before court action may be initiated. The courts have indicated that the Commission has little if any discretion to deviate from the administrative procedures of the statute. *In re Carter-Mondale Reelection Committee, Inc.*, 642 F.2d 538 (D.C. Cir. 1980); *Common Cause v. Schmitt*, 512 F. Supp. 489 (D.D.C. 1980), *aff'd by an equally divided court*, 455 U.S. 129 (1982); *Durkin for U.S. Senate v. FEC*, 2 *Fed. Elec. Camp. Fin. Guide* (CCH) para. 9147 (D.N.H. 1980). The Commission suggests that the standards that should govern whether it may seek prompt injunctive relief (which could be set forth in the statute itself) are:

1. There is a substantial likelihood that the facts set forth a potential violation of the Act;
2. Failure of the Commission to act expeditiously will result in irreparable harm to a party affected by the potential violation;
3. Expeditious action will not result in undue harm or prejudice to the interests of other persons; and
4. The public interest would be served by expeditious handling of the matter.

Public Financing

Fundraising Limitation for Publicly Financed Presidential Primary Campaigns

Section: 2 U.S.C. §§431(9)(A)(vi) and 441a

Recommendation: The Commission recommends that the separate fundraising limitation provided to publicly financed Presidential primary campaigns be combined with the overall limit. Thus, instead of a candidate's having a $10 million (plus COLA[3]) limit for campaign expenditures and a $2 million (plus COLA) limit for fundraising (20 percent of overall limit), each candidate would have one $12 million (plus COLA) limit for all campaign expenditures.

Explanation: Campaigns that have sufficient funds to spend up to the overall limit usually allocate some of their expenditures to the fundraising category. These campaigns come close to spending the maximum permitted under both their overall limit and their special fundraising limit. Hence, by combining the two limits, Congress would not substantially alter spending amounts or patterns. For those campaigns which do not spend up to the overall expenditure limit, the separate fundraising limit is meaningless. Many smaller campaigns do not even bother to use it, except in one or two States where the expenditure limit is low, e.g., Iowa and New Hampshire. Assuming that the State limitations are eliminated or appropriately adjusted, this recommendation would have little impact on the election process.

The advantages of the recommendation, however, are substantial. They include a reduction in accounting burdens and a simplification in reporting requirements for campaigns, and a reduction in the Commission's auditing task.

State Expenditure Limits for Publicly Financed Presidential Primary Campaigns

Section: 2 U.S.C. §441a

Recommendation: The Commission recommends that the State-by-State limitations on expenditures for publicly financed Presidential primary candidates be eliminated.

Explanation: The Commission has now seen three Presidential elections under the State expenditure limitations. Based on our experience, we believe that the limitations could be removed with no material impact on the process.

Our experience has shown that the limitations have little impact on campaign spending in a given State, with the exception of Iowa and New Hampshire. In most other States, campaigns are unable or do not wish to expend an amount equal to the limitation. In effect, then, the administration of the entire program results in limiting disbursements in these two primaries alone.

[3]Spending limits are increased by the cost-of-living adjustment (COLA), which the Department of Labor calculates annually.

If the limitations were removed, the level of disbursements in these States would obviously increase. With an increasing number of primaries vying for a campaign's limited resources, however, it would not be possible to spend very large amounts in these early primaries and still have adequate funds available for the later primaries. Thus, the overall national limit would serve as a constraint on State spending, even in the early primaries. At the same time, candidates would have broader discretion in the running of their campaigns.

Our experience has also shown that the limitations have been only partially successful in limiting expenditures in the early primary States. The use of the fundraising limitation, the compliance cost exemption, the volunteer service provisions, the unreimbursed personnel travel expense provisions, the use of a personal residence in volunteer activity exemption, and a complex series of allocation schemes have developed into an art which when skillfully practiced can partially circumvent the State limitations.

Finally, the allocation of expenditures to the States has proven a significant accounting burden for campaigns and an equally difficult audit and enforcement task for the Commission.

Given our experience to date, we believe that this change to the Act would be of substantial benefit to all parties concerned.

Expenditure Limits

Certification of Voting Age Population Figures and Cost-of-Living Adjustment

Section: 2 U.S.C. §§441a(c) and 441a(e)

Recommendation: Congress should consider removing the requirement that the Secretary of Commerce certify to the Commission the voting age population of each Congressional district. At the same time, Congress should establish a deadline of February 15 for supplying the Commission with the remaining information concerning the voting age population for the nation as a whole and for each state. In addition, the same deadline should apply to the Secretary of Labor, who is required under the Act to provide the Commission with figures on the annual adjustment to the cost-of-living index.

Explanation: In order for the Commission to compute the coordinated party expenditure limits and the State-by-State expenditure limits for Presidential candidates, the Secretary of Commerce certifies the voting age population of the United States and of each State. 2 U.S.C. §441a(e). The certification for each Congressional district, also required under this provision, is not needed.

In addition, under 2 U.S.C. §441a(c), the Secretary of Labor is required to certify the annual adjustment in the cost-of-living index. In both instances, the timely receipt of these figures would enable the Commission to inform political committees of their spending limits early in the campaign cycle. Under present circumstances, where no deadline exists, the Commission has sometimes been unable to release the spending limit figures before June.

Contributions

Election Period Limitations

Section: 2 U.S.C. §441a

Recommendation: The Commission recommends that limits on contributions to candidates be placed on an election-cycle basis, rather than the current per-election basis.

Explanation: The contribution limitations affecting contributions to candidates 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 "election-cycle" basis. Thus, multicandidate committees could give up to $10,000 and all other persons could give up to $2,000 to an authorized committee at any point during the election cycle.

Application of Contribution Limitations to Family Members
Section: 2 U.S.C. §441a

Recommendation: The Commission recommends that Congress examine the application of the contribution limitations to immediate family members.

Explanation: Under the current posture of the law, a family member is limited to contributing $1,000 per election to a candidate. This limitation applies to spouses and parents, as well as other immediate family members. (See S. Conf. Rep. No. 93-1237, 93rd Cong., 2nd Sess., 58 (1974) and *Buckley v. Valeo,* 424 U.S. 1, 51 (footnote 57) (1976).) This limitation has caused the Commission substantial problems in attempting to implement and enforce the contribution limitations.[4]

Problems have arisen in enforcing the limitations where a candidate uses assets belonging to a parent. In some cases, a parent has made a substantial gift to his or her candidate-child while cautioning the candidate that this may well decrease the amount which the candidate would otherwise inherit upon the death of the parent.

The Commission recommends that Congress consider the difficulties arising from application of the contribution limitations to immediate family members.

Foreign Nationals
Section: 2 U.S.C. §441e

Recommendation: Congress should examine the §441e prohibition on contributions by foreign nationals in connection with United States elections — Federal, State and local. In particular, Congress should consider three issues:

1. Whether or not an American subsidiary of a foreign corporation should be allowed to make contributions directly (to State and local candidates) or to establish a separate segregated fund (SSF); and, if it does form an SSF, whether the activities of the SSF should be subject to special restrictions;
2. Whether or not the statutory prohibition on contributions by foreign nationals is meant to cover volunteer activity by foreign nationals as well; and
3. Whether or not the Act should continue to prohibit contributions by foreign nationals in connection with State and local elections.

Explanation: These questions have presented problems for the Commission and candidates, particularly since the legislative history is unclear in this area.

Several issues have arisen during the Commission's administration of this provision. First, the law, as interpreted by Commission advisory opinions, permits an American subsidiary of a foreign registered corporation to influence elections either through direct contributions to State and local elections or by forming a separate segregated fund that supports Federal candidates. With regard to SSFs established by American subsidiaries, Commission advisory opinions have stipulated that the foreign corporate parent may not be the direct or indirect source of contributions; nor may it influence the SSF's decisions or exercise any control over the SSF. Further, the opinions have reiterated the law's requirement that only U.S. citizens (and individuals holding green cards) may contribute to the SSF.

In another advisory opinion, the Commission has interpreted the Act to mean that a foreign national may not volunteer his services to a campaign. The standard under Section 441e bars contributions by a foreign national that are "in connection with" (rather than "for the purpose of influencing") a Federal election. It is unclear whether this distinction is intended to create a broader prohibition in the case of foreign nationals than for other activities under the Act.

Finally, the Commission has recognized that it is difficult to enforce this provision with respect to State and local elections. Since only Federal candidates and committees report to the Commission, it is difficult for a Federal agency to monitor campaign financial activity affecting State and local elections.

[4]While the Commission has attempted through regulations to present an equitable solution to some of these problems (*see* 48 *Fed. Reg.* 19019 (April 27, 1983) as prescribed by the Commission on July 1, 1983), statutory resolution is required in this area.

Acceptance of Cash Contributions
Section: 2 U.S.C. §441g

Recommendation: Congress may wish to modify the statute to make the treatment of 2 U.S.C. §441g, concerning cash contributions, consistent with other provisions of the Act. As currently drafted, 2 U.S.C. §441g prohibits only the **making** of cash contributions which, in the aggregate, exceed $100 per candidate, per election. It does not address the issue of **accepting** cash contributions. Moreover, the current statutory language does not plainly prohibit cash contributions in excess of $100 to political committees other than authorized committees of a candidate.

Explanation: Currently this provision focuses only on persons making the cash contributions. However, these cases generally come to light when a committee has accepted these funds. Yet the Commission has no recourse to the committee in such cases. This can be a problem, particularly where primary matching funds are received on the basis of such contributions.

While the Commission, in its regulations at 11 CFR 110.4(c)(2), has included a provision requiring a committee receiving such a cash contribution to promptly return the excess over $100, the statute does not explicitly make acceptance of these cash contributions a violation. The other sections of the Act dealing with prohibited contributions (i.e., Sections 441b on corporate and labor union contributions, 441c on contributions by government contractors, 441e on contributions by foreign nationals, and 441f on contributions in the name of another) all prohibit both the making and accepting of such contributions.

Secondly, the statutory text seems to suggest that the prohibition contained in §441g applies only to those contributions given to candidate committees. This language is at apparent odds with the Commission's understanding of the Congressional purpose to prohibit any cash contributions which exceed $100 in Federal elections.

Fraudulent Misrepresentation
Fundraising Projects Operated by Unauthorized Committees
Section: 2 U.S.C. §432(e)(4)

Recommendations:[5] Congress may wish to consider amending the statute, at 2 U.S.C. §432(e)(4), to clarify that a political committee that is not an authorized committee of any candidate may not use the name of a candidate in the name of any "project" or other fundraising activity of such committee.

Explanation: The statute now reads that a political committee that is not an authorized committee "shall not include the name of any candidate *in its name* [emphasis added]." In certain situations presented to the Commission the political committee in question has not included the name of any candidate in its official name as registered with the Commission, but has nonetheless carried out "projects" in support of a particular candidate using the name of the candidate in the letterhead

[5]Commissioner Elliott filed the following dissent: I support the policy underlying this legislative recommendation and recognize the seriousness of the problem necessitating such a recommendation. However, the scope of the recommendation is far too broad and inflexible given the traditional fundraising events, especially those held by political parties and some unauthorized political committees. Party committees are not authorized committees and therefore would come under the general prohibitions included in the recommendation, precluding the use of a candidate's name for any activity of a party committee. Oftentimes, however, fundraising events conducted by a party committee incorporate the name of a well-known Member of Congress as a fundraising tool. Typically, the fundraising contributions are made in the form of checks made payable to the name of the event, e.g., "Happy Birthday, Senator Smith"; "Mike's Annual Barbecue"; "Sail With Senator Sanford"; "Roast Roberts." I do not believe Congress intends to preclude the use of the candidates' names in such activities, especially when the candidate is not only aware that his/her name is being used but approves and is actively participating in the event.

I would propose that the candidate be entitled to authorize the use of his or her name for such an event or activity provided the authorization is written. Again, I recognize the seriousness and the need to address this issue; however, Congress should not exclude fundraising tools which have been traditionally used by political committees.

Further, the impact of this recommendation has not been evaluated in the context of our brand-new joint fundraising regulations.

and text of its materials. The likely result has been that recipients of communications from such political committees were led to believe that the committees were in fact authorized by the candidate whose name was used. The requirement that committees include a disclaimer regarding nonauthorization (2 U.S.C. §441d) has not proven adequate under these circumstances.

The Commission believes that the intent behind the current provision is circumvented by the foregoing practice. Accordingly, the statute should be revised to clarify that the use of the name of a candidate in the name of any "project" is also prohibited.

Fraudulent Solicitation of Funds

Section: 2 U.S.C. §441h

Recommendation: The current §441h prohibits fraudulent misrepresentation such as speaking, writing or acting on behalf of a candidate or committee on a matter which is damaging to such candidate or committee. It does not, however, prohibit persons from fraudulently soliciting contributions. A provision should be added to this section prohibiting persons from fraudulently misrepresenting themselves as representatives of candidates or political parties for the purpose of soliciting contributions which are not forwarded to or used by or on behalf of the candidate or party.

Explanation: The Commission has received a number of complaints charging that substantial amounts of money were raised fraudulently by persons or committees purporting to act on behalf of candidates. Candidates have complained that contributions which people believed were going for the benefit of the candidate were diverted for other purposes. Both the candidates and the contributors were harmed by such diversion. The candidates received less money because people desirous of contributing believed they had already done so, and the contributors' funds had been misused in a manner in which they did not intend. The Commission has been unable to take any action on these matters because the statute gives it no authority in this area.

Honoraria

Technical Amendments

Section: 2 U.S.C. §§431(8)(B)(xiv) and 441i

Recommendation: The Commission offers two suggestions concerning honoraria.

1. Section 441i should be placed under the Ethics in Government Act.
2. As technical amendments, Sections 441i(c) and (d), which pertain to the annual limit on receiving honoraria (now repealed), should be repealed. Additionally, 2 U.S.C. §431(8)(B)(xiv), which refers to the definition of honorarium in Section 441i, should be modified to contain the definition itself.

Explanation: Congress eliminated the $25,000 annual limit on the amount of honoraria that could be accepted, but it did not take out these two sections, which only apply to the $25,000 limit. This clarification would eliminate confusion for officeholders and thereby help the Commission in its administration of the Act.

Commission Information Services

Budget Reimbursement Fund

Section: 2 U.S.C. §438

Recommendation:

1. The Commission recommends that Congress establish a reimbursement account for the Commission so that expenses incurred in preparing copies of documents, publications and computer tapes sold to the public are recovered by the Commission. Similarly, costs awarded to the Commission in litigation (e.g., printing, but not civil penalties) and payments for Commission expenses incurred in responding to Freedom of Information Act requests should be payable to the reimbursement fund. The Commission should be able to use such reimbursements to cover its costs for these services, without fiscal year limitation, and without a reduction in the Commission's appropriation.

2. The Commission recommends that costs be recovered for FEC Clearinghouse seminars, workshops, research materials and other services, and that reimbursements be used to cover some of the costs of these activities, including costs of development, production, overhead and other related expenses.

Explanation: At the present time, copies of reports, microfilm, and computer tapes are sold to the public at the Commission's cost. However, instead of the funds being used to reimburse the Commission for its expenses in producing the materials, they are credited to the U.S. Treasury. The effect on the Commission of selling materials is thus the same as if the materials had been given away. The Commission absorbs the entire cost. In FY 1983, in return for services and materials it offered the public, the FEC collected and transferred $91,969 in miscellaneous receipts to the Treasury. In FY 1984, the amount was $86,984 and during the first three months of FY 1985, $22,111 was transferred to the Treasury. Establishment of a reimbursement fund, into which fees for such materials would be paid, would permit this money to be applied to further dissemination of information. Note, however, that a reimbursement fund would not be applied to the distribution of FEC informational materials to candidates and registered political committees. They would continue to receive free publications that help them comply with the Federal election laws.

There is also the possibility that the Commission could recover costs of FEC Clearinghouse workshops and seminars, research materials, and reports that are now sold by the Government Printing Office and the National Technical Information Service. Approximately $15,000 was collected in FY 1981 by GPO and NTIS on account of sales of Clearinghouse documents.

There should be no restriction on the use of reimbursed funds in a particular year to avoid the possibility of having funds lapse.

Appendix 1 Biographies of Commissioners and Officers

Commissioners

Lee Ann Elliott, Chairman
April 30, 1987[1]

Before her appointment to the Commission in December 1981, Mrs. Elliott served as vice president of the Washington firm Bishop, Bryant & Associates, Inc. From 1970 to 1979, she was associate executive director of the American Medical Political Action Committee, having served as assistant director from 1961 to 1970. Mrs. Elliott was on the board of directors of the American Association of Political Consultants and of the Chicago Area Public Affairs Group, of which she is a past president. She was also a member of the Public Affairs Committee of the Chamber of Commerce of the United States. In 1979, she received the Award for Excellence in Serving Corporate Public Affairs from the National Association of Manufacturers. Mrs. Elliott, a native of St. Louis, Missouri, holds a B.A. from the University of Illinois and completed the Medical Association Management Executives Program at Northwestern University.

Thomas E. Harris, Vice Chairman
April 30, 1985

Before serving on the Commission, Mr. Harris was associate general counsel to the AFL-CIO in Washington from 1955 to 1975. He had held the same position with the CIO from 1948 until it merged with the AFL in 1955. Before that, he was an attorney in private practice and with various government agencies. A native of Little Rock, Arkansas, Mr. Harris is a 1935 graduate of Columbia University Law School. After graduation, he clerked one year for Supreme Court Justice Harlan F. Stone.

Mr. Harris was originally appointed to the Commission for a four-year term and, when the agency was reconstituted in 1976, received a three-year appointment. In 1979, President Carter reappointed Mr. Harris for a six-year term. He was Commission Chairman from May 1977 to May 1978.

Joan D. Aikens
April 30, 1989

Mrs. Aikens was formerly vice president of Lew Hodges/Communications, a public relations firm in Valley Forge, Pennsylvania. From 1972 until 1974, she was president of the Pennsylvania Council of Republican Women and served on the board of directors of the National Federation of Republican Women. A native of Delaware County, Pennsylvania, Mrs. Aikens has been active in a variety of volunteer organizations. She received her B.A. and honorary Doctor of Laws degree from Ursinus College, Collegeville, Pennsylvania.

Mrs. Aikens was first appointed to the Commission in 1975 and, upon the FEC's reconstitution in 1976, was reappointed for five years. When that term expired in April 1981, she continued to serve until President Reagan named her to complete the term of former Commissioner Max Friedersdorf, who had resigned in December 1980. In 1983, President Reagan again reappointed Mrs. Aikens, this time for a six-year term. She was elected as 1985 Commission Vice Chairman.

Danny L. McDonald
April 30, 1987

Mr. McDonald, as general administrator of the Oklahoma Corporation Commission, was responsible for the management of ten regulatory divisions from 1979 until his appointment to the Commission in December 1981. He was secretary of the Tulsa County Election Board from 1974 to 1979 and served as chief clerk of the board in 1973. He also served as a member of the Advisory Panel to the FEC's National Clearinghouse on Election Administration. Mr. McDonald, a native of Sand Springs, Oklahoma, holds a B.A. from Oklahoma State University and attended the John F. Kennedy School of Government at Harvard University. He served as Commission Chairman during 1983.

[1]Term expiration date.

John Warren McGarry
April 30, 1989
Mr. McGarry, a native of Massachusetts, graduated cum laude from Holy Cross College in 1952 and attended graduate school at Boston University. In 1956, he obtained a Juris Doctor degree from the Georgetown Law Center. Mr. McGarry was assistant attorney general of Massachusetts, serving as both trial counsel and appellate advocate, from 1959 to 1962. Following his tenure in office, he combined private law practice with service as chief counsel for the Special Committee to Investigate Campaign Expenditures of the U.S. House of Representatives. This committee was created by special resolution every election year through 1972 in order to oversee House elections. From 1973 until President Carter appointed him to the Commission in October 1978, Mr. McGarry served as special counsel on elections to the Commission on House Administration of the U.S. Congress. He was reappointed as Commissioner for a six-year term in 1983. Mr. McGarry served as Chairman of the Commission in 1981 and was elected to serve again in 1985.

Frank P. Reiche
April 30, 1985
Before his appointment to the Commission in July 1979, Mr. Reiche served as Chairman of the first New Jersey Election Law Enforcement Commission for six years. He had previously served in a variety of Republican Party positions, including eight years as a Republican County Committeeman. An attorney specializing in tax law, Mr. Reiche graduated from Columbia University Law School in 1959 and received a Master of Laws Degree in Taxation from New York University in 1966. He also holds an A.B. Degree from Williams College and a Masters Degree in Foreign Affairs from George Washington University. From 1970 to 1972, Mr. Reiche served as a member of New Jersey Governor William T. Cahill's blue ribbon Tax Policy Committee. He was a partner in the Princeton law firm of Smith, Stratton, Wise and Heher from 1964 until his 1979 appointment to the Commission. He served as Commission Chairman in 1982.

Ex Officio Commissioners

Benjamin J. Guthrie
Mr. Guthrie became Clerk of the House of Representatives in January 1983, after having served as Sergeant at Arms of the House from 1980 to 1982 and as printing clerk and director of the House Legislative Processes Office from 1957 to 1980. He joined the House staff after 11 years with the U.S. Government Printing Office. A World War II veteran, Mr. Guthrie was with the U.S. Signal Corps from 1942 to 1946, after graduating from the Maryland State Teachers College in Salisbury.

Douglas Patton, attorney, continued to serve at the Commission as Special Deputy to the Clerk of the House.

William F. Hildenbrand[2]
Mr. Hildenbrand was elected Secretary of the Senate in January 1981, after serving as Secretary for the Minority since 1974. A native of Pottstown, Pennsylvania, Mr. Hildenbrand began his government service in 1957 as assistant to Representative Harry G. Haskell, Jr. From 1959 to 1960, he served as Congressional liaison officer for the former Department of Health, Education and Welfare. He then became legislative assistant to Senator J. Caleb Boggs of Delaware. From 1969 to 1974, he served as administrative assistant to Senator Hugh Scott of Pennsylvania, the former Senate Republican Minority Leader.

Thomas J. Josefiak, attorney, continued to serve at the Commission as Special Deputy to the Secretary of the Senate.

[2]Jo-Anne L. Coe became the new Secretary of the Senate on January 3, 1985.

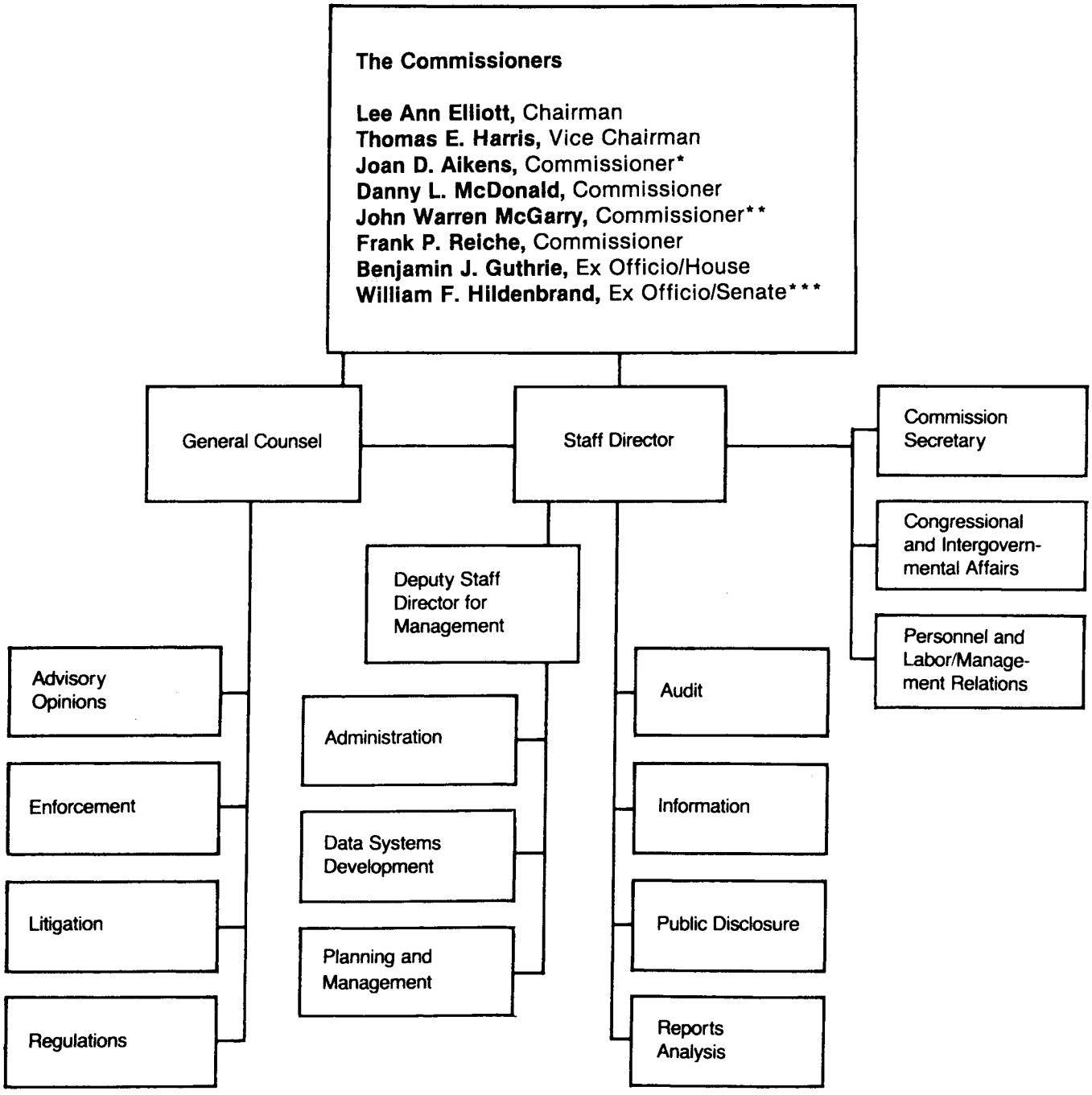
Statutory Officers

John C. Surina, Staff Director
Before joining the Commission in July 1983, Mr. Surina was assistant managing director of the Interstate Commerce Commission (ICC), where he was detailed to the "Reform 88" program at the Office of Management and Budget. In that role, he worked on projects to reform administrative management within the Federal government. From 1973 to 1980, Mr. Surina served the ICC in other capacities. Between 1972 and 1973, he was an expert-consultant to the Office of Control and Operations, EOP-Cost of Living Council-Pay Board. He was previously on the technical staff of the Computer Sciences Corporation. Mr. Surina joined the U.S. Army in 1966, completing his service in 1970 as executive officer of the Special Security Office. In that position, he supported senior U.S. delegates to NATO's civil headquarters in Brussels, Belgium.

A native of Alexandria, Virginia, Mr. Surina holds a Bachelor of Science Degree in Foreign Service from Georgetown University. He also attended East Carolina University in Greenville, North Carolina, and American University in Washington, D.C.

Charles N. Steele, General Counsel
Mr. Steele became General Counsel in December 1979, after serving as acting General Counsel during November of that year and as Associate General Counsel for Enforcement and Litigation between April 1977 and October 1979. He received an A.B. from Harvard College in 1960 and an LL.B. from Harvard Law School in 1965. Before joining the Commission in 1976, Mr. Steele was a staff attorney with the appellate court branch of the National Labor Relations Board.

Appendix 2
FEC Organization Chart



*Commissioner Aikens was elected as 1985 Vice Chairman.
**Commissioner McGarry was elected as 1985 Chairman.
***Jo-Anne L. Coe became the new Secretary of the Senate on January 3, 1985.

Appendix 3
Chronology of Events, 1984

January

1 – Commissioners Lee Ann Elliott and Thomas E. Harris begin one-year terms as respective FEC Chairman and Vice Chairman.
20 – Commission releases statistics on growth of PACs.
26 – Commission initially determines Democratic candidate Lyndon LaRouche ineligible for 1984 primary matching funds (see April 12).
31 – 1983 year-end report due.

February

8 – Commission publishes *Federal Register* notice denying National Taxpayers Legal Funds' petition to narrow definition of political party in public funding regulations.
9 – Commission prescribes revised regulations on trade association solicitations.
– Commission determines Democratic candidate Jesse Jackson eligible for primary matching funds.
21 – Wisconsin holds special primary election in 4th Congressional District.
23 – Commission determines Democratic candidate George McGovern eligible to receive primary matching funds.
29 – Commission certifies additional $189,000 to both Republican and Democratic Parties for their Presidential nominating conventions, bringing each party's total Federal entitlement to $6.060 million (see July 11).
– Commission publishes updated edition of *Federal Election Campaign Laws.*

March

1 – Democratic candidates Reubin Askew, Alan Cranston and Ernest Hollings become ineligible for primary matching funds.
5 – Commission prescribes revised regulations on partisan and nonpartisan communications by corporations and labor organizations.
– Commission testifies on fiscal year 1985 budget request before Senate Committee on Appropriations' Subcommittee on Treasury, Postal Service and General Government.
– Commission begins holding Monday afternoon clinics to assist committees.
6-7 – Clearinghouse on Election Administration holds Advisory Panel meeting in Washington, D.C. and announces FEC pilot program to provide State election offices with direct computer access to FEC campaign finance data.
13 – Commission publishes *Voting System Standards,* a Clearinghouse report to Congress on the feasibility of developing voluntary standards for voting equipment.
14 – Commission testifies on fiscal year 1985 budget request before House Committee on Appropriations' Subcommittee on Treasury, Postal Service and General Government.
15 – Commission submits 1984 legislative recommendations to the President and Congress.
– Democratic candidate George McGovern becomes ineligible for primary matching funds.
16 – Democratic candidate John Glenn becomes ineligible for primary matching funds.

19 — Supreme Court, in *Athens Lumber Company v. FEC,* leaves standing appeals court ruling upholding constitutionality of law's prohibition on corporate contributions.
23 — Commission determines President Ronald Reagan eligible to receive primary matching funds.
29 — Commission testifies on fiscal year 1985 budget request before Committee on House Administration's Task Force on Elections.

April

3 — Wisconsin holds special general election in 4th Congressional District.
6 — Commission publishes updated edition of *Campaign Guide for Party Committees.*
12 — Commission determines Democratic candidate Lyndon LaRouche eligible to receive primary matching funds.
15 — First quarter report due.
18 — Commission releases statistics based on *FEC Reports on Financial Activity, 1983-84, Interim Report No. 1: Presidential Pre-Nomination Campaigns,* covering activity through December 1983.
26 — Commission testifies on fiscal year 1985 budget request before Senate Committee on Rules and Administration.

May

3 — Commission releases statistics based on *FEC Reports on Financial Activity, 1983-84, Interim Report No. 2: Presidential Pre-Nomination Campaigns,* covering activity through January 1984.
15 — In *Kennedy for President v. FEC* and *Reagan for President v. FEC,* U.S. Court of Appeals for the District of Columbia Circuit reverses FEC determinations concerning repayment of 1980 primary matching funds and orders FEC to revise repayment formula (see July 12 and August 22).
29 — Commission publishes *Annual Report 1983.*

June

5 — New Jersey holds special primary election in 13th Congressional District.
19 — Commission releases statistics based on *FEC Reports on Financial Activity, 1983-84, Interim Report No. 3: Presidential Pre-Nomination Campaigns,* covering activity through February 1984.
— Commission publishes *Campaign Finance Law 84,* a summary of State campaign finance laws prepared by the Clearinghouse.
22 — Commission cosponsors election law conference in Richmond, Virginia.
27 — Commission holds public hearing on National Council of Farmers Cooperatives' rulemaking petition to permit solicitation of indirect members of federated cooperatives (see December 11).
29 — In *FEC v. Massachusetts Citizens for Life,* U.S. District Court for the District of Massachusetts rules that defendant's expenses for public partisan materials are not prohibited corporate expenditures.

July

7 — Democratic candidate Lyndon LaRouche becomes ineligible for matching funds.
9-10 — Commission cosponsors election law conference in Seattle, Washington.
11 — President Reagan signs Pub. L. 98-355, which increases public funding grant for

major parties' Presidential nominating conventions from $3 million to $4 million, as adjusted by cost-of-living increase (see below and July 31).

12 — Commission certifies additional $2.020 million in public funds to both the Democratic and Republican Parties' nominating conventions, bringing each party's grant to $8.080 million.

— Commission revises determinations concerning repayments of public funds by 1980 primary campaigns of Edward Kennedy and Ronald Reagan.

15 — Second quarter report due.

16 — Commission publishes *Election Directory 84,* a list of information on key election officials prepared by the Clearinghouse.

16-20 — Democratic Party holds Presidential nominating convention in San Francisco, California.

18 — Democratic candidates Gary Hart, Jesse Jackson and Walter Mondale become ineligible for primary matching funds.

20 — Commission releases statistics based on *FEC Reports on Financial Activity, 1983-84, Interim Report No. 4: Presidential Pre-Nomination Campaigns,* covering activity through March 1984.

26 — Commission certifies $40.4 million in public funds to Democratic Presidential nominee Walter Mondale and runningmate Geraldine Ferraro.

— Citizens Party candidate Sonia Johnson becomes first third party candidate eligible for primary matching funds.

31 — Commission prescribes technical amendments to public funding regulations, increasing amount of public funding grant for nominating convention committees of major parties to $4 million.

— Commission publishes *Federal Register* notice of proposed rulemaking on revisions to testing-the-waters regulations.

August

20-24 — Republican Party holds Presidential nominating convention in Dallas, Texas.

22 — Republican candidate Ronald Reagan becomes ineligible for primary matching funds.

— Commission publishes *Federal Register* notice on final proposed rules governing repayment of public funds.

23 — Citizens Party candidate Sonia Johnson becomes ineligible for primary matching funds.

24 — Commission releases statistics on growth of PACs.

27 — Commission certifies $40.4 million to Republican Presidential nominee Ronald Reagan and runningmate George Bush.

September

4 — Commission publishes new brochure, *Trade Associations,* and updated editions of *Corporate/Labor Communications* and *Corporate/Labor Facilities.*

5 — Commission releases statistics based on *FEC Reports on Financial Activity, 1983-84, Interim Report No. 5: Presidential Pre-Nomination Campaigns,* covering activity through April 1984.

10 — Commission cosponsors election law conference in Princeton, New Jersey.

13 — Commission publishes updated edition of *Campaign Guide for Corporations and Labor Organizations.*

20-21 — Voting Systems Standards Advisory Committee holds first meeting in Washington, D.C.

28 — President Reagan signs Voting Accessability for the Elderly and Handicapped Act (Pub. L. 98-435), under which FEC will periodically report to Congress on accessability of polling places.

October

4 — In *FEC v. National Right to Work Committee,* U.S. District Court for the District of Columbia orders defendants to repay illegally solicited contributions and assesses civil penalty.

15 — Commission releases *PAC Money Contributed to U.S. Senate and House Candidates: 1977-1982.*

— Third quarter report due.

19 — Commission prescribes revised regulations on public access to FEC information.

21 — Commission releases statistics based on *FEC Reports on Financial Activity, 1983-84, Interim Report No. 7: U.S. Senate and House Campaigns,* covering activity through June 1984.

25 — Pre-general election report due.

26 — Commission releases statistics based on *FEC Reports on Financial Activity, 1983-1984, Interim Report No. 8: Party and Non-Party Political Committees,* covering activity through June 1984.

November

2 — Commission prescribes new regulations implementing Rehabilitation Act to ensure equal access of the handicapped to FEC programs.

4 — Commission releases statistics on 1983-84 financial activity of national party committees through October 17, 1984.

6 — Election Day.

8 — President Reagan signs Federal District Court Reorganization Act (Pub. L. 98-260), which repeals provisions in campaign finance law and other statutes that call for expedited consideration of cases in Federal court system.

9 — Commission publishes new brochure, *State and Local Elections and the Federal Campaign Law.*

20 — In *FEC v. Furgatch* and *FEC v. Dominelli,* U.S. District Court for the Southern District of California rules that plaintiffs' newspaper ads were not independent expenditures.

28 — Supreme Court hears oral argument in *FEC v. NCPAC* and *Democratic Party of U.S. v. NCPAC,* consolidated cases concerning enforcement of 26 U.S.C. §9012(f).

29 — Commission releases statistics based on *FEC Reports on Financial Activity, 1983-84, Interim Report No. 6: Presidential Pre-Nomination Campaigns,* covering activity through June 1984.

December

6 — Post-general election report due.

11 — Commission publishes *Federal Register* notice to take no action on National Council of Farmer Cooperatives' petition to permit solicitation of indirect members of federated cooperatives.

— Commission publishes *Legislative History of Federal Election Campaign Act Amendments of 1979,* prepared by FEC law library.

12 — President Reagan signs Pub. L. 98-473, which appropriates $12.9 million in fiscal year 1985 funds for Commission.

18 — Commission elects John Warren McGarry and Joan D. Aikens respectively as Chairman and Vice Chairman for 1985.

Appendix 4
The FEC's Budget

The Commission received $9.987 million in funding for fiscal year 1983. Congress appropriated $9.790 million through two continuing resolutions and an additional $197,000 to cover part of the October 1982 pay raise.

In fiscal year 1984, the Commission's authorization of $10.649 million, plus a supplemental appropriation of $95,000 to cover part of the 1984 pay raise, brought total funding to $10.744 million.

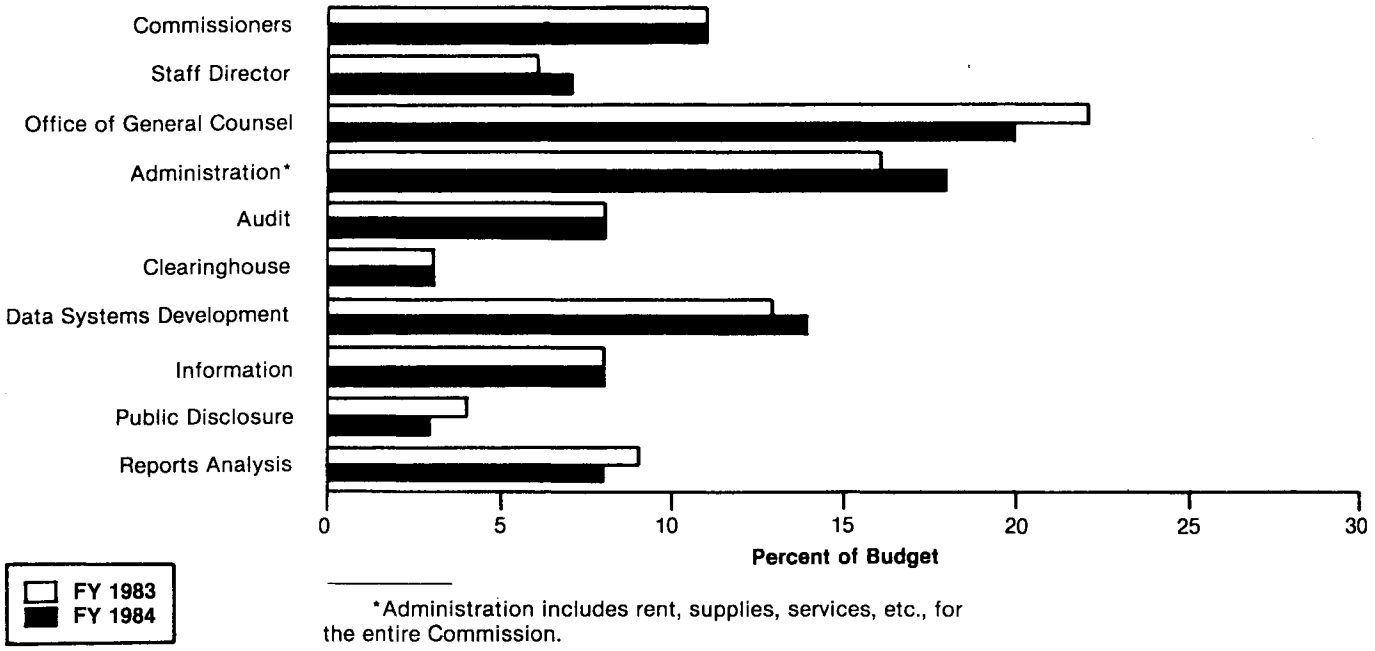
The table below compares functional allocations of budget resources for fiscal years 1983 and 1984. The two charts that follow compare allocations of budget and staff by division for the fiscal years.

FEC Budget
Functional Allocation

	FY 83	FY 84
Personnel Compensation, Including Benefits	$7,194,703	$ 7,585,752
Travel	112,770	212,960
Transportation and Motor Pool	7,329	6,599
Commercial Space	13,179	14,674
Equipment Rental	179,639	194,649
Printing	260,231	281,900
Contracts	727,101	799,085
Administrative Expenses	56,912	66,437
Supplies	86,954	147,631
Library Materials	41,494	60,234
Telephone, Telegraph	232,440	307,221
Postage	54,933	125,000
Space Rental	574,961	586,627
Equipment Purchases	220,456	205,178
Training	27,349	27,330
GSA, Services, Other	61,031	95,435
Total	$9,851,482*	$10,716,712*

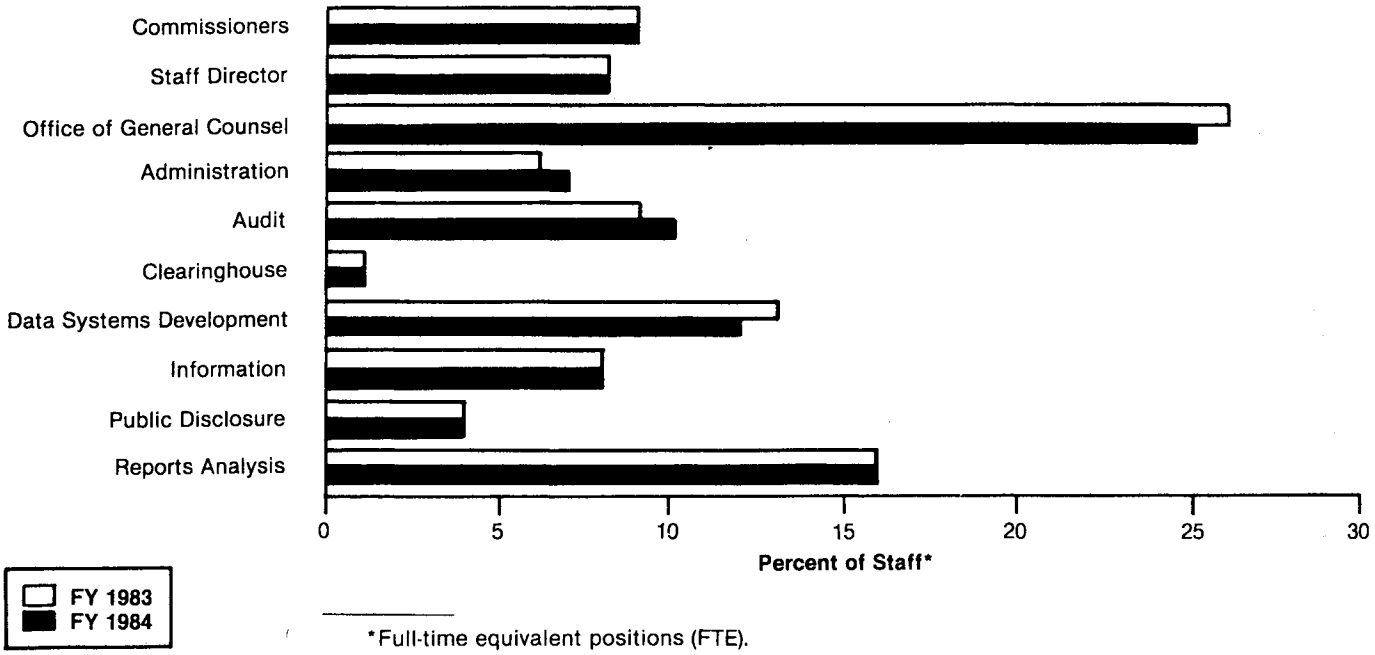
*Unexpended funds were returned to the U.S. Treasury.

Divisional Allocation of Budget



*Administration includes rent, supplies, services, etc., for the entire Commission.

Divisional Allocation of Staff



*Full-time equivalent positions (FTE).

Appendix 5
Statistics on Commission Operations

Summary of Disclosure Files

	Total Filers Existing in 1984	Filers Terminated as of 12/31/84	Continuing Filers as of 12/31/84	Number of Reports and Statements in 1984	Gross Receipts in 1984	Gross Expenditures in 1984
Presidential	504	48	456	1,654	$198,606,285	$196,402,032
Candidates	269	21	248			
Committees	235	27	208			
Senate	1,118	185	933	3,809	$148,503,199	$158,933,596
Candidates	695	126	569			
Committees	423	59	364			
House	5,406	1,123	4,283	22,266	$184,036,633	$178,406,592
Candidates	3,410	826	2,584			
Committees	1,996	297	1,699			
Party	588	48	540	4,306	$407,661,880	$433,178,329
National Level Committees	37	3	34			
State Level Committees	154	7	147			
Local Level Committees	387	38	349			
Convention Committees	10	0	10			
Delegates	158	1	157	504	$ 825,637	$ 800,657
Nonparty	4,182	173	4,009	32,953	$184,890,817	$197,318,628
Labor Committees	416	22	394			
Corporate Committees	1,741	59	1,682			
Membership, Trade & Other Committees	2,025	92	1,933			
Communication Cost Filers	120	N/A	N/A	227	N/A	$ 6,134,103
Independent Expenditures By Persons Other Than Political Committees	163	N/A	N/A	291	N/A	$ 1,355,824

Divisional Statistics*

	Calendar Year 1984
Reports Analysis Division	
Documents processed	56,521
Reports reviewed	30,091
Telephone assistance and meetings	6,825
Requests for additional information (RFAIs)	5,763
Second RFAIs	1,652
Names of candidate committees published for failure to file reports	76
Compliance matters referred to the Office of General Counsel or Audit Division	118
Data Systems Development Division	
Documents receiving Pass I** coding	64,538
Documents receiving Pass III** coding	32,499
Documents receiving Pass I entry	60,240
Documents receiving Pass III entry	18,529
Transactions receiving Pass III entry ***	287,501

*In contrast to previous reports, figures represent calendar year, rather than fiscal year, totals.

**Computer coding and entry of campaign finance information occurs in two phases. In the first phase, Pass I, summary information is coded and entered into the computer within 48 hours of the Commission's receipt of the report. During the second phase, Pass III, itemized information is coded and entered.

***Pass III transactions are itemized transactions including contributions of $500 or more by individuals, as well as contributions, transfers and expenditures of any amount by various committees and other filers.

	Calendar Year 1984
Audits Completed by Audit Division, 1975-1984	
Presidential	46
Presidential Joint Fundraising*	6
Senate	12
House	108
Party (National)	38
Party (Other)	97
Nonparty (PACs)	59
Total	366
Public Records Office	
Campaign finance material processed (total pages)	1,392,292
Requests for campaign finance reports	7,641
Visitors	9,599
Total people served	17,240
Information phone calls	13,183
Computer printouts provided	95,372
Total income (transmitted to U.S. Treasury)	$80,203
Cumulative total pages of documents available for review	5,598,262

*Presidential joint fundraising committees are those established by two or more political committees, including at least one Presidential committee, for the purpose of raising funds jointly.

Office of General Counsel

	Calendar Year 1984
Information Services Division	
Telephone inquiries	84,665
Information letters	202
Orders for FEC materials	16,669
Prior notices (sent to inform filers of reporting deadlines)	42,388
Other mailings	16,497
Visitors	146
Public appearances by Commissioners and staff	163
State workshops	3
Press releases	215
Telephone inquiries from press	15,317
Visitors to press office	1,922
Freedom of Information Act (FOIA) requests	100
Fees for materials requested under the FOIA (transmitted to U.S. Treasury)	$13,953
Number of publications	28
Assistance to Secretaries of State (State election offices)	3,096
Notices of failure to file with State election offices	814
Clearinghouse on Election Administration	
Telephone inquiries	3,299
Information letters	583
Visitors	90
State workshops	9

	Calendar Year 1984
Advisory Opinions	
Requests pending at beginning of 1984	10
Requests received	63
Issued, closed or withdrawn*	68
Pending at end of year	5
Compliance Cases (MURs)**	
Cases pending at beginning of 1984	78
Cases opened	283
Cases closed	189
Cases pending at end of year	172
Litigation	
Cases pending at beginning of 1984	24
Cases opened	35
Cases closed	27
Cases pending at end of year	32
Cases won	19
Cases lost	3
Cases voluntarily dismissed	3
Cases dismissed as moot	2
Law Library	
Telephone inquiries	1,863
Visitors served	732

*Fifty-nine opinions were issued; nine opinion requests were withdrawn or closed without issuance of an opinion.

**Compliance cases, referred to as MURs (Matters Under Review), stem from possible violations of the election law which come to the Commission's attention either through formal complaints filed with the Commission or as a result of the Commission's own internal monitoring procedures. The campaign finance law requires that investigations remain confidential until the Commission makes a final determination and the case is closed. At that point, the case file is made available to the public.

Appendix 6
Computer Indexes

The Public Records Office, using the FEC s computer system, produces printouts of the major disclosure indexes described below.

Committee Names and Addresses
The B Index includes the name and address of each committee, the treasurer's name, the committee ID number, the name of the connected organization (if any) and a notation if the committee is a "qualified" multicandidate committee, permitted to give larger contributions to candidates than other committees. There is a separate list for political action committees (PACs) and party committees. Another list arranges these committees by State.

Candidate Names and Addresses
The A Index is sorted by type of office sought (President, U.S. Senator, U.S. Representative) and alphabetically lists each candidate with documents on file relating to him or her in the current election cycle. The printout includes the candidate ID number, candidate name and address, year of election and party affiliation.

Current Election Candidate Names and Addresses
The 415 Index is similar to the A Index (above) but lists only those candidates who have filed statements of candidacy for the current election cycle.

Candidate Committees
The Report 93 alphabetically lists Presidential, Senate and House candidates and includes, for each candidate, the ID number, address and party designation. Also listed are the name, address, ID number and treasurer's name of the principal campaign committee and of any other committees authorized by the candidate.

Key Word in Committee Name
The *TEXT* capability permits the computer to search and list all committee titles that include a word or phrase designated by the user.

Treasurer's Name
The computer searches and lists all committee treasurers with the same last name (designated by the user), the names of their committees and the committee ID numbers.

Multicandidate Committee Index
This index lists political committees that have qualified as multicandidate committees and are thus permitted to contribute larger amounts to candidates than other committees. Arranged in alphabetical order by name of committee, the list includes each committee's ID number, the date it qualified as a multicandidate committee and the name of its connected organization, if any.

Chronology of New Committee Registrations
The 3Y Index lists in chronological order the names of committees that have registered in the current election cycle. The list includes the date of registration and the committee's name, ID number, address and connected organization, if any.

Recently Registered Committees
The *NULIST,* printed weekly, lists the name, ID number, address and connected organization (if any) of committees that have registered during the previous week.

Names of PACs and Their Sponsors
The 35c Committee/Sponsor Index alphabetically lists the names of PACs along with their ID numbers and the names of their sponsoring or connected organizations.

Names of Organizations and Their PACs
The 35o Sponsor/Committee Index alphabetically lists the names of organizations along with the names and ID numbers of their PACs.

Categories of PACs
The Report 140 lists PACs by the category they selected on their registration statements.

Categories include: corporation, labor organization, membership organization, trade association, cooperative and corporation without capital stock. The list includes the PAC's name, ID number and connected organization.

Committee Disclosure Documents[1]
The C Index includes, for each committee, its name and ID number; a list of each document filed (name of report, period receipts, period disbursements, coverage dates, number of pages and microfilm location); and total gross receipts and disbursements.

Committee Ranking by Gross Receipts or Expenditures
The Report 933 provides a list of the names of committees ranked in order of the highest total gross receipts. Because committees' reporting schedules differ, however, totals may represent different time periods.

Candidate Campaign Documents[1]
The E Index provides the following information on each candidate:[2]

1. Candidate name, State/district, party affiliation and candidate ID number.
2. List of all documents filed by the candidate (statement of candidacy, etc.).
3. List of all documents filed by the principal campaign committee (report type, coverage dates, period receipts and disbursements, number of pages and microfilm locations).
4. List of all documents filed by other authorized committees of the same candidate (if any).
5. List of all PACs and party committees contributing to the candidate's campaign and the aggregate total of all such contributions to date. The list includes the name of the connected organization of a contributing PAC. Also listed are committees making expenditures for or against the candidate, party committees making coordinated party expenditures (Section 441a(d)) and aggregate totals spent to date.
6. List of all persons and unauthorized single candidate committees reporting independent expenditures for or against the candidate.
7. List of all persons and committees filing unauthorized delegate reports.
8. List of all corporations and labor organizations reporting communication costs for or against the candidate.
9. List of all unauthorized single candidate committees supporting or opposing a candidate and each committee's receipts and disbursements for the reporting period.

Presidential Candidates
The H Index on Presidential campaigns is similar to the E Index (above) but lists party and PAC contributions as reported by the Presidential candidates' authorized committees.

Itemized Contributions
The G Index identifies contributions of $500 or more received by a committee from individuals, the reports on which the transactions were disclosed and the microfilm locations of the reported entries.

Individual Contributors
The Name Search capability permits a person to request a computer search for a specific last name in the national alphabetical list of contributors. The printout lists all persons with that last name and includes: the person's full name, address and occupation; the date, amount and recipient of the contribution; and the microfilm location of the reported entry. There is a substantial charge for this index, but the national list of contributors, periodically microfilmed, is available for review in the Public Records Office at no charge.

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[1] This index is available in State election offices with computerized access to FEC data; see page 15.

[2] Information in sections 1 through 4 comes from reports and statements filed by the candidate and his or her authorized committees. Sections 5 through 9 are based on data from reports filed by noncandidate committees and persons.

Committee Contributions to Candidates[3]
The D Index includes, for each committee, its name, ID number, name of connected organization and notation if it is "qualified" as a multicandidate committee. The index also lists all candidates supported or opposed by a committee, together with total aggregate contributions to, or expenditures on behalf of or against, each candidate. In the case of party committees, coordinated party expenditures (Section 441a(d)) are listed in place of independent expenditures.

Dates of Specific Contributions/Expenditures
The Detailed D Index itemizes the information on the D Index (above). It lists in chronological order each contribution and expenditure made on behalf of a candidate, along with the date, amount and microfilm location of the reported entry. The index can also search for specific candidates.

Total Contributions to Candidates by Selected Committees
The Combined D Index permits a person to select a group of committees for research. The computer will add together all of their contributions to candidates and print them in one list identifying the total amount contributed to each candidate by the group of committees.

Other Indexes
In addition to the above indexes, the Commission produces other types of computer indexes on a periodic basis (e.g., an index of corporate/labor communication costs). These periodic indexes are available in the Public Records Office for inspection and copying.

[3]This index is available in State election offices with computerized access to FEC data; see page 15.

Appendix 7
FEC Information Services

Public Records

Staff from the Public Records Office answer questions and provide information on the campaign finance activities of political committees and candidates involved in Federal elections. Open weekdays from 9 a.m. to 5 p.m., and evenings and weekends during heavy reporting periods, the office is a library facility with ample work space and a knowledgeable staff to help locate documents. The FEC encourages the public to review the many documents available, including:

- Reports and statements filed by Federal candidates and committees (1972-present)[1]
- *FEC Reports on Financial Activity* and *Disclosure Series* (published indexes that consolidate and summarize data taken from financial disclosure reports)
- Daily updated computer printouts of various FEC indexes (see Appendix 6)
- Advisory opinion requests and advisory opinions
- MURs (closed compliance cases) and a MUR index

Those outside Washington may request documents by phone or mail.[2]

Public Communications

The public affairs staff respond to the many questions on the campaign finance law received daily on the FEC's toll-free phone lines. While Public Communications staff are not attorneys and do not give opinions of an advisory nature,[3] they do help the public understand and voluntarily comply with the law by:

- Explaining FEC regulations, procedures and advisory opinions on the phone or in writing;
- Researching advisory opinions and legal provisions on specific questions;
- Conducting workshops on the law;
- Speaking informally with groups visiting the FEC; and
- Recommending and taking orders for publications and reporting forms.

The Public Communications Office is open to the public weekdays from 8 a.m. to 6 p.m.

Publications

The FEC's Publications Office produces materials to help candidates, political committees and interested individuals understand and comply with the campaign finance law. Free copies of the publications may be ordered from the Public Communications Office (see above). One brochure, *Free Publications,* lists current offerings and has a convenient mail-in order form.

Press Office

Staff of the Press Office are the Commission's official media spokespersons. In addition to publicizing Commission decisions and actions, they respond to all questions from representatives of the print and broadcast media. The office also handles requests under the Freedom of Information Act.

Advisory Opinions

For questions relating to the application of the law to a specific factual situation, anyone may request

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[1] Anyone using such documents is reminded, however, of the law's requirement that information copied from reports and statements may not be sold or used for soliciting contributions or for any commercial purpose, although the name and address of a political committee may be used to solicit contributions from the committee. 2 U.S.C. Section 438(a)(4).

[2] Outside Washington, the public has access to the Commission's computer indexes through terminals located in several State election offices. See page 15.

[3] Commission staff may not grant approval or disapproval of a specific activity. Individuals seeking FEC sanction for a specific activity should request an advisory opinion.

an advisory opinion. The Commission issues an advisory opinion once it has been approved by at least four Commissioners. Each opinion is summarized in the FEC newsletter, the *Record,* and copies of opinions are available from the Public Records Office. If a person who requests an opinion acts in accordance with its advice, the person is not subject to any penalties with regard to the activity in question. 2 U.S.C. Section 437f(c)(2).

Reports Analysis Division
The Reports Analysis Division (RAD) reviews the campaign finance reports filed by political committees and assists filers in complying with the law's disclosure requirements. Each political committee registered with the FEC is assigned to one of approximately 30 reports analysts, who review committee reports and statements to detect reporting problems, monitor individual contribution limits and track committees that fail to file reports. In reviewing a committee's reports, the analyst becomes familiar with reporting problems the committee may have. An analyst notifies a committee of a reporting error or omission (or an apparent violation of the law detected in the report) by sending the committee a request for additional information (RFAI).

Clearinghouse
The National Clearinghouse on Election Administration provides information to the public on the electoral process. The Clearinghouse also conducts regional workshops and publishes studies on election administration, available at cost (see Appendix 8).

Commission Library
The Commission law library, part of the Office of General Counsel, is open to the public. The collection includes basic legal research tools and materials dealing with political campaign finance, corporate and labor political activity and campaign finance reform. Library staff prepare an *Index to Advisory Opinions* and a *Campaign Finance and Federal Elections Bibliography,* both available for purchase from the Public Records Office.

Appendix 8
Clearinghouse Studies

Listed below are research projects prepared by the National Clearinghouse on Election Administration. The publications, available at cost, include both recent studies and past reports.

Reports Completed in 1984

Campaign Finance Law 84 summarizes each State's campaign finance provisions and provides a convenient chart on State requirements.

Election Directory 84 lists names, addresses and telephone numbers of Federal and State election officials.

Reports Underway in 1984

Computerizing Election Administration, Volume I, Current Applications is the first of a three-volume series to assist local election officials in the technical and practical aspects of applying computer technology to the election system. This first volume offers initial guidance and describes the extent of computerization in 78 local election offices.

Voting System Standards, Phase I, Standards for the Hardware Elements of Punchcard and Marksense Voting Systems is the first of a multiphase project to develop voluntary standards for voting equipment. States or localities may employ these standards in approving the use of voting equipment within their jurisdictions. The standards are intended to ensure the proper performance of the various voting devices on the market.

Designing Effective Voter Information Programs, the first volume of the *Voter Information and Education Programs* series, suggests inexpensive but effective ways for election officials to convey essential registration and election information to the public.

Maintaining Registration Files suggests techniques and procedures for maintaining a clean and accurate registration file of voters.

Training Election Officials discusses economical and effective methods of training election workers and temporary office staff.

Previously Completed Reports

The publications described below remain available.

Education Programs in the Schools, the second volume in the series *Voter Information and Education Programs,* suggests various ways election officials can develop, in cooperation with educators, good voter education programs in the schools.

Statewide Registration Systems I and II is a report on computerized voter registration systems. Volume I examines problems involved in implementing a statewide system and offers suggestions for overcoming them. Volume II describes in detail the forms, procedures, outputs and variations of a basic computerized system.

Contested Elections and Recounts is a three-volume analysis of the laws and procedures governing contested elections and recounts for Federal offices. Volume I examines issues and functions within the Federal government's purview and makes recommendations for improving the handling of contested elections at the Federal level. Volume II presents similar material at the State level, and Volume III summarizes State and Federal laws related to contested elections.

Ballot Access is a four-volume report on how candidates gain access to the ballot for Federal office in each State. Volume I identifies central administrative problems and recommends solutions. Volume II describes the administrative process in each State, while Volume III details State legal memoranda and suggests ways of improving the legal process. Volume IV briefly summarizes ballot access requirements for Federal office in each State.

Mail Registration Systems discusses problems involved in implementing a mail registration system, describing how such systems operate and offering practical suggestions for overcoming difficulties.

Bilingual Election Services is a three-volume report on providing election services in languages other than English. Volume I summarizes such ser-

vices since 1975. Volume II is a glossary of common election terms in English along with their Spanish and dialectal equivalents, and Volume III is a manual for local election officials that gives practical advice on identifying language problems and providing bilingual registration and balloting services.

Election Administration, a four-volume set, covers planning, management and financial control concepts in local election administration. Volume I provides an overview of election functions and tasks and introduces the notion of a management cycle. Volume II focuses on planning, provides task/activity checklists and flow diagrams and discusses how tasks can be assigned. Volume III offers an accounting chart and shows how budgets can be prepared and costs monitored by applying the chart to each election function. Finally, Volume IV summarizes State code provisions on administrative and budgeting responsibilities.

Appendix 9
FEC Federal Register Notices, 1984

Notice*	Title	*Federal Register* Publication Date	Citation
1984-1	Filing Dates for Wisconsin Special Elections	1/10/84	49 *Fed. Reg.* 1284
1984-2	11 CFR Parts 100 and 101: Payments Received for Testing-the-Waters Activities; Advance Notice of Proposed Rulemaking	1/17/84	49 *Fed. Reg.* 1995
1984-3	11 CFR 9002.15: Presidential Election Campaign Fund; Denial of Rulemaking Petition	2/8/84	49 *Fed. Reg.* 4846
1984-4	11 CFR 114.8: Trade Association Solicitation Authorization; Final Rule; Notice of Effective Date	2/9/84	49 *Fed. Reg.* 4932
1984-5	11 CFR Part 114: Communications by Corporations and Labor Organizations; Final Rule; Notice of Effective Date	3/5/84	49 *Fed. Reg.* 7981
1984-6	Filing Dates for New Jersey Special Elections	5/1/84	49 *Fed. Reg.* 18621
1984-7	11 CFR Part 114: Solicitation of Indirect Members by Federated Cooperatives; Advance Notice of Proposed Rulemaking	5/17/84	49 *Fed. Reg.* 20831
1984-8	11 CFR Parts 4 and 5: Public Records and the Freedom of Information Act; Access to Public Disclosure Division Documents; Amendment of Fee Provisions; Notice of Proposed Rulemaking	5/29/84	49 *Fed. Reg.* 22335
1984-9	11 CFR Part 6: Enforcement of Nondiscrimination on the Basis of Handicap in FEC Programs; Notice of Proposed Rulemaking	6/27/84	49 *Fed. Reg.* 26244
1984-10	11 CFR Parts 9007 and 9038: Repayments by Publicly Financed Presidential Candidates; Notice of Proposed Rulemaking	6/28/84	49 *Fed. Reg.* 26596
1984-11	11 CFR Parts 4 and 5: Public Records and the Freedom of Information Act; Access to Public Disclosure Documents; Amendment to Fee Provisions; Final Rule; Transmittal to Congress	7/31/84	49 *Fed. Reg.* 30458

*This appendix does not include *Federal Register* notices of Commission meetings published under the Government in the Sunshine Act.

Notice	Title	*Federal Register* Publication Date	Citation
1984-12	11 CFR Parts 100 and 101: Payments Received for Testing-the-Waters Activities; Notice of Proposed Rulemaking	7/31/84	49 *Fed. Reg.* 30509
1984-13	11 CFR Part 9008: Federal Financing of Presidential Nominating Conventions; Final Rule; Technical Amendments	7/31/84	49 *Fed. Reg.* 30461
1984-14	11 CFR Parts 9007 and 9038: Repayments by Publicly Financed Presidential Candidates; Final Rule; Transmittal to Congress	8/22/84	49 *Fed. Reg.* 33225
1984-15	11 CFR Part 6: Enforcement of Nondiscrimination on the Basis of Handicap in FEC Programs; Final Rule; Transmittal to Congress	8/22/84	49 *Fed. Reg.* 33206
1984-16	Filing Dates for Kentucky Special Election	8/23/84	49 *Fed. Reg.* 33491
1984-17	11 CFR Parts 4 and 5: Public Records and the Freedom of Information Act; Access to Public Disclosure Division Documents; Amendment of Fee Provisions; Final Rule; Notice of Effective Date	10/19/84	49 *Fed. Reg.* 41016
1984-18	11 CFR Part 6: Enforcement of Nondiscrimination on the Basis of Handicap in FEC Programs; Final Rule; Notice of Effective Date	11/2/84	49 *Fed. Reg.* 44091
1984-19	Notice of Disposition of Rulemaking Petition; National Council of Farmer Cooperatives	12/11/84	49 *Fed. Reg.* 48201
1984-20	11 CFR Parts 2 and 3: Sunshine Act Regulations; Notice of Proposed Rulemaking	12/19/84	49 *Fed. Reg.* 49306