



THE FEDERAL ELECTION COMMISSION

RECORD

1325 K Street N.W. Washington, D.C. , 20463

Volume 2, No. 1 1976

COMMISSION SENDS REGULATIONS TO THE CONGRESS

PRESIDENTIAL PRIMARY MATCHING FUNDS

The proposed regulation on Presidential Primary Matching Funds was approved by the Commission on Dec. 18 for submission to the Congress. The regulation reflects changes suggested in testimony at the FEC hearings and by written comments.

Presidential candidates may receive matching payments for the nominating process in amounts not in excess of 50% of the expenditure limitation (\$10 million plus a cost of living adjustment). To be eligible, a candidate must raise individual contributions of \$250 or less aggregating \$5,000 in each of 20 States.

Highlights of the regulation follow:

Matchable Campaign Contribution

• "Matchable Campaign Contribution" means a gift of money [other than a loan, advance, subscription, deposit or anything of value] made by a *written instrument* identifying the individual making the contribution by full name, and mailing address.

1) Gifts of money will be considered matchable campaign contributions only to the extent of the first \$250 contributed by an individual.

2) The *full* amount shall be actually received by the candidate or his or her committee and deposited in a designated campaign depository.

3) The amount shall be received by the candidate on or after the first day of the calendar year immediately preceding the calendar year of the Presidential election but no later than the last day of the matching payment period.

• "Written instrument" means (a) A check, money order, or any other negotiable instrument payable on demand, which contains the *full name and signature* of the contributor, and the amount and date of the contribution, and which contains the *mailing address* of the

contributor; or (b) A written record of a cash gift (which must not exceed \$100) signed in ink by the contributor, and including the contributor's full name, mailing address, and the amount and date of the gift.

Checks written on partnership accounts, or accounts of unincorporated associations or businesses are matchable if:

1) accompanied by documentation which specifies that the contribution is made by a specific individual or individuals;

2) the documentation is signed by the individual or individuals; and

3) the aggregate amount of the contribution drawn on a partnership, or unincorporated association or business account, does not exceed \$1,000 to any one Federal candidate for an election.

• **In no case will a contribution by a political committee or other organization be matchable.**

• Contributions eligible for matching are determined without regard to fundraising costs, except that a contribution made in exchange for an item with *significant intrinsic and enduring value* is not matchable.

Candidate Agreements

• ... The candidate's submission to the Commission to become eligible for matching funds is to be made in the following way:

1) For each State in which the candidate certifies he or she has met the "threshold" requirement, the candidate must submit an *alphabetical list of contributors*, showing *full name, residential address, date of contribution, the dollar amount of each contribution, the dollar amount of each contribution submitted for matching purposes, and the total amount of all matchable contributions*.

2) The candidate must submit a photocopy of each check or other written instrument for each contribution which he submits to receive matching funds. The photocopies must be segregated by date of deposit, and be accompanied by copies of the relevant deposit slip and the relevant bank statement.

Matching Payments in Excess of Threshold

• After a preliminary determination has been made that the candidate has successfully satisfied the

EDITOR'S CORRECTION

Please note on Page 5 (Vol. 1, No. 4) under *SUN EPA*, Item 2, copy should read:

2. *Sun may not make "any effort, either orally or in writing, to direct contributions by participants to SUN EPA to any candidate, group of candidates, political party, or other persons."*

threshold requirement, the Commission will notify the candidate and request the submission of the necessary documentation for all contributions that the candidate wishes to be matched. This submission need not be segregated by State.

Initial Certification

- Within 10 calendar days after the Commission formally determines that a candidate has established eligibility, the Commission will certify to the Secretary of the Treasury for payment of the amount to which such candidate is entitled.

Additional Certifications

- Requests for additional certifications may be submitted not more often than twice a month, on the first and third Mondays, unless the Commission at its discretion permits additional requests.

- Within 15 calendar days, the Commission will certify to the Secretary of the Treasury the additional amount to which a candidate is eligible.

Certification Review

- If the Commission intends to certify to the Treasury for payment of an amount which is less than the amount requested by the candidate, the Commission shall notify the candidate in writing:

- 1) That less than full certification is being considered.
- 2) The amount of the contribution and the name of the contributor which the Commission considers

not matchable, and the reasons why it will not be matched.

- 3) The Commission will certify to the Treasury for payment the amount of matchable contributions that are not in dispute.

- 4) That the candidate will be accorded an opportunity to supply the Commission with additional documentation or other explanation so as to make the contribution matchable.

- If the candidate chooses to supply the Commission with the requested information, and the Commission determines that the disputed contribution is still unmatchable, the candidate will be notified in writing of the action and the reasons therefor, and give the candidate an opportunity for a hearing within seven days from the receipt of this second notification.

POINT OF ENTRY, OFFICE ACCOUNTS, DISCLOSURE

On Dec. 2, 3, and 4, the FEC transmitted to the House and the Senate:

1. Its revised *proposed regulations on the initial place of filing of Federal campaign finance reports* (referred to as the "Point of Entry" regulation);

2. Its revised *proposed regulation on Congressional office accounts*;

3. The *proposed disclosure regulation* (highlighted in Vol. 1, No. 4 of the RECORD).

The law provides that the Commission may not promulgate any regulation disapproved by the Congress within 30 legislative days after transmittal to Congress.

SYNOPSIS OF RECENT ADVISORY OPINIONS

These Advisory Opinion synopses are offered for informative purposes only. Any interested party is advised to read the complete text of the Opinion published in the *Federal Register*, or to write to the Commission for a copy.

AO 1975-50. The Commission responded to several questions posed by an unsuccessful candidate for Congress who ran in a 1974 special, court-ordered election held on Jan. 7, 1975. Due to the peculiar circumstances of the matter, the Commission ruled that the 1974 Amendments to the Federal Election Campaign Act were inapplicable to contributions and expenditures received or made by the candidate.

The opinion also concluded that, generally, a corporation may not forgive prior debts or settle debts for less than the amount owed by the candidate or committee. In certain extenuating circumstances (which will be subject to Commission scrutiny on a case-by-case basis), settlement or forgiveness of a corporate debt may not be considered a corporate contribution, if a showing is made that the debt was incurred in a commercially reasonable manner. This showing must include at least the following:

1. that the extension of credit was made in a manner similar to extensions of credit to a non-political debtor or in accordance with regulations prescribed by other regulatory agencies;

2. that the candidate or political committee has undertaken an exhaustive effort to satisfy the outstanding debt; and

3. the corporate creditor has pursued its remedies in a manner similar in intensity to that employed in pursuit of a non-political debtor.

AO 1975-53. The contribution and expenditure limitations apply to a person who seeks nomination through a petition effort. The Commission believes the "primary" period continues through the last day of qualifying for a position on the general election ballot or the date of the last major party primary election, whichever is later. Consequently, expenditures related to a nomination by a petition effort are considered "primary" expenditures, and may be made in the same amounts and in the same manner as funds expended for running in a primary election.

Surplus funds remaining from a primary or petition campaign may be used in the general election. Any contributions received after the primary period but earmarked for the primary will be treated as contributions for the primary election as long as there still exist primary campaign debts. If no primary campaign debts exist, such contributions will be treated as contributions for the general election.

AO 1975-63. The Commission concluded that as provided in AO 1975-20, an honorarium paid by a political committee will be treated as a contribution in circumstances where: "1) the individual is a candidate for Federal office; and 2) the audience for the speech or appearance is comprised in substantial part of individuals from the electorate with respect to which the individual is a Federal candidate."

Thus, when a Federal officer addresses an audience which is not part of the electorate with respect to which he/she is a candidate, neither the honorarium nor the reimbursement for actual travel expenses for the speaker and the speaker's spouse constitutes a contribution. When the honorarium is made by a reporting political committee, the political committee must disclose the payment of the honorarium and travel expenses in its report.

The Commission emphasized that all situations where a political committee pays an honorarium and/or actual travel expenses to or on behalf of a Federal candidate are subject to examination or audit for any implications that it was in fact paid for the purpose of influencing the recipient's nomination or election to Federal office.

AO 1975-75. The Legislative Interest Committee of Illinois Dentists is a non-profit organization, incorporated for liability purposes only, whose exclusive function in the past was to support candidates for the Illinois legislature. In order to contribute to candidates, LICID must follow one of two courses of action:

1. If LICID intends to contribute from one general fund to Federal and non-Federal candidates alike, it must
 - a. file as a political committee;
 - b. disclose the sources of all monies in its general account;
 - c. return all monies in its account which would constitute illegal contributions under Federal law;
 - d. report all future receipts and disbursements, Federal or non-Federal, from the general account.
2. LICID may otherwise establish a separate Federal campaign committee. The separate committee
 - a. may receive only contributions designated by the donor for that committee or earmarked for Federal elections;
 - b. may not receive contributions in violation of 18 U.S.C. §§608(b), 610, 611, 613, 614, 615;
 - c. may receive transfers only from another Federal campaign committee or political committee;

- d. must file as a political committee with the Commission;
- e. must pay the expenses of establishing and administering the committee and of soliciting contributions to the committee only from monies properly in this committee.

AO 1975-82. The Commission modified its previous position on pre-1975 campaign debts by allowing Congressman Richmond to solicit contributions in 1976 to retire 1974 campaign debts. Contributions and expenditures made for this purpose only will not be subject to the contribution and expenditure limitations, but will be subject to the limitations on expenditures from a candidate's personal funds and those of his immediate family.

Full disclosure is required of contributions and expenditures made to retire the 1974 debt. Reporting of 1974 debts must be separate from any 1976 campaign effort and no transfers between the 1974 and 1976 campaign accounts are allowed.

Excess funds remaining after repayment of all debts may be returned to the original donor, used in a manner consistent with 2 U.S.C. §439a or transferred to the 1976 campaign if authorized by the original donor and attributed to the donor's contribution limitation.

AO 1975-85. Senator Humphrey asked the Commission whether a monetary award (the "Joseph Prize for Human Rights") given to a United States Senator in recognition of public service or special achievement is to be treated as an honorarium.

The opinion states that the word "honorarium" should be read narrowly and not be interpreted as including an award in certain circumstances. The Commission went on to establish general, but not exhaustive, criteria for distinguishing a bona fide award from an honorarium. To be considered an award, the gift of money must be made to an officer or employee of the Federal Government:

- "1. primarily in recognition of religious, charitable, scientific, educational, artistic, literary, or civil achievement;

**DEAR READER: PLEASE CLIP THIS COUPON AND RETURN IT TO US COMPLETED
WITH YOUR COMMENTS. THANK YOU.**

- Is publication of FEC activities (Proposed Regulations, Interim Guidelines, Advisory Opinion Requests, Advisory Opinions, Hearings, etc.) in the *Federal Register* a helpful and accessible method of disbursing this information to you? _____
- Would publication of FEC activities in the *Federal Register* once a week on the same day every week be preferable? _____
- Would a weekly (monthly) digest of FEC activities published and mailed by the FEC be preferable? _____
- Do you have any alternative suggestions for methods of distributing information on the activities of the FEC? _____

CURRENT ADVISORY OPINIONS LISTED

The following chart contains a listing and brief description of Advisory Opinions issued by the Commission from early through mid-December. Advisory Opinion Requests are designated a number as they are received by the Commission. Advisory Opinions are not necessarily approved in sequential order. Reference following each description is the publication date and page number in the Federal Register. (For descriptions of previously issued Advisory Opinions commencing with AO 1975-1, see The FEC Record, Vol. 1, Nos. 2-4.)

AO 1975-36—PAYMENT OF ADMINISTRATIVE COSTS. Payment of administrative costs incurred by a corporation on behalf of a political action committee operating as a separate segregated fund is not prohibited. (12/18/75-58802)

AO 1975-50—CORPORATION DEBTS. Corporations may not settle/forgive debts incurred by candidates except under extenuating circumstances. (12/16/75-58392)

AO 1975-53—NOMINATION BY PETITION EFFORT. Application of limitations on contributions and expenditures to nomination by a petition effort. (12/16/75-58392)

AO 1975-54—CAUCUS/CONVENTION PRIOR TO PRIMARY ELECTION. A caucus or convention held prior to a primary election but which does not select a nominee is not a separate election and will be considered part of the primary process. (12/18/75-58802)

AO 1975-63—PAYMENT OF HONORARIUM BY POLITICAL COMMITTEE. An honorarium paid by a political committee to a Federal officeholder/candidate is not a contribution when the audience addressed is not part of the electorate with respect to which he/she is a candidate (12/16/75-58397)

AO 1975-65—CONTRIBUTIONS BY FAMILY MEMBERS. A member of a candidate's immediate family may contribute more than \$1,000 per election, provided the member does not exceed the \$25,000 aggregate ceiling on all contributions in a calendar year by an individual, or the limitations on expenditures/contributions from the candi-

date's personal funds and those of his immediate family. (12/16/75-58393)

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

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

AO 1975-85—CLARIFIES "HONORARIUM." Sets forth guidelines as to when an "award" may not be considered an "honorarium." (12/16/75-58394)

AO 1975-88—EXCESS FUNDS SOLICITED TO RETIRE 1974 DEBT. Allows excess funds solicited to retire the 1974 campaign debt of a Federal officeholder to be used for any lawful purpose. (12/11/75-57757)

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

"2. based on a selection process with established criteria, and which process does not require the Federal officer or employee to apply for or compete for the award;

"3. gratuitously under circumstances which make clear that the Federal officer or employee is not required to make an appearance or speech, or write an article as a condition for receiving the award; and

"4. under circumstances where there is no significant evidence indicating that the award is made in lieu of an honorarium or contribution."

The Commission concluded that the "Joseph Prize for Human Rights," is a monetary award which does not constitute an honorarium. Thus, the award may be accepted by Senator Humphrey for his personal use, or donated by the Senator to a charity, without regard to the limitations on honoraria.

AO 1975-88. Funds received to retire 1974 campaign debts may be returned to the original donors on a pro-rated basis or on a last-received, first-returned basis. The funds may also be disposed of in accordance with the provisions of 2 U.S.C. §439a. The disclosure requirements apply to any disposition of the excess funds.

In addition, these funds may be transferred to the 1976 campaign if authorized by the original donors and attributed to the donor's contribution limitations.

UPDATE ON PRESIDENTIAL PRIMARY MATCHING FUNDS

Formal eligibility to receive matching payments was established for three Presidential candidates—Lloyd Bentsen, President Ford, and Terry Sanford—by the Commission on Dec. 18, 1975. On Dec. 23, formal eligibility was established for an additional eight candidates.

The initial entitlement of eligible candidates for matching payments was certified to the Secretary of the Treasury in the following amounts:

Birch Bayh	\$100,000.00
Lloyd Bentsen	492,029.84
James Carter	100,000.00
Gerald Ford	374,422.10
Fred Harris	100,000.00
Henry Jackson	100,000.00
Ronald Reagan	100,000.00
Terry Sanford	214,050.27
Sargent Shriver	100,000.00
Morris Udall	100,000.00
George Wallace	100,000.00

Total Payments Certified \$1,880,502.21

The Commission will certify to the Secretary of the Treasury additional amounts to which eligible candidates are entitled as contribution records are submitted by the candidates and reviewed by FEC staff.

JANUARY 31 REPORTING DATE

ALL CANDIDATES FOR FEDERAL OFFICE AND POLITICAL COMMITTEES SUPPORTING THOSE CANDIDATES ARE REQUIRED TO FILE A JANUARY 31 REPORT OF RECEIPTS AND EXPENDITURES ON OR BEFORE JAN. 31, 1976. BELOW ARE SUMMARIZED THE MAJOR POINTS OF THE INTERIM GUIDELINE: JANUARY 31 REPORT PUBLISHED IN THE FEDERAL REGISTER (Dec. 17, 1975, p. 58617), ALONG WITH OTHER PERTINENT INFORMATION.

WHO REPORTS WHERE?

- Candidates for President or Vice President
- Committees Supporting Presidential or Vice Presidential Candidates
- Committees Supporting any combination of Presidential, Senate or House Candidates
- "Person," other than political committees or candidates, required to file under 2 U.S.C. §434(e)

SHOULD FILE WITH: Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

* * * * *

- Candidates for the U.S. Senate
- Committees Supporting only Senate Candidates

SHOULD FILE WITH: Office of Public Records
Secretary of the Senate
Room 623, 119 D St., N.E.
Washington, D.C. 20510

* * * * *

- Candidates for the U.S. House of Representatives
- Committees Supporting only House Candidates

SHOULD FILE WITH: Office of Records and Registration
Clerk of the House of Representatives
Room 1036 Longworth House
Office Bldg.
Washington, D.C. 20515

FOURTH QUARTER OR ANNUAL REPORT

In order to have one filing deadline in January 1976, the Commission has determined that those candidates or committees filing the 4th Quarter Report or the Annual Report should file by Jan. 31.

The January 31 Report will cover all financial activity:

- from the date of the close of books of the last report filed through Dec. 31, 1975,
or
- from Jan. 1, 1975, through Dec. 31, 1975, if no report was filed during the 1975 calendar year.

A report sent by registered or certified mail, post-marked on or before Jan. 31, 1976, shall be considered a timely filing.

FORMS

Interim forms published by the Commission or forms issued by the previous Supervisory Officers should be used. Requests for forms should be directed to the Public Communications division of the FEC.

ID NUMBERS

Committees filing reports with the FEC have not been assigned FEC ID numbers. The name under which the committee is registered should appear on the report or statement filed.

Committees filing reports with the Secretary of the Senate or the Clerk of the House should use the ID numbers assigned by those offices.

QUESTIONS?

Contact: Patricia Schering
Reports Examining
Federal Election Commission
(202) 382-3484

Fran Voorde
Public Communications
Federal Election Commission
(202) 382-4733

FEC NOTES

Answers to Most Frequently Asked Questions

Federal funds for Presidential primary candidates, national party nominating conventions, and the Presidential general election candidates are available from the Treasury Department due to the check-off feature on Federal Income Tax Forms. Safeguards against illegal use of these funds include:

- Statutory requirement (26 U.S.C. §9007(a)) that the Commission examine and audit qualified campaign expenses of Presidential candidates or parties after the election;
- Statutory provision (26 U.S.C. §9007(b)) for repayment of funds determined by the Commission to have been in excess of the entitlement or to have been used for other than qualified expenses;
- Statutory language (26 U.S.C. §9008(c) and (d)) limiting the amounts and uses of funds for national conventions.

New Registrations

Public Records has received several new non-party multi-candidate committee registrations:

- CWA District 4 Political Action Committee (Affiliated with Communications Workers of America)
- Crocker's Individual Voluntary Investment In Citizenship (CIVIC) (Affiliated with Crocker National Bank and Affiliates)
- Committee for Sensible Government (Affiliated with Wheelabrator-Frye, Inc.)
- Committee for Quality Government - F (Affiliated with CB&T Bancshares, Inc.)
- CWA District 5 Political Action Committee (Affiliated with Communications Workers of America)
- Allegheny Political Action Committee (Affiliated with Allegheny Airlines, Inc.)

- Coors Employees' Political Action Committee (No affiliation listed)
- Concerned Citizens Political Action Committee (Affiliated with Metropolitan Contract Services, Inc.)
- Marcor, Inc. Political Action Committee (Affiliated with Marcor, Inc.)
- Montgomery Ward & Co., Inc. (Affiliated with Montgomery Ward & Co., Inc.)

Feb. 23 Los Angeles, CA
 Feb. 25 Dallas, TX
 Mar. 1 St. Louis, MO
 Mar. 2 Detroit, MI
 Mar. 6 Memphis, TN
 Mar. 8 Atlanta, GA
 Mar. 12 New York, NY
 Mar. 13 Boston, MA

Anyone wishing further information should contact the Special Projects Director in the Public Communications division. (202/382-4733)

Public Seminars

The FEC has scheduled Regional Seminars to be held starting Jan. 26. The one-day programs will feature basic information on Title 2 and Title 18, Advisory Opinions of significance, instructions from AID regarding the new bookkeeping manual, and an assessment of the strategic implications of the law on a political campaign. The Washington, D.C. seminar will deal especially with multi-candidate committees and will concentrate on setting up PAC's and administering segregated funds. Commission members and staff will be available to answer questions. A listing of the dates and cities where the seminars will be held follows:

Jan. 26-27 House of Representatives, Washington, D.C.
 Jan. 28 Senate, Washington, D.C.
 Feb. 2 Washington, D.C. (focus on multi-candidate committees)
 Feb. 4 Baltimore, MD
 Feb. 7 Richmond, VA
 Feb. 13 Chicago, IL
 Feb. 14 Cincinnati, OH
 Feb. 17 Philadelphia, PA
 Feb. 20 Salt Lake City, UT
 Feb. 21 San Francisco, CA

Reader Response

The *Record* is receiving comments in response to the coupon included in the *Vol. 1, No. 3* issue. Reader response is helpful in formulating future issues and in correcting errors in the mailing labels. Please continue to send your coupons. Thank you.

MATERIALS AVAILABLE

- *Federal Register* Reprints
- *FEC Record*, Vol. 1, Nos. 1-4
- *FEC Record*, Special Year-End Edition
- General Information Folder
- Index of Reports and Statements
- *Cost of Election Administration*
- *Survey of Absentee Registration and Voting*
- Chart of Reporting Dates
- November Issue of *Election Law Survey*
- Volunteer's Guide
- Fundraiser's Guide
- Revised Edition of the *Federal Election Campaign Act* (1st Ed., April 1975)

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