



THE FEDERAL ELECTION COMMISSION

RECORD

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PRE-ELECTION REPORT DUE OCTOBER 23

WHO

All candidates for election to Federal office in the November 2 general election and all committees supporting such candidates (including political committees previously filing monthly reports) and all persons making "independent expenditures" in excess of \$100 in this reporting period on behalf of a clearly identified Federal candidate are required to file a pre-election report. This pre-election requirement applies to all Federal candidates in the general election and all political committees which support them, regardless of how much they have raised or spent to influence Federal elections.

WHAT

Pre-election reports must cover all receipts and expenditures from the date of the last report through October 18, 1976. If a candidate or committee has previously waived its quarterly reporting requirement by indicating on a postcard (FEC Form 3a) that it did not raise or spend more than \$1,000 in a quarter, its pre-election report must cover all transactions since its last report, or, if no report was filed in 1976, since January 1, 1976.

DATES

Pre-election reports must be postmarked by midnight October 21, if sent by registered or certified mail. Reports are due on October 23. The Commission strongly recommends, however, that all reports be sent by registered or certified mail so that candidates and committees will have proof of mailing for their records.

FORMS

The pre-election report may be filed on one of three different forms. Any principal campaign committee which has not received contributions or made expenditures in excess of \$50,000 per election may file its report on FEC Short Form 6, provided that the candidate has not authorized any other campaign committee. All candidates and other political committees must file their reports on FEC Form 3. (FEC Form 3a, the postcard, may not be used for the pre-election report.)

Political committees disclose independent expenditures on FEC Form 3. All other persons making independent expenditures in excess of \$100 must report all independent expenditures on FEC Form 5.

SPECIAL PROCEDURE FOR PRINCIPAL CAMPAIGN COMMITTEES

With regard to the pre-election report alone, the principal campaign committee may file a consolidated "summary" report (Form 3b) without including the individual reports of the candidate and other authorized campaign committees (normally required to be filed along with the principal campaign committee's report), as long as the following procedures are followed:

1. Each authorized committee, in addition to submitting its report to the principal campaign committee, must also file a copy of its report with the Federal government by the October 23 filing date; and
2. The principal campaign committee must subsequently file a complete consolidated report (including all individual reports of authorized committees and candidate) no later than October 28 (five days before the election).

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FEC NOTICES ON REPORTING AND REGISTRATION

AFFILIATIONS REQUIRED

On September 20, 1976, the FEC initiated a special inquiry into which political committees are "affiliated" and, therefore, subject to special combined contribution restrictions. Under the 1976 amendments to the campaign law, "affiliated committees" (i.e., those which are established, financed, maintained or controlled by the same corporation, labor organization, person or group of persons) may collectively make contributions up to the statutory limit permitted a single committee: \$1,000 per candidate, per election; or, in the case of "multicandidate committees," \$5,000 per candidate, per election.

In a special letter, the FEC asked chairmen of all non-party political committees to report their committee affiliations. FEC Chairman Vernon Thomson said, "The Commission wants to identify which committees are not aware that they are [collectively] subject to the single contribution limit, in order to help these committees avoid improper contributions." Identification of committee affiliations is also essential to the Commission's maintenance of an accurate centralized index on contributions required by law. The Commission will publish updated versions of the index in the Federal Register on a continuing basis. Copies may be obtained from the Commission upon request.

REPORTING INDEPENDENT EXPENDITURES

In mid-September, the FEC sent a "Notice of Independent Expenditures Reporting" to all candidates and political committees. The notice stated that, under the Federal Election Campaign Act, any person who makes "independent expenditures" expressly advocating the election or defeat of a clearly identified Federal candidate, aggregating in excess of \$100 during a calendar year, "must file with the Commission a proper report disclosing all independent expenditures and itemizing each [one] in excess of \$100." This itemization must include the identification of the candidate on whose behalf the "independent expenditure" was made, the purpose, the date and amount of the expenditure, the identity of the candidate, the office sought and whether the expenditure was in support of or in opposition to the candidate. Additionally, every person reporting an "independent expenditure" must certify, under penalty of perjury, that the expenditure "was not made with the cooperation, consultation or coordination with the candidate or his or her agent." If the expenditure does not meet this standard of "independence," it is considered a contribution-in-kind and is, therefore, subject to the contribution limitations and restrictions of the law.

New Reporting Forms: The Commission has also issued two new forms for reporting independent expenditures.

1. A **political committee** must report independent expenditures on **FEC Schedule E**. It must be signed by the committee's treasurer, and it **must be notarized**. All independent expenditures must be reported in any reporting period in which they were made.
2. **Any person other than a political committee** must file both a report on **FEC Form 5** and a separate statement signed by the person making the expenditure, certifying that the independent expenditure was not made in cooperation, consultation or coordination with the candidate or his or her agent. This separate statement **must be notarized**. Reports, which need not be cumulative, are required only for those reporting periods in which independent expenditures exceeded \$100.

Right to File Complaint: The Commission advised all persons of their right to file a complaint against any person who has failed to report his independent expenditures. Under the law, these complaints are to be signed, sworn to and notarized and should describe the allegedly unreported "independent expenditure" in as much detail as possible.

REPORTING THE PURPOSE OF EXPENDITURES

In a special letter, the FEC urged candidates and their principal campaign committees to describe more fully the purpose of their itemized expenditures and to maintain back-up materials for all expenditures. The letter stated that, "as required by the statute, the 'particulars' of each over-\$100 expenditure must be reported. Entries such as 'advance to fieldman' or 'travel' are not sufficient to meet the statutory requirements. An advance to staff is not an expenditure but rather an intra-committee transfer. The actual use to which the advance is put must be itemized." For example, if a fieldman receives a \$500 advance and spends \$250 to rent a hall, \$125 on posters and \$125 on meals and lodging, each of these expenditures must be specifically itemized. Expenditures of \$100 or less need not be itemized, but must be aggregated and reported as unitemized expenditures.

Back-up material for all expenditures must be maintained. In its letter, the Commission noted that some committees and candidates are not maintaining receipted bills or invoices as backup for expenditures. The proposed regulations permit committees to keep a cancelled check and a contemporaneous memorandum instead of a receipted bill, **but only if a receipted bill is not available**.

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FEC NOTICES ON DONATIONS AND EXPENDITURES

CONTRIBUTIONS TO SINGLE CANDIDATE COMMITTEES MAKING INDEPENDENT EXPENDITURES

In a revised policy statement issued on September 23, 1976, the FEC stated that contributions made to a single candidate committee which makes independent expenditures on behalf of only one candidate are limited to \$1,000 per candidate, per election (or \$5,000 if the donor is a multi-candidate committee). This policy applies to all elections, including the Presidential general elections. The Commission said that even though Presidential nominees who accept public funds may not accept any contributions, a donor may contribute up to \$1,000 (or \$5,000) to an unauthorized committee only making independent expenditures on behalf of a single Presidential nominee. In addition, since such a contribution "is made for the purpose of influencing a Federal election" of a specific candidate, it counts against the individual donor's contribution ceiling of \$1,000 per candidate, per election (or in the case of multi-candidate committees, \$5,000 per candidate, per election).

Thus, for example, if an individual contributor has already given \$500 to a candidate, he or she could only contribute up to \$500 to a single candidate committee making independent expenditures only on behalf of that same candidate. The Commission stated that a person may, however, contribute up to \$5,000 to a political committee supporting several candidates and also contribute up to the maximum limit to one of the candidates supported by that committee, as long as the contributor had no "knowledge that a substantial portion of the contributor's funds will be contributed by the committee to that candidate or expended on behalf of the candidate."

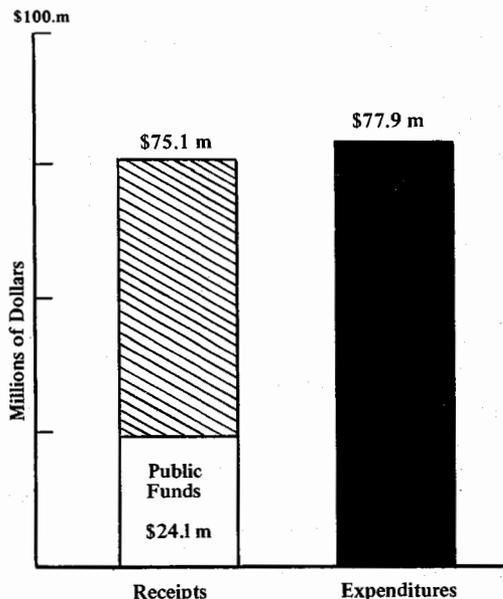
NO PARTY CONTRIBUTIONS TO PRESIDENTIAL NOMINEES

On September 21, 1976, the Federal Election Commission advised State and local party organizations that under the Federal Election Campaign Act, as amended, no party unit may make any contributions (money or in-kind) to Presidential candidates accepting Federal money in the general elections (Ford and Carter). In addition, with limited exceptions, party organizations are prohibited from making expenditures on behalf of the Presidential nominees. For example, all references to the Presidential nominees in party advertising, brochures, mailings, etc. are barred, with three exceptions:

1. **Slate Card Exemption:** According to the FEC letter, the statute specifically makes an exemption for "slate cards or sample ballots identifying at least three candidates for any public office." Presidential and Vice-Presidential candidates may be included on such a list.
2. **National Party Committee Funds:** The National Committee may designate a State or any local party unit as

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COMPUTER BEGINS TO TELL ALL



Presidential Pre-Nomination Financing 1976

[Expenditures are gross figures, not the actual cost of campaigning. The figures include disbursements which must be reported but are not subject to the Presidential primary campaign limitations, such as the repayment of loans and cash brought forward from previous campaigns.]

This graph is one of several contained in a summary accompanying the first comprehensive printout made by the Commission's new computer system. This compilation and analysis of campaign finance reports reveal Presidential candidates' pre-primary receipts and expenditures from January 1, 1975 through September 12, 1976. Indexes to this activity are issued as a daily printout and as a periodic summary, the "Disclosure Series," available in printed or microfilm form from the FEC.

PRE-ELECTION REPORT

(Continued from p. 1)

PRE-ELECTION CONTRIBUTIONS AND INDEPENDENT EXPENDITURES MADE AFTER BOOKS ARE CLOSED

If a contribution of \$1,000 or more is received between two and 15 days before the election, the recipient candidate or committee must report it, by telegram or hand-delivered letter, within 48 hours after it is received. An "independent expenditure" of \$1,000 or more made between two and 15 days before the election must be reported by the person making the expenditure within 48 hours after it is made.

FEC NOTICES

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its agent to make expenditures on behalf of its Presidential nominee from the National Committee's allotment of \$3.2 million. No such expenditures may be made, however, without the National Committee's affirmative designation. The section of the statute authorizing State and local party committee expenditures on behalf of Senate and House general election races does not contain a similar allowance on behalf of the Presidential general election.

3. **\$1,000 Presidential Expenditure:** In addition, the FEC has approved a proposed regulation permitting any State, county, city or congressional district party committee (but no other local party unit) to spend up to \$1,000 to further the general election of its Presidential nominee. This \$1,000 expenditure may be used for any type of communication and may also benefit the party's other nominees. In its recent letter, the FEC emphasized, however, that the \$1,000 expenditure is not allocable. "The allowance of \$1,000 may not be considered as part of an allocation of costs in expenditure(s) totalling more than \$1,000." While the \$1,000 expenditure does not count against any contribution or expenditure limit, it may trigger reporting requirements.

CONTRIBUTIONS TO AND FROM AFFILIATED COMMITTEES

On August 30, 1976, the Commission adopted a policy that a group of affiliated committees is considered one political committee for purposes of receiving and making contributions. In a policy memorandum, the FEC stated that "an individual who has given \$5,000 to one committee of a group of affiliated committees," may not give "any additional money to any of the other affiliates. . . ." The Commission also indicated that a "political committee which is not a multi-candidate committee, but which is affiliated with a multi-candidate committee. . . should be permitted to contribute more than \$1,000 per candidate per election."

In a related statement, the Commission said that unlimited transfers are permitted among committees which are affiliated with each other or to a common parent organization.

FEC LISTS NON-FILERS

On September 1 and September 23, the FEC published the names of 20 House and Senate candidates and their principal campaign committees that failed to file the required "ten-day pre-election report" on their campaign finances in primaries held between Aug. 3 and Sept. 14. Commission publication of non-filers is required by law. The Commission does not release these names, however, until after it has sent non-filing candidates or their principal campaign committees three different notices reminding them of their reporting obligations and urging compliance.

A "prior notice" is mailed 21 days before the primary date to all candidates whose names are on the ballot in their respective States. The second notice, a mailgram sent only to committees and candidates whose reports have not been received eight days before the primary, states that the Commission has "reason to believe" that the candidate or committee is in violation of the reporting requirements. The third and final notice, mailed to those whose reports are not filed six days before the primary, states that the Commission has "reasonable cause to believe" that they are in violation, and that "failure to respond may subject [the candidate or committee] to . . . publication of [the candidate or committee's] name on a list of non-filers."

In addition to publishing the names of non-filers, the FEC has the authority to undertake further enforcement action under the statute, including civil court enforcement and imposition of civil fines.

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1325 K STREET, NW
WASHINGTON, DC 20463

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