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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

JUN 18 6 11 PM '02

**AGENDA ITEM**  
For Meeting of: 6-19-02

**MEMORANDUM**

**SUBMITTED LATE**

**DATE:** June 18, 2002  
**TO:** The Commission  
**FROM:** Commissioner Bradley A. Smith *BA S*  
**RE:** Proposed Amendments to Agenda Document 02-44 Final Rule for Excessive and Prohibited Contributions: Non-Federal Funds or Soft Money

Attached please find amendments that I am considering offering on June 19, 2002 to amend Agenda Document 02-44 Final Rule for Excessive and Prohibited Contributions: Non-Federal Funds or Soft Money.

I had attached these amendments to my first memorandum (Agenda Document 02-44-C) but somehow pages ended up missing from the final edition. Please add these pages to the previously circulated documents.

§ 300.2 Definitions.

(a) A 501(c) organization that makes expenditures or disbursements in connection with a Federal election as that term is used in 11 CFR 300.110, 300.37, 300.50, and 300.51 includes an organization that, within the current election cycle and the two years preceding it, has taken, or within the current election, plans to undertake the following activities:

- ~~(1) Directly or indirectly establishes, finances, maintains, supports, or controls a political committee;~~
- ~~(1)(2) Makes expenditures or disbursements for Federal election activity;~~
- ~~(2)(3) Makes expenditures in connection with an election for federal office;~~  
~~Finances voter registration at any time;~~
- ~~(4) Finances voter guides, candidate questionnaires, or candidate surveys that refer to one or more candidates for Federal office; or~~
- ~~(5) Finances get-out-the-vote communications that refer to one or more candidates for Federal office.~~

**§ 300.12 Transition rules.**

(a) Permissible uses of excess non-Federal funds. Non-Federal funds received before November 6, 2002, by a national committee of a political party, including a national congressional campaign committee, and in its possession on that date, must be used before January 1, 2003. Subject to the restrictions in paragraphs (b) and (e) of this section, such funds may be used ~~only~~ solely as follows:

- (1) To retire outstanding debts or obligations that were incurred solely in connection with an election held prior to November 6, 2002; or
- (2) To pay expenses, retire outstanding debts, or pay for obligations incurred solely in connection with any run-off election, recount, or election contest resulting from an election held prior to November 6, 2002.

~~(b)(1)–Prohibited uses of non-Federal funds . Non-Federal funds received by a national committee of a political party, including a national congressional campaign committee, before November 6, 2002, may not be used to pay for goods to be delivered or services to be rendered after November 6, 2002.~~

~~(2) Non-Federal funds received by a national committee of a political party, including a national party congressional campaign committee, before November 6, 2002, and in its possession on that date, may not be used for the following purposes:~~

- ~~(a)(1) To pay any expenditure as defined in 2 U.S.C. 431(9);~~
- ~~(b)(2) To retire outstanding debts or obligations that were incurred for any expenditure; or~~
- ~~(c)(3) To defray the costs of the construction, renovation or purchase of any office building or facility.~~

(c) Any non- funds remaining after payment of debts and obligations permitted in paragraph (a) of this section must be either disgorged to the United States Treasury or refunded to donors no later than December 31, 2002.

(d) National party committee office building or facility accounts. Before November 6, 2002, a the-national committee of a political party, including a national congressional campaign committee, may accept funds into its party office building or facility account, established pursuant to repealed 2 U.S.C. 431(8)(B)(viii), and may use the funds in the account only for the construction, renovation or purchase of an office building or facility. After November 5, 2002, the national party committees may no longer accept funds into such an account and must not use such funds for the purchase, renovation or construction of any office building or facility. Before November 6, 2002, a national committee of a political party may not use funds in its party office building or facility account for goods or materials to be delivered, or services to be rendered after November 6, 2002 for the construction, renovation or purchase of an office building. The funds may be used until November 6, 2002 for goods or services which in the usual, customary and ordinary course of business must be paid in advance. Funds on deposit in any party office building or facility account on November 6, 2002, must be either disgorged to the United States Treasury or refunded to donors.

(e) Application. This section also applies to:

- (1) An officer or agent acting on behalf of a national party committee or a national party congressional campaign committee; and

- (2) An entity that is directly or indirectly established, financed, maintained, or controlled by a national party committee or a national congressional campaign committee.

(f) Treatment of Federal and non-Federal accounts during transition period . The following provisions applicable to the allocation of, and payment for, expenses between Federal and non-Federal accounts of national party committees shall remain in effect between November 6 and December 31, 2002: 11 CFR 106.5(a), 106.5(b), 106.5(c), 106.5(f) and 106.5(g).