

§ 100.94

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entity in accordance with paragraph (d) of this section.

(f) *Date and public availability of payment rate.* For purposes of paragraphs (c), (d) and (e) of this section, the payment rate must be the rate available to the general public for the dates traveled or within seven (7) calendar days thereof. The payment rate must be determined by the time the payment is due under paragraph (c) or (d) of this section.

(g) *Preemption.* In all respects, State or local laws are preempted with respect to travel in connection with a Federal election to the extent they purport to supplant the rates or timing requirements of 11 CFR 100.93.

(h) *Reporting.* (1) In accordance with 11 CFR 104.13, a political committee on whose behalf the unreimbursed travel is conducted must report the receipt of an in-kind contribution and the making of an expenditure under paragraph (b)(2) of this section.

(2) When reporting a disbursement for travel services in accordance with this section, a political committee on whose behalf the travel is conducted must report the actual dates of travel for which the disbursement is made in the "purpose of disbursement" field.

(i) *Recordkeeping.* (1) For travel by airplane between cities served by regularly scheduled first-class or coach commercial airline service, or for travel to or from a military base on a government airplane, the political committee on whose behalf the travel is conducted shall maintain documentation of:

(i) The service provider and tail number (or other unique identifier for military airplanes) of the airplane used;

(ii) An itinerary showing the departure and arrival cities and the date(s) of departure and arrival, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign travelers; and

(iii) The lowest unrestricted non-discounted airfare available in accordance with paragraphs (c), (e) and (f) of this section, including the airline offering that fare, flight number, travel service, if any, providing that fare, and the dates on which the rates are based.

(2) For travel by airplane to or from a city not served by regularly scheduled commercial airline service, the political committee on whose behalf the travel is conducted shall maintain documentation of:

(i) The service provider and the size, model, make and tail number (or other unique identifier for military airplanes) of the airplane used;

(ii) An itinerary showing the departure and arrival cities and the date(s) of departure and arrival, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign travelers or security personnel; and

(iii) The rate for the comparable charter airplane available in accordance with paragraph (c), (e) and (f) of this section, including the airline, charter or air taxi operator, and travel service, if any, offering that fare to the public, and the dates on which the rates are based.

(3) For travel by other conveyances, the political committee on whose behalf the travel is conducted shall maintain documentation of:

(i) The service provider and the size, model and make of the conveyance used;

(ii) An itinerary showing the departure and destination locations and the date(s) of departure and arrival, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign travelers or security personnel; and

(iii) The commercial fare or rental charge available in accordance with paragraph (d) and (f) of this section for a comparable commercial conveyance of sufficient size to accommodate all campaign travelers including members of the news media traveling with a candidate, and security personnel, if applicable.

[68 FR 69593, Dec. 15, 2003]

§ 100.94 Uncompensated Internet activity by individuals that is not a contribution.

(a) When an individual or a group of individuals, acting independently or in coordination with any candidate, authorized committee, or political party committee, engages in Internet activities for the purpose of influencing a

Federal election, neither of the following is a contribution by that individual or group of individuals:

(1) The individual's uncompensated personal services related to such Internet activities;

(2) The individual's use of equipment or services for uncompensated Internet activities, regardless of who owns the equipment and services.

(b) *Internet activities.* For the purposes of this section, the term "Internet activities" includes, but is not limited to: Sending or forwarding electronic messages; providing a hyperlink or other direct access to another person's Web site; blogging; creating, maintaining or hosting a Web site; paying a nominal fee for the use of another person's Web site; and any other form of communication distributed over the Internet.

(c) *Equipment and services.* For the purposes of this section, the term "equipment and services" includes, but is not limited to: Computers, software, Internet domain names, Internet Service Providers (ISP), and any other technology that is used to provide access to or use of the Internet.

(d) Paragraph (a) of this section also applies to any corporation that is wholly owned by one or more individuals, that engages primarily in Internet activities, and that does not derive a substantial portion of its revenues from sources other than income from its Internet activities.

(e) This section does not exempt from the definition of contribution:

(1) Any payment for a public communication (as defined in 11 CFR 100.26) other than a nominal fee;

(2) Any payment for the purchase or rental of an e-mail address list made at the direction of a political committee; or

(3) Any payment for an e-mail address list that is transferred to a political committee.

[71 FR 18613, Apr. 12, 2006]

Subpart D—Definition of Expenditure (2 U.S.C. 431(9))

SOURCE: 67 FR 50585, Aug. 5, 2002, unless otherwise noted.

§ 100.110 Scope.

(a) The term *expenditure* includes payments, gifts or other things of value described in this subpart.

(b) For the purpose of this subpart, a payment made by an individual shall not be attributed to any other individual, unless otherwise specified by that other individual. To the extent that a payment made by an individual qualifies as a contribution, the provisions of 11 CFR 110.1(k) shall apply.

§ 100.111 Gift, subscription, loan, advance or deposit of money.

(a) A purchase, payment, distribution, loan (except for a loan made in accordance with 11 CFR 100.113 and 100.114), advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office is an expenditure.

(b) For purposes of this section, the term *payment* includes payment of any interest on an obligation and any guarantee or endorsement of a loan by a candidate or a political committee.

(c) For purposes of this section, the term *payment* does not include the repayment by a political committee of the principal of an outstanding obligation that is owed by such committee, except that the repayment shall be reported as disbursements in accordance with 11 CFR 104.3(b).

(d) For purposes of this section, the term *money* includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(e)(1) For purposes of this section, the term *anything of value* includes all in-kind contributions. Unless specifically exempted under 11 CFR part 100, subpart E, the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for the goods or services is an expenditure. Examples of such goods or services include, but are not limited to: Securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists. If goods or services are provided at less than the usual and normal charge, the amount of the expenditure is the difference between the usual and