

lowing records on expenditures made on behalf of candidates:

- Name of candidate and office sought by candidate, including the state and, for House candidates, Congressional district (102.9(b)(1)(iii)); and
- Election for which a contribution was made (to facilitate reporting).

#### **Credit Card Transactions**

For each credit card transaction, a committee must retain a monthly billing statement or customer receipt and the canceled check used to pay the account. 102.9(b)(2)(ii).

#### **Credit Union Checks or Share Drafts**

A committee may use carbon copies of share drafts or checks drawn on a credit union account provided it also retains the monthly account statement (showing that the draft or check was paid by the credit union). 102.9(b)(2)(iii).

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## **4. Treasurer's Best Efforts**

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Party committees and their treasurers must make best efforts to obtain, maintain and report the information required by law with respect to itemized receipts and disbursements. 102.9(d). When reporting information is incomplete, the committee and the treasurer will be in compliance with the law if they can demonstrate that they used “best efforts” in trying to obtain and report the needed information. 104.7(a). The criteria for making “best efforts” vary, depending on the type of transaction.

### **Contributor Information**

If an individual who has contributed more than \$200 during the calendar year fails to provide the required recordkeeping information (i.e., name, address, occupation and employer), the committee must be able to show that it made “best efforts” to obtain and report that information. To demonstrate “best efforts,” the committee must be able to show that it requested the information—first, in the solicitation materials that prompted the contribution and, second, in a follow-up request. Furthermore, if requested information is not received until after the contribution has been reported, the committee must report the information using one of the procedures described under “File Amendments If Necessary,” below.

### **Solicitation Materials<sup>2</sup>**

To satisfy the “best efforts” standard, solicitation materials must include an accurate and clear statement of the law’s requirements for the collection and reporting of contributor information. The following examples are acceptable wording that may be included in the solicitations (other statements of similar meaning may also be used):

- “Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar year.”
- “To comply with federal law, we must use best efforts to obtain, maintain and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 per calendar year.”

The request and the statement must appear in a clear and conspicuous manner on both the committee’s solicitations and response materials. The request and statement will not be considered to be “clear and conspicuous” if:

- The request and statement are printed in smaller type than the solicitation and response materials;
- The printing is difficult to read; or
- The request and statement are placed where they may be easily overlooked. 104.7(b)(1).

### **Follow-Up Request Within 30 Days**

If the contributor does not provide sufficient reporting information when making a contribution, the committee must make at least one request for the information after the contribution is received. This follow-up request must be made for any solicited or unsolicited contribution that exceeds the \$200 threshold and lacks the necessary information (see “Contributions Aggregating over \$200” on page 61).

The request must be made within 30 days of receipt of the contribution; it may not include an additional solicitation or material on any other subject, but it may thank the contributor. The follow-

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2 Any contribution which is reported by a committee with all required contributor information will meet the reporting requirements, whether or not the committee asked for the information or used the language specified under “Solicitation Materials.” See the Explanation and Justification published with the final rule, 58 Fed. Reg. 57725, 57727 (October 27, 1993).

up request may be made orally or in writing, but a written request must be accompanied by a pre-addressed postcard or envelope for the response. Requests made by telephone must be documented in a memorandum. A political committee may also use e-mail to request missing contributor information. AOs 1999-17 and 1995-9. Committees must retain records of follow-up requests. 102.9(d) and 104.7(b)(2).

The follow-up request must, like the solicitation, include an accurate and clear statement of the Act's requirement for the collection and reporting of contributor information, such as stated in the examples above.

### **Use of Information from Prior Records**

If the contributor does not respond to the follow-up request, but the committee possesses the information in its contributor records, fundraising records or prior reports filed during the same two-year election cycle, then the committee must use that information when disclosing the contribution. 104.7(b)(3).

### **File Amendments If Necessary**

If requested information about a contribution is received after the contribution has been disclosed on a report, the committee must either:

- File amendments to the original reports; or
- File a memo Schedule A with its next regularly scheduled report, listing all contributions for which new contributor information has been received.

In either case, the entries must cross-reference to the prior reports to which they relate. However, the committee is only required to submit the information for contributions received during the current two-year election cycle. 104.7(b)(4). See "Filing Amendments" on page 94 for instructions on filing amendments.

## **Documenting a Contribution's Legality**

In order to determine whether a contribution of questionable legality was made by a permissible source and was not excessive, the treasurer may deposit the contribution, within a 10-day window for depositing contributions, and make at least one written or oral request for evidence of the contribution's legality. If the contribution cannot be determined to be legal, the treasurer must refund the contribution within thirty days of receipt. 103.3(b)(1). See also page 23, "Handling Illegal Contributions."

## **Documenting Disbursements**

If a treasurer fails to receive a receipt, invoice or canceled check (required for disbursements exceeding \$200), he or she must make at least one written effort per transaction to obtain a duplicate copy of the needed documentation in order to show he or she used "best efforts." 102.9(d).