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committee shall pay the appropriate government entity an amount equal to the greater of the amount billed or the amount required under paragraph (b)(5)(i) of this section for one passenger.

(iii) If any individual, including a candidate, uses a government conveyance, other than an airplane, for campaign-related travel, the candidate's authorized committee shall pay the appropriate government entity an amount equal to the commercial rental rate for a conveyance sufficient in size to accommodate the campaign-related travelers, including the candidate, plus the news media and the Secret Service.

(iv) If any individual, including a candidate, uses accommodations, including lodging and meeting rooms, during campaign-related travel, and the accommodations are paid for by a government entity, the candidate's authorized committee shall pay the appropriate government entity an amount equal to the usual and normal charge for the accommodations, and shall maintain documentation supporting the amount paid.

(v) For travel by airplane, the committee shall maintain documentation of the lowest unrestricted nondiscounted air fare available for the time traveled, including the airline, flight number and travel service providing that fare or the charter rate, as appropriate. For travel by other conveyances, the committee shall maintain documentation of the commercial rental rate for a conveyance of sufficient size, including the provider of the conveyance and the size, model and make of the conveyance.

(6) Travel expenses of a candidate's spouse and family when accompanying the candidate on campaign-related travel may be treated as qualified campaign expenses and reportable expenditures. If the spouse or family members conduct campaign-related activities, their travel expenses shall be qualified campaign expenses and reportable expenditures.

(7) If any individual, including a candidate, incurs expenses for campaign-related travel, other than by use of government conveyance or accommodations, an amount equal to that portion of the actual cost of the con-

veyance or accommodations which is allocable to all passengers, including the candidate, who are traveling for campaign purposes shall be a qualified campaign expense and shall be reported by the committee as an expenditure.

(i) If the trip is by charter, the actual cost for each passenger shall be determined by dividing the total operating cost for the charter by the total number of passengers transported. The amount which is a qualified campaign expense and a reportable expenditure shall be calculated in accordance with the formula set forth at 11 CFR 9004.7(b)(2) on the basis of the actual cost per passenger multiplied by the number of passengers traveling for campaign purposes.

(ii) If the trip is by non-charter commercial transportation, the actual cost shall be calculated in accordance with the formula set forth at 11 CFR 9004.7(b)(2) on the basis of the commercial fare. Such actual cost shall be a qualified campaign expense and a reportable expenditure.

(8) Travel on corporate airplanes and other corporate conveyances is governed by 11 CFR 114.9(e).

[60 FR 31876, June 16, 1995]

§ 9004.8 Withdrawal by candidate.

(a) Any individual who is not actively conducting campaigns in more than one State for the office of President or Vice President shall cease to be a candidate under 11 CFR 9002.2.

(b) An individual who ceases to be a candidate under this section shall:

(1) No longer be eligible to receive any payments under 11 CFR 9005.2 except to defray qualified campaign expenses as provided in 11 CFR 9004.4.

(2) Submit a statement, within 30 calendar days after he or she ceases to be a candidate, setting forth the information required under 11 CFR 9004.9(c).

§ 9004.9 Net outstanding qualified campaign expenses.

(a) *Candidates receiving post-election funding.* A candidate who is eligible to receive post-election payments under 11 CFR 9004.3 shall file, no later than 20 calendar days after the date of the election, a preliminary statement of

that candidate's net outstanding qualified campaign expenses. The candidate's net outstanding qualified campaign expenses under this section equal the difference between 11 CFR 9004.9(a)(1) and (2).

(1) The total of:

(i) All outstanding obligations for qualified campaign expenses as of the date of the election; plus

(ii) An estimate of the amount of qualified campaign expenses that will be incurred by the end of the expenditure report period; plus

(iii) An estimate of the necessary winding down costs, as defined under 11 CFR 9004.4(a)(4), submitted in the format required by paragraph (a)(4) of this section; less

(2) The total of:

(i) Cash on hand as of the close of business on the day of the election, including: All contributions dated on or before that date; currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value;

(ii) The fair market value of capital assets and other assets on hand; and

(iii) Amounts owed to the candidate's authorized committee(s) in the form of credits, refunds of deposits, returns, receivables, or rebates of qualified campaign expenses; or a commercially reasonable amount based on the collectibility of those credits, returns, receivables or rebates.

(3) The amount submitted as the total of outstanding campaign obligations under paragraph (a)(1) of this section shall not include any accounts payable for non-qualified campaign expenses nor any amounts determined or anticipated to be required as a repayment under 11 CFR part 9007 or any amounts paid to secure a surety bond under 11 CFR 9007.5(c).

(4) The amount submitted as an estimate of necessary winding down costs under paragraph (a)(1)(iii) of this section shall be broken down by expense category and quarterly or monthly time period. This breakdown shall include estimated costs for office space rental, staff salaries, legal expenses, accounting expenses, office supplies,

equipment rental, telephone expenses, postage and other mailing costs, printing and storage. The breakdown shall estimate the costs that will be incurred in each category from the time the statement is submitted until the expected termination of the committee's political activity.

(b) *All candidates.* Each candidate, except for individuals who have withdrawn pursuant to 11 CFR 9004.8, shall submit a statement of net outstanding qualified campaign expenses no later than 30 calendar days after the end of the expenditure report period. The statement shall contain the information required by 11 CFR 9004.9(a)(1) and (2), except that the amount of outstanding obligations under 11 CFR 9004.9(a)(1)(i) and the amount of cash on hand, assets and receivables under 11 CFR 9004.9(a)(2) shall be complete as of the last day of the expenditure report period.

(c) *Candidates who withdraw.* An individual who ceases to be a candidate pursuant to 11 CFR 9004.8 shall file a statement of net outstanding qualified campaign expenses no later than 30 calendar days after he or she ceases to be a candidate. The statement shall contain the information required under 11 CFR 9004.9(a)(1) and (2), except that the amount of outstanding obligations under 11 CFR 9004.9(a)(1)(i) and the amount of cash on hand, assets and receivables under 11 CFR 9004.9(a)(2) shall be complete as of the day on which the individual ceased to be a candidate.

(d)(1) *Capital assets and assets purchased from the primary election committee.* (i) For purposes of this section, the term *capital asset* means any property used in the operation of the campaign whose purchase price exceeded \$2000 when acquired by the committee. Property that must be valued as capital assets under this section includes, but is not limited to, office equipment, furniture, vehicles and fixtures acquired for use in the operation of the candidate's campaign, but does not include property defined as "other assets" under paragraph (d)(2) of this section. Capital assets include items such as computer systems and telecommunications systems, if the equipment is used together and if the total cost of all components that are used together

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exceeds \$2000. A list of all capital assets shall be maintained by the committee in accordance with 11 CFR 9003.5(d)(1). The fair market value of capital assets shall be considered to be 60% of the total original cost of such items when acquired, except that items received after the end of the expenditure report period must be valued at their fair market value on the date acquired. A candidate may claim a lower fair market value for a capital asset by listing that capital asset on the statement separately and demonstrating, through documentation, the lower fair market value.

(ii) If capital assets are obtained from the candidate's primary election committee, the purchase price shall be considered to be 60% of the original cost of such assets to the candidate's primary election committee. For purposes of the statement of net outstanding qualified campaign expenses filed after the end of the expenditure report period, the fair market value of capital assets obtained from the candidate's primary election committee shall be considered to be 20% of the original cost of such assets to the candidate's primary election committee.

(iii) Items purchased from the primary election committee that are not capital assets, and also are not other assets under paragraph (d)(2) of this section, shall be listed on an inventory that states their valuation.

(2) *Other assets.* The term *other assets* means any property acquired by the committee for use in raising funds or as collateral for campaign loans. "Other assets" must be included on the candidate's statement of net outstanding qualified campaign expenses if the aggregate value of such assets exceeds \$5000. The value of "other assets" shall be determined by the fair market value of each item on the last day of the expenditure report period or the day on which the individual ceased to be a candidate, whichever is earlier, unless the item is acquired after these dates, in which case the item shall be valued on the date it is acquired. A list of other assets shall be maintained by the committee in accordance with 11 CFR 9003.5(d)(2).

(e) *Collectibility of accounts receivable.* If the committee determines that an

account receivable of \$500 or more, including any credit, refund, return or rebate, is not collectible in whole or in part, the committee shall demonstrate through documentation that the determination was commercially reasonable. The documentation shall include records showing the original amount of the account receivable, copies of correspondence and memoranda of communications with the debtor showing attempts to collect the amount due, and an explanation of how the lesser amount or full write-off was determined.

(f) *Review of candidate statement—(1) General.* The Commission will review the statement filed by each candidate under this section. The Commission may request further information with respect to statements filed pursuant to 11 CFR 9004.9(b) during the audit of that candidate's authorized committee(s) under 11 CFR part 9007.

(2) *Candidate eligible for post-election funding.* (i) If, in reviewing the preliminary statement of a candidate eligible to receive post-election funding, the Commission receives information indicating that substantial assets of that candidate's authorized committee(s) have been undervalued or not included in the statement or that the amount of outstanding qualified campaign expenses has been otherwise overstated in relation to committee assets, the Commission may decide to temporarily postpone its certification of funds to that candidate pending a final determination of whether the candidate is entitled to all or a portion of the funds for which he or she is eligible based on the percentage of votes the candidate received in the general election.

(ii) *Initial determination.* In making a determination under 11 CFR 9004.9(f)(2)(i), the Commission will notify the candidate within 10 business days after its receipt of the statement of its initial determination that the candidate is not entitled to receive the full amount for which the candidate may be eligible. The notice will give the legal and factual reasons for the initial determination and advise the candidate of the evidence on which the Commission's initial determination is based. The candidate will be given the opportunity to revise the statement or

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to submit, within 10 business days, written legal or factual materials to demonstrate that the candidate has net outstanding qualified campaign expenses that entitle the candidate to post-election funds. Such materials may be submitted by counsel if the candidate so desires.

(iii) *Final determination.* The Commission will consider any written legal or factual materials submitted by the candidate before making its final determination. A final determination that the candidate is entitled to receive only a portion or no post-election funding will be accompanied by a written statement of reasons for the Commission's action. This statement will explain the legal and factual reasons underlying the Commission's determination and will summarize the results of any investigation on which the determination is based.

(iv) If the candidate demonstrates that the amount of outstanding qualified campaign expenses still exceeds committee assets, the Commission will certify the payment of post-election funds to which the candidate is entitled.

(v) *Petitions for rehearing.* The candidate may file a petition for rehearing of a final determination under this section in accordance with 11 CFR 9007.5(a).

[56 FR 35919, July 29, 1991, as amended at 60 FR 31877, June 16, 1995; 64 FR 49363, Sept. 13, 1999]

§ 9004.10 Sale of assets acquired for fundraising purposes.

(a) *General.* A minor or new party candidate may sell assets donated to the candidate's authorized committee(s) or otherwise acquired for fundraising purposes subject to the limitations and prohibitions of 11 CFR 9003.2, title 2, United States Code, and 11 CFR parts 110 and 114. This section will only apply to major party candidates to the extent that they sell assets acquired either for fundraising purposes in connection with his or her legal and accounting compliance fund or when it is necessary to make up any deficiency in payments received from the Fund due to the application of 11 CFR 9005.2(b).

(b) *Sale after end of expenditure report period.* A minor or new party candidate, or a major party candidate in the event of a deficiency in the payments received from the Fund due to the application of 11 CFR 9005.2(b), whose outstanding debts exceed the cash on hand after the end of the expenditure report period as determined under 11 CFR 9002.12, may dispose of assets acquired for fundraising purposes in a sale to a wholesaler or other intermediary who will in turn sell such assets to the public provided that the sale to the wholesaler or intermediary is an arms-length transaction. Sales made under this subsection will not be subject to the limitations and prohibitions of title 2, United States Code and 11 CFR parts 110 and 114.

PART 9005—CERTIFICATION BY COMMISSION

Sec.

9005.1 Certification of payments for candidates.

9005.2 Payments to eligible candidates from the Fund.

AUTHORITY: 26 U.S.C. 9005, 9006 and 9009(b).

SOURCE: 56 FR 35923, July 29, 1991, unless otherwise noted.

§ 9005.1 Certification of payments for candidates.

(a) *Certification of payments for major party candidates.* Not later than 10 days after the Commission determines that the Presidential and Vice Presidential candidates of a major party have met all applicable conditions for eligibility to receive payments under 11 CFR 9003.1 and 9003.2, the Commission shall certify to the Secretary that payment in full of the amounts to which such candidates are entitled under 11 CFR part 9004 should be made pursuant to 11 CFR 9005.2.

(b) *Certification of pre-election payments for minor and new party candidates.* (1) Not later than 10 days after a minor or new party candidate has met all applicable conditions for eligibility to receive payments under 11 CFR 9003.1, 9003.2 and 9004.2, the Commission will make an initial determination of the amount, if any, to which the candidate is entitled. The