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11 CFR Ch. I (1–1–04 Edition)

106.7 Allocation of expenses between Federal and non-Federal accounts by party committees, other than for Federal election activities.

106.8 Allocation of expenses for political party committee phone banks that refer to a clearly identified Federal candidate.

AUTHORITY: 2 U.S.C. 438(a)(8), 441a(b), 441a(g).

§ 106.1 Allocation of expenses between candidates.

(a) *General rule.* (1) Expenditures, including in-kind contributions, independent expenditures, and coordinated expenditures made on behalf of more than one clearly identified Federal candidate shall be attributed to each such candidate according to the benefit reasonably expected to be derived. For example, in the case of a publication or broadcast communication, the attribution shall be determined by the proportion of space or time devoted to each candidate as compared to the total space or time devoted to all candidates. In the case of a fundraising program or event where funds are collected by one committee for more than one clearly identified candidate, the attribution shall be determined by the proportion of funds received by each candidate as compared to the total receipts by all candidates. In the case of a phone bank, the attribution shall be determined by the number of questions or statements devoted to each candidate as compared to the total number of questions or statements devoted to all candidates. These methods shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified Federal candidates and disbursements on behalf of one or more clearly identified non-Federal candidates.

(2) An expenditure made on behalf of more than one clearly identified Federal candidate shall be reported pursuant to 11 CFR 104.10(a) or 104.17(a), as appropriate. A payment that also includes amounts attributable to one or more non-Federal candidates, and that is made by a political committee with separate Federal and non-Federal accounts, shall be made according to the procedures set forth in 11 CFR 106.6(e) or 106.7(f), but shall be reported pursuant to 11 CFR 104.10(a) or 104.17(a). If a State, district, or local party commit-

tee's payment on behalf of both a Federal candidate and a non-Federal candidate is for a Federal election activity, only Federal funds may be used for the entire payment. For Federal election activities, the provisions of 11 CFR 300.33 and 104.17(a) will apply to payments attributable to candidates.

(b) An authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind (transfer) to the candidate on whose behalf the expenditure was made, except that expenditures made by party committees pursuant to §109.32 or 109.33 need only be reported as an expenditure.

(c) *Exceptions:* (1) Expenditures for rent, personnel, overhead, general administrative, fund-raising, and other day-to-day costs of political committees need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.

(2) Expenditures for educational campaign seminars, for training of campaign workers, and for registration or get-out-the-vote drives of committees need not be attributed to individual candidates unless these expenditures are made on behalf of a clearly identified candidate, and the expenditure can be directly attributed to that candidate.

(3) Payments made for the cost of certain voter registration and get-out-the-vote activities conducted by State or local party organizations on behalf of any Presidential or Vice-Presidential candidate(s) are exempt from the definition of a contribution or an expenditure under 11 CFR 100.89 and 100.149. If the State or local party organization includes references to any candidate(s) seeking nomination or election to the House of Representatives or Senate of the United States the portion of the cost of such activities allocable to such candidate(s) shall be considered a contribution to or an expenditure on behalf of such candidate(s), unless such reference is incidental to the overall activity. If such reference is incidental to the overall

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activity, such costs shall not be considered a contribution to or expenditure on behalf of any candidate(s).

(d) For purposes of this section, *clearly identified* shall have the same meaning as set forth at 11 CFR 100.17.

(e) State, district, and local party committees, separate segregated funds, and nonconnected committees that make mixed Federal/non-Federal payments for activities other than an activity entailing an expenditure for a Federal candidate and disbursement for a non-Federal candidate, or that make mixed Federal/Levin fund payments, shall allocate those expenses in accordance with 11 CFR 106.6, 106.7, or 300.33, as appropriate.

(2 U.S.C. 438(a)(8))

[41 FR 35944, Aug. 25, 1976, as amended at 45 FR 15117, Mar. 7, 1980; 45 FR 21209, Apr. 1, 1980; 55 FR 26069, June 26, 1990; 60 FR 35305, July 6, 1995; 67 FR 49115, July 29, 2002; 67 FR 78681, Dec. 26, 2002]

§ 106.2 State allocation of expenditures incurred by authorized committees of Presidential primary candidates receiving matching funds.

(a) *General*—(1) This section applies to Presidential primary candidates receiving or expecting to receive federal matching funds pursuant to 11 CFR parts 9031 *et seq.* The expenditures described in 11 CFR 106.2(b)(2) shall be allocated to a particular State if incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate for the office of President with respect to that State. An expenditure shall not necessarily be allocated to the State in which the expenditure is incurred or paid. In the event that the Commission disputes the candidate's allocation or claim of exemption for a particular expense, the candidate shall demonstrate, with supporting documentation, that his or her proposed method of allocation or claim of exemption was reasonable. Expenditures required to be allocated to the primary election under 11 CFR 9034.4(e) shall also be allocated to particular states in accordance with this section.

(2) Disbursements made prior to the time an individual becomes a candidate for the purpose of determining whether that individual should become a can-

didate pursuant to 11 CFR 100.72(a) and 100.131(a), i.e., payments for testing the waters, shall be allocable expenditures under this section if the individual becomes a candidate.

(b) *Method of allocating expenditures among States*—(1) *General allocation method.* Unless otherwise specified under 11 CFR 106.2(b)(2), an expenditure described in 11 CFR 106.2(b)(2) and incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate in more than one State shall be allocated to each State on a reasonable and uniformly applied basis. The total amount allocated to a particular State may be reduced by the amount of exempt fundraising expenses for that State, as specified in 11 CFR 110.8(c)(2).

(2) *Specific allocation methods.* Expenditures that fall within the categories listed below shall be allocated based on the following methods. The method used to allocate a category of expenditures shall be based on consistent data for each State to which an allocation is made.

(i) *Media expenditures*—(A) *Print media.* Except for expenditures exempted under 11 CFR 106.2(b)(2)(i) (E) and (F), allocation of expenditures for the publication and distribution of newspaper, magazine and other types of printed advertisements distributed in more than one State shall be made using relative circulation percentages in each State or an estimate thereof. For purposes of this section, allocation to a particular State will not be required if less than 3% of the total estimated readership of the publication is in that State.

(B) *Broadcast media.* Except for expenditures exempted under 11 CFR 106.2(b)(2)(i) (E) and (F), expenditures for radio, television and similar types of advertisements purchased in a particular media market that covers more than one State shall be allocated to each State in proportion to the estimated audience. This allocation of expenditures, shall be made using industry market data. If industry market data is not available, the committee shall obtain market data from the media carrier transmitting the advertisement(s).