

Federal Election Commission

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on a commission or piecework basis, or is paid only for work actually performed and the employee's time is considered his or her own to use as he or she sees fit.

(c) *Vacation or earned leave time.* No contribution results where the time used by the employee to engage in political activity is bona fide, although compensable, vacation time or other earned leave time.

§ 100.55 Extension of credit.

The extension of credit by any person is a contribution unless the credit is extended in the ordinary course of the person's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation. If a creditor fails to make a commercially reasonable attempt to collect the debt, a contribution will result. (See 11 CFR 116.3 and 116.4.) If a debt owed by a political committee is forgiven or settled for less than the amount owed, a contribution results unless such debt is settled in accordance with the standards set forth at 11 CFR 116.3 and 116.4.

§ 100.56 Office building or facility for national party committees.

A gift, subscription, loan, advance, or deposit of money or anything of value to a national party committee for the purchase or construction of an office building or facility is a contribution.

§ 100.57 Funds received in response to solicitations.

(a) *Treatment as contributions.* A gift, subscription, loan, advance, or deposit of money or anything of value made by any person in response to any communication is a contribution to the person making the communication if the communication indicates that any portion of the funds received will be used to support or oppose the election of a clearly identified Federal candidate.

(b) *Certain allocable solicitations.* If the costs of a solicitation described in paragraph (a) of this section are allocable under 11 CFR 106.1, 106.6 or 106.7 as a direct cost of fundraising, the funds received in response to the solicitation shall be contributions as follows:

(1) If the solicitation does not refer to any clearly identified non-Federal candidates, but does refer to a political party, in addition to the clearly identified Federal candidate described in paragraph (a) of this section, one hundred percent (100%) of the total funds received are contributions.

(2) If the solicitation refers to one or more clearly identified non-Federal candidates, in addition to the clearly identified Federal candidate described in paragraph (a) of this section, at least fifty percent (50%) of the total funds received are contributions, whether or not the solicitation refers to a political party.

(c) *Joint fundraisers.* Joint fundraising conducted under 11 CFR 102.17 shall comply with the requirements of paragraphs (a) and (b) of this section except that joint fundraising between or among authorized committees of Federal candidates and campaign organizations of non-Federal candidates is not subject to paragraph (a) or (b) of this section.

NOTE TO §100.57: On November 30, 2009, the United States District Court for the District of Columbia ordered that §100.57 is vacated. See *Final Order, EMILY's List v. FEC*, No. 05-0049 (D.D.C. Nov. 30, 2009).

[69 FR 68066, Nov. 23, 2004, as amended at 70 FR 75384, Dec. 20, 2005; 74 FR 68662, Dec. 29, 2009]

Subpart C—Exceptions to Contributions

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

§ 100.71 Scope.

(a) The term *contribution* does not include payments, services or other things of value described in this subpart.

(b) For the purpose of this subpart, a contribution or payment made by an individual shall not be attributed to any other individual, unless otherwise specified by that other individual in accordance with 11 CFR 110.1(k).

§ 100.72 Testing the waters.

(a) *General exemption.* Funds received solely for the purpose of determining whether an individual should become a

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candidate are not contributions. Examples of activities permissible under this exemption if they are conducted to determine whether an individual should become a candidate include, but are not limited to, conducting a poll, telephone calls, and travel. Only funds permissible under the Act may be used for such activities. The individual shall keep records of all such funds received. See 11 CFR 101.3. If the individual subsequently becomes a candidate, the funds received are contributions subject to the reporting requirements of the Act. Such contributions must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the funds were received.

(b) *Exemption not applicable to individuals who have decided to become candidates.* This exemption does not apply to funds received for activities indicating that an individual has decided to become a candidate for a particular office or for activities relevant to conducting a campaign. Examples of activities that indicate that an individual has decided to become a candidate include, but are not limited to:

(1) The individual uses general public political advertising to publicize his or her intention to campaign for Federal office.

(2) The individual raises funds in excess of what could reasonably be expected to be used for exploratory activities or undertakes activities designed to amass campaign funds that would be spent after he or she becomes a candidate.

(3) The individual makes or authorizes written or oral statements that refer to him or her as a candidate for a particular office.

(4) The individual conducts activities in close proximity to the election or over a protracted period of time.

(5) The individual has taken action to qualify for the ballot under State law.

§ 100.73 News story, commentary, or editorial by the media.

Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), Web site, newspaper, magazine, or other peri-

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odical publication, including any Internet or electronic publication, is not a contribution unless the facility is owned or controlled by any political party, political committee, or candidate, in which case the costs for a news story:

(a) That represents a *bona fide* news account communicated in a publication of general circulation or on a licensed broadcasting facility; and

(b) That is part of a general pattern of campaign-related news accounts that give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not a contribution.

[67 FR 50585, Aug. 5, 2002, as amended at 71 FR 18613, Apr. 12, 2006]

§ 100.74 Uncompensated services by volunteers.

The value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution.

§ 100.75 Use of a volunteer's real or personal property.

No contribution results where an individual, in the course of volunteering personal services on his or her residential premises or to any candidate or to any political committee of a political party, provides the use of his or her real or personal property to such candidate for candidate-related activity or to such political committee of a political party for party-related activity. For the purposes of this section, an individual's residential premises, shall include a recreation room in a residential complex where the individual volunteering services resides, provided that the room is available for use without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not a contribution.

§ 100.76 Use of church or community room.

No contribution results where an individual, in the course of volunteering personal services to any candidate or political committee of a political party, obtains the use of a church or community room and provides such