

procedures that limit access to the premises on which equipment is used and ensuring that equipment cannot be removed from the premises without appropriate written authorizations, (4) limiting use of vehicles to designated individuals, (5) maintaining a check-out system for portable equipment such as cellular telephones, and making individuals personally liable for return of the equipment, (6) obtaining insurance where economically prudent in accordance with the standards of the insurance industry, (7) establishing a procedure for reconciling inventory of equipment, in accordance with recognized accounting standards, when offices are closed, and (8) establishing procedures for handling of funds, including the handling of cash and writing of checks, that generally conform to recognized standards for internal controls established by the American Institute of Certified Public Accountants.

These are sound business practices that, if followed, should greatly reduce the possibility of loss. The Commission plans to recommend in the Financial Control and Compliance Manuals prepared in connection with the 1996 Presidential election that committees implement these or comparable standards.

This commenter further argued that, if a committee could demonstrate "substantial compliance" with these guidelines, the Commission should avoid an "item by item" examination of lost or misplaced items. While committees that follow these standards should have little problem with loss, the fact that they have done so should not preclude the Commission from ever challenging a loss, especially where costly items are involved.

The Notice sought comment on another approach, that of limiting the dollar amount of lost property that could be considered a qualified campaign expense. If a committee lost goods worth more than the specified amount, any amount over that figure would be a nonqualified campaign expense. This would have the advantage of focusing the Commission's resources on only the more serious instances, while recognizing that some loss is inevitable in large, lengthy campaigns.

The Commission believes this approach has merit, but feels it is inappropriate to include an actual dollar figure in the text of the rules. Rather, the Commission may address this matter in the context of the confidential materiality thresholds established in connection with each audit cycle.

Conforming Amendment

The Commission is moving paragraph (c) of 11 CFR 9004.4 to new 11 CFR 9007.2(a)(4). This paragraph, which deals with permissible sources of repayments, is more properly located in the section dealing with repayments.

Section 9004.5 Investment of Public Funds

Section 9004.5 of the existing regulations allows a committee to invest public funds or use them in other ways to generate income, provided that an amount equal to the net income derived from those investments, minus any taxes paid, is paid to the Treasury. Section 9007.2(b)(4) also lists the receipt of any income as a result of investment or other use of payments from the Fund pursuant to 11 CFR 9004.5 as one of the bases for requiring committees to make payments to the Treasury.

The final rules revise section 9004.5 to clarify that the payment requirement applies to any use of public funds that results in income to the committee, regardless of whether the committee engaged in that use with the intention of generating income. The final rules also contain a conforming amendment to the introductory language of section 9007.2(b)(4), clarifying that the receipt of income from any use of payments from the Fund is a basis for requiring payment to the Treasury. The Commission received no comments on these provisions.

These revisions ensure that any income received through the use of public funds benefits the public financing system. If a committee loses an item that is insured, and the insurance proceeds exceed the cost of replacing the item, such excess will be considered income under sections 9004.5 and 9007.2(b)(4). However, these rules are not meant to require payment of income that qualifies as exempt function income under section 527(c)(3) of the Internal Revenue Code, 26 U.S.C. 527(c)(3), such as receipts from fundraising activities permitted under 11 CFR 9003.3.

Section 9004.6 Expenditures for Transportation Made Available to Media Personnel; Reimbursements

Section 9004.6 of the existing rules has been reorganized for clarification purposes with only minor substantive changes. The revised version operates largely the same as the existing rule. Generally, expenditures for transportation and other services provided to media representatives, Secret Service personnel, and national security staff will be qualified campaign expenses and, with the exception of

costs related to Secret Service and national security personnel, will count toward the overall expenditure limits in section 9003.2. However, committees may seek reimbursement for these expenses, and may deduct reimbursements received from media representatives from the amount subject to the spending limit, in accordance with paragraph (c) of the revised rule.

Paragraph (b) limits the amount of reimbursement a committee can seek from a media representative to 110% of that representative's pro rata share of the actual costs of the transportation and services made available. Any reimbursement received in excess of that amount must be returned to the media representative under paragraph (d)(1). Paragraph (b)(2) sets out the formula for determining a media representative's pro rata share of the costs of transportation and services made available.

Paragraph (c) states that the committee may deduct the reimbursements received from media representatives from the amount of expenditures subject to the overall limitation. The rule limits the amount of this deduction to the actual cost of the transportation and services provided to media representatives. However, the rule also allows the committee to deduct an additional amount of the reimbursements received from media representatives, representing the administrative costs of providing these services and seeking reimbursement for them. Generally, this deduction is limited to 3% of the actual cost of the transportation and services provided to the media representatives. However, the committee may deduct an amount in excess of 3% if it can document the total amount of administrative costs actually incurred.

Paragraph (c)(2) clarifies that "administrative costs" includes all costs incurred by the committee in providing these services and seeking reimbursement for them. Thus, any costs that are not part of the actual cost of the transportation and services made available are administrative costs, regardless of whether they are incurred directly by the committee or by an independent contractor hired to make travel arrangements and/or seek reimbursements. If the committee uses a contractor, and the contractor charges the committee a fee for providing these services, the fee charged is part of administrative costs. The contractor's expenses and fees are not part of the actual costs for which the committee may seek reimbursement under paragraph (b)(1). Likewise, if the committee accepts credit card payments