Commission sought comment on ways to reduce the winding down time for campaigns. The NPRM suggested limiting the amount that a candidate may receive for winding down costs to no more than a specified dollar amount, or a fixed percentage of the candidate's total expenditures during the campaign, or a fixed percentage of total matching funds certified for the candidate. The NPRM questioned whether campaigns that receive a pre-established dollar amount, but do not use the entire amount for winding down costs, should be permitted to retain the unspent amount. Alternatively, comments were sought on establishing a cutoff date after which winding down expenses would no longer be considered qualified campaign expenses.

Several commenters and witnesses opposed limiting wind down costs. They felt that basic fairness requires campaigns to have the resources necessary to respond during the audit process and to defend themselves against enforcement proceedings. It was also pointed out that during this period, campaigns need to be able to verify the proper payment of remaining bills, and that it would be a waste of federal funds if they were hampered in identifying incorrect bills.

The Commission agrees that it would be quite difficult to select an amount or time frame sufficient to meet reasonable expenses incurred in winding down the campaign. A limit on the amount of public funds available for winding down would provide the same difficulties as a restriction on the total funds to be used for wind down. Consequently, the final rules contain no new restrictions on the amount spent on winding down or the time taken. Thus, the Commission will continue to review the committee's wind down costs on a case by case basis.

Post-DOI Expenses as Exempt Compliance Expenses

New language in section 9034.4(a) incorporates the current practice of permitting publicly-funded primary committees to treat 100% of salary, overhead and computer expenses incurred after the candidate's DOI as exempt compliance expenses, beginning with the first full reporting period after DOI. See, Financial Control and Compliance Manual for Presidential Primary Candidates Receiving Public Financing, p. 25 (January 1992). Two witnesses and one commenter urged adoption of this provision. Please note that this regulation does not apply to expenses incurred during the period between DOI and the date on which a

candidate either re-establishes eligibility or ceases to continue to campaign.

Gifts and Bonuses

New language in section 9034.4(a) and section 9004.4(a) permits campaign committees to use federal funds to defray the costs of gifts for committee staff, volunteers and consultants, as long as the gifts do not exceed \$150 per individual and as long as all gifts do not exceed \$20,000. This approach received a favorable response from one witness and one commenter. It is somewhat similar to a provision included in the public funding rules for convention committees at 11 CFR 9008.7(a)(4)(xii). See 59 FR 33618 (June 29, 1994).

With regard to bonus arrangements provided for in advance in a written contract, the NPRM sought comments on whether the amount of these bonuses should be restricted to a fixed percentage of the compensation paid as provided by the contract, or whether these bonuses should be subject to the overall \$20,000 limit. A number of commenters and witnesses opposed these suggestions on the grounds that bonus decisions should remain within the discretion of the committees; primary campaigns may not know at the outset how much will be available for bonuses; and campaigns may choose not to enter into written employment contracts. Some felt these proposals were more feasible for general election committees than for primary campaigns because the party nominees know at the outset what their funding level will be for the general election. It was also suggested that all bonuses be paid within ten days of a committee's date of ineligibility.

The final rules have been revised to require that for general election campaigns, bonus arrangements must be provided for prior to the date of the general election in a written contract, and must be paid during the expenditure report period, which ends thirty days after the general election. Similarly, primary campaigns must make bonus arrangements in advance and must pay bonuses no later than thirty days after the candidate's DOI. These time frames allow ample time for campaigns to make decisions regarding bonuses.

Lost or Damaged Equipment

The Commission is adding new paragraph (b)(8) to section 9034.4 to clarify that the cost of lost or damaged items may be considered a nonqualified expense for purposes of these rules. This change parallels new paragraph 9004.4(b)(8), and is discussed in more

detail in connection with section 9004.4, above.

Funding General Election Expenses With Primary Funds

The Presidential Election Campaign Fund Act, the Presidential Primary Matching Payment Account Act, and Commission regulations require that publicly funded presidential candidates use primary election funds only for expenses incurred in connection with primary elections, and that they use general election funds only for general election expenses. 26 U.S.C. 9002(11), 9032(9); 11 CFR 9002.11, 9032.9. These requirements are tied to the overall primary and general election expenditure limits set forth at 2 U.S.C. 441a (b) and (c), and at 26 U.S.C. 9035(a). See also 11 CFR 110.8(a), 9035.1(a)(1).

Questions have arisen in recent election cycles as to whether certain expenses charged to primary committees were in fact used to benefit the general election. Once a candidate has secured enough delegates to win the nomination, the focus of the campaign may turn in large part to the general election. However, it can be difficult to distinguish between primary campaign activity, such as that designed to lock up delegates or otherwise related to the outcome of the primary campaign, and convention preparation, from activity that is geared towards winning the general election.

The NPRM sought general suggestions on how best to address this situation. For example, it suggested that certain expenditures within a set time frame before the date of the candidate's nomination might be subject to higher scrutiny. In addition, the Notice contained specific proposals on how to treat capital assets, certain goods and services, and supplies and materials in this context; and sought comments on how other expenditures, such as those for campaign related travel and media expenses, should be attributed.

Most of the commenters who addressed this issue favored a "bright line" cut-off date between primary and general election expenses, which would give committees clear guidance as to which expenses will be attributed to the primary election and which to the general election. Some suggested that this date be set as the candidate's date of ineligibility. Moreover, most comments opposed any guidelines or presumptions that would require a "case-by-case" determination of how certain expenditures should be characterized.

The Commission recognizes that it can be difficult to select a single "bright