

and from the convention shall be a primary expense.

#### *Sources of Repayment*

The rule set out in current paragraph 9034.4(c) has been moved to new paragraph 9038.2(a)(4). Paragraph 9034.4(c) has been removed and reserved for future use. This change generally follows the conforming amendment discussed in connection with section 9004.4, above.

#### *Section 9034.5 Net Outstanding Campaign Obligations*

##### *NOCO Statements*

The final rules make a number of changes in the requirements for submission of NOCO statements set out in section 9034.5. Paragraph (b) is amended to require committees submitting NOCO statements to include a breakdown of the estimated winding down costs listed on the statement by category and time period. The committee must provide estimates of quarterly or monthly expenses from the date of the NOCO statement until the expected termination of the committee's political activity. These estimates must be broken down into amounts for office space rental, staff salaries, legal expenses, accounting expenses, office supplies, equipment rental, telephone expenses, postage and other mailing costs, printing, and storage.

One commenter noted that it can be difficult to estimate winding down costs until well into the audit process, because the committee continues to receive bills, and also because it is not clear what issues will arise until the audit is underway.

The Commission recognizes that the winding down figures on a committee's NOCO statements are, by necessity, estimates of anticipated expenses. However the Commission has decided to require a breakdown of these expenses in order to obtain more meaningful information than is obtained under the existing rule. Currently, many NOCO statements list the candidate's estimated necessary winding down costs as a single lump sum. Requiring the breakdown will help the Commission determine whether the candidate is entitled to receive the entire estimated amount.

The final rules also revise the schedule for submission of revised NOCO statements. Under the current rules, candidates are required to submit a revised NOCO statement with each matching payment request submitted after DOI. The proposed rules would have required candidates to submit an additional revised NOCO statement just

before the date when matching fund payments will be certified, on a date to be published by the Commission. The additional statement would be used to ensure that the amount of matching funds certified accurately reflects the committee's financial situation at the time of certification. One commenter thought this additional requirement would be burdensome and will not solve the problem identified in the NPRM.

The Commission believes that requiring two revised NOCO statements for each matching payment submission is unnecessary. Consequently, the final rules change the Commission's current policy of requiring candidates to submit a revised NOCO statement at the time of each post-DOI matching payment submission. Instead, the final rules require the candidate to submit a certification that his or her remaining net outstanding campaign obligations equal to or exceed the amount submitted for matching. If the candidate so certifies, the Commission will process the matching payment submission.

The candidate must then submit a revised NOCO statement just before the next regularly scheduled payment date, on a date to be determined and published by the Commission in the **Federal Register**. The statement must reflect the financial status of the campaign as of the close of business three business days before the due date, and must also contain a brief explanation of each change in the committee's assets and obligations from the most recent NOCO statement. This will allow the Commission to adjust the committee's certification to reflect any change in the committee's financial position that occurs after submission of the initial matching payment request. Thus, the amount certified will be closer to the committee's actual entitlement, reducing the need to seek subsequent repayment.

This revised schedule is set out in paragraphs 9034.5(f) (1) and (2) of the final rules. Paragraph 9034.5(f)(2) of the former rules has been renumbered as paragraph (f)(3), without revision.

The Commission notes that, while the additional information required should increase the accuracy of the matching fund certifications, as under the current practice, the Commission will not approve NOCO statements when they are submitted. Thus, although the new rules will often reduce the size of a committee's repayment, the Commission will continue to seek repayment under appropriate circumstances.

#### *Capital Assets*

The Commission is amending paragraph (c)(1) of this section to provide for a standard 40% depreciation of capital assets that are received by a primary campaign committee prior to the candidate's DOI and subsequently sold to the general campaign committee or to another entity.

The former rule set forth the 40% depreciation allowance, but allowed a higher depreciation for particular item if the committee demonstrated through documentation that the asset's fair market value was lower. However, there was no corresponding provision for the Commission to document a higher fair market value. The NPRM proposed that the 40% figure be subject to both increase and decrease, under appropriate circumstances. Most of those who commented on this issue opposed this change, which the Commission had proposed to more accurately reflect its experience in dealing with this situation.

Consistent with its approach to other expenditures that can be attributed to both the primary and the general election limits (see discussion of 11 CFR 9034.4(e), above), the Commission is adopting a "bright line" 40% depreciation figure for capital assets that are used in both the primary and the general election campaigns. While the Commission recognizes that there may be instances in which the 40% figure is too low, there are also situations in which that figure may be too high. The Commission believes that in many instances there differences will balance themselves out over the course of a lengthy campaign. Also, given the number of capital assets involved in a typical campaign, it can be time- and labor-intensive for both the Commission and the committee to handle these on a case-by-case basis.

Please note that the term "capital asset" includes components of a system used as a whole and purchased at the same time at a cost exceeding \$2000, even if individual system components cost less than \$2000.

#### *Section 9034.6 Expenditures for Transportation and Services Made Available to Media Personnel; Reimbursements*

Section 9034.6 has been reorganized with minor substantive changes. These revisions are the same as those made to section 9004.6, the parallel provision for general election committees. See the discussion of section 9004.6, above.