

### *Section 9034.7 Allocation of Travel Expenditures*

The changes in section 9034.7 follow the changes to section 9004.7.

### **Part 9036—Review of Submission and Certification of Payments by Commission**

#### *Section 9036.2 Additional Submissions for Matching Fund Payments*

##### *Complete Contributor Identification*

Treasurers of political committees, including authorized committees of presidential candidates, are required by 2 U.S.C. §§ 432(i) and 434(b) to use their best efforts to obtain, maintain and report the name, address, occupation and employer of all contributors who give over \$200 per calendar year. The Commission recently issued revised rules regarding this reporting obligation. See 58 FR 57725 (Oct. 27, 1993). During that rulemaking, two commenters suggested revising 11 CFR 9036.2 so that presidential primary candidates would only receive matching funds for contributions exceeding \$200 that also contain complete contributor information. While full contributor identifications are required for such contributions in threshold submissions under 11 CFR 9036.1(b), they have not been required under 11 CFR 9036.2(b)(1)(v) for additional submissions for matching funds. Accordingly, the Commission sought comment on whether to delete section 9036.2(b)(1)(v), thereby requiring complete contributor information for all matchable contributions exceeding \$200. In the alternative, comments were sought on only matching these contributions if committees can provide evidence demonstrating they made their best efforts to obtain the information.

There was no consensus among the commenters and witnesses who addressed this issue. Some felt that the public has a right to complete disclosure of this information when its money is given to presidential candidates, and that there is no rational basis for the distinction between threshold submissions and subsequent requests for matching funds. They cited figures from the 1992 election cycle to argue that some candidates did not take the disclosure statutes seriously. Others pointed out that the new best efforts rules are intended to resolve this issue, and that it would be onerous for committees to show during the matching submission process that they have satisfied the new best efforts rules. Some felt that contributors should not be forced to forego their privacy rights

in order to have their contributions matched. Hence, they argued that vigorous enforcement of the new best efforts rules is the appropriate course of action.

For several reasons, the Commission has decided not to change the current requirements regarding matchability of contributions from individuals. First, the Commission has seen a significant increase in the reporting of occupation and employer since the best efforts regulations were revised. For example, a comparison of authorized committee reports for April–September 1992 with reports for April–September 1994, shows the number of itemizable contributions from individuals which lacked information on the contributor's principal place of business decreased from 17% to 10%. Thus, it is premature to conclude that further measures are needed to enhance disclosure. Secondly, it is not a efficient use of Commission resources to verify this information during the matching fund submission process. Doing so would slow down an already time-constrained process. Moreover, the reasons for requiring occupation and employer in threshold submissions do not apply to additional submissions. Occupation and employer information are necessary for threshold submissions to ensure that candidates have met the eligibility requirements by having received matchable contributions of at least \$5000 from contributors in at least 20 states.

##### *Use of Digital Imaging for Matching Fund Submissions*

Several questions were also raised regarding the possibility that committees may wish to submit contributions for matching through the use of digital imaging technology such as computer CD ROMs, instead of submitting paper photocopies of checks and deposit slips. One witness urged the Commission to allow committees to have this option. Accordingly, new language has been added to paragraph (a)(1)(vi) of section 9036.2 to let committees provide digital images of contributions, but not to require that they do so. If they choose this option, the Commission may require committees to supply the Commission with the equipment needed to read the digital data at no cost to the Commission. One witness stated that this was a reasonable condition. Given the variety of sources providing this technology, it is not feasible for the Commission to purchase all the equipment that different committees might wish to use. The new language also specifies that the digital

information committees provide must include an image of each contribution received and imaged during the period covered by the matching fund submission, not just matchable contributions. As a practical matter, it may be simpler for committees to include all contributions on CD ROMs rather than separating out the nonmatchable ones. This approach will have the additional benefit of enabling the Commission's audit staff to begin examining contributions at an earlier point, which should speed up the audit process. The Commission may seek verification from the committee's bank or from contributors pursuant to 11 CFR 9039 if the Commission is unable to resolve questions regarding the digital images submitted.

While the Commission is approving the submission of contribution information using computerized digital imaging technology, it is not changing the requirements regarding the submission of disbursements documentation. Previously, the Commission has concluded that the retention of microfilm records satisfies the documentation requirements of 2 U.S.C. § 432(c), and that for electronic transfers, committees may keep records in the form of computerized magnetic media. AOs 1994–40 and 1993–4. However, these advisory opinions addressed fairly limited record retention issues, and did not address or resolve issues regarding the use of digital imaging technology to satisfy the requirements of 11 CFR 9003.5 or 9033.11.

##### *Section 9036.5 Determination of Ineligibility Date*

A conforming amendment has been added to paragraph 9036.5(a), clarifying that the procedures of section 9036.5 apply to matching fund resubmissions made pursuant to 11 CFR part 9036 and those prompted by an inquiry under 11 CFR part 9039, under appropriate circumstances. See discussion below.

### **Part 9037—Payments and Reporting**

#### *Section 9037.4 Alphabetized Schedules*

The final rules include new section 9037.4, which follows new section 9006.3.

### **Part 9038—Examination and Audits**

#### *Section 9038.1 Audit*

The amendments to this section follow those made to section 9007.1, above.