

part 116. While the creation of a fixed post-travel time period for reimbursement in these circumstances is technically an extension of credit, the Commission nevertheless seeks comments on the potential consequences of the proposed rule with respect to the use of an airplane owned by a corporation or labor organization where reimbursement does not occur in advance. The Commission also seeks comments on whether the advance payment requirement should be retained and what, if any, other reimbursement timetables would be appropriate.

2. Alternative B: Payment Based on a Combination of First-Class Airfare and Charter Rate

Alternative B would provide for two different payment rates, following closely the travel valuation rules set forth in the ethics rules for the House of Representatives and the United States Senate. *See* Select Committee on Ethics, U.S. Senate, Senate Ethics Manual, S. Pub. No. 108-1 (2003), "Private Air Travel" at p. 60; Committee on Standards of Official Conduct, U.S. House of Representatives, Rules of the U.S. House of Representatives on Gifts and Travel (2001), "Use of Private Aircraft for Travel" available at <http://www.house.gov/ethics/Gifts_and_Travel_Chapter.htm#_Toc476623633>. The first rate, in proposed paragraph (c)(1) of Alternative B, would apply to previously scheduled flights, as opposed to flights specifically scheduled for a campaign traveler, between cities with regularly scheduled air service. The payment rate for these trips would be the normal cost of first-class airfare between the cities. Thus, travel between airports served by regularly scheduled air service would be treated similarly under both Alternative A and Alternative B, except that Alternative B would not permit the first-class airfare amount where the airplane is chartered specifically for the campaign traveler's use. Both Alternative A and Alternative B would permit payment at the coach rate where coach service is regularly scheduled on the same route, but would not permit campaigns to pay the lower amount for discounted fares such as "supersavers," "e-savers," or a government rate.

Under proposed paragraph (c)(2) of Alternative B, the Commission would require the amount of payment for other air travel, including flights specifically scheduled for a campaign traveler or flights where the origin or destination city is not served by regularly scheduled air service, to be no less than the normal

charter rate for a similar airplane. The valuation of travel to airports not served by regularly scheduled commercial airline service would therefore differ from the valuation in proposed paragraph (c)(3) of Alternative A, which would value such travel at the amount of the first-class rate to the nearest airport. For the same reasons discussed above for Alternative A, the candidate's authorized committee would be required to make the proper payment within seven calendar days of the departure date.

3. Alternative C: Payment Based on Charter Rate

Alternative C would establish a uniform rule by requiring the payment amount to be the normal and usual cost of chartering a plane of sufficient size to accommodate all campaign travelers plus the news media and security personnel where applicable. This payment rate would depend on the rate for chartering the entire plane, rather than a per-passenger cost, and would not vary based on whether the destination airport is served by regularly scheduled commercial air service of any particular class. Alternative C could provide a more accurate reflection of the true value of the use of a private or governmental airplane by campaign travelers. Because the campaign would be responsible for the cost of chartering the entire plane and the addition of last minute travelers would not increase the cost, the payment amount would be known prior to the time of departure. Thus, the Commission would continue to require advance payment for the use of all airplanes not normally used for commercial passenger service. To the extent that Alternative C would increase the cost of candidate travel when private airplanes are used, should the Commission consider such a factor when it evaluates appropriate reimbursement rates?

E. Proposed 11 CFR 100.93(d) Other Means of Transportation

The Commission proposes a set period of time for payment of travel by means other than by airplane: thirty calendar days from the receipt of the invoice, but no more than sixty calendar days following the date the travel commenced. *See* proposed 11 CFR 100.93(d). This fixed deadline would add more clarity and certainty than the current rule's reference to a "commercially reasonable" period, but would retain the flexibility necessary to account for costs that cannot be calculated until the completion of travel or shortly thereafter. The sixty-day cutoff would help to ensure that the

invoice will be rendered to the campaign promptly. Any extensions of credit resulting from payments not being made within the sixty-day period would be considered in-kind contributions to the candidate and would therefore result in a violation of the Act and Commission regulations where such contributions are prohibited or excessive. The payment rate would be set at the usual and normal fare or rental readily available to the general public at the time of travel.

F. Proposed 11 CFR 100.93(e) Government Conveyances

Paragraph (e) of proposed 11 CFR 100.93 would clarify the appropriate payment for travel using any means of transportation, including an airplane, that is owned or leased by the Federal government or any State or local government. For government airplanes, one of the three alternatives described above would be used. For other means of travel, a campaign traveler using a government conveyance would have to reimburse the government entity within thirty calendar days of the receipt of an invoice, but no later than sixty calendar days following the date on which travel commenced. The required payment rate would be the amount of the usual fare or rental charge readily available to the general public for the travel date.

G. Proposed 11 CFR 100.93(f) Reporting

Proposed paragraph (f)(1) of 11 CFR 100.93 would refer candidates and their authorized committees to the existing reporting requirements for the receipt of an in-kind contribution. Under 11 CFR 104.13, a candidate must report the amount of unreimbursed value for travel services as both the receipt of a contribution from the service provider and an expenditure by the candidate committee.

In addition, a candidate's authorized committee would be required to record the travel dates along with the report of the disbursement for repayment of the travel service. Under proposed paragraph (f)(2) of §100.93, the Commission would require the authorized committee to report the actual date of travel in the "purpose of disbursement" field corresponding to the disbursement.

H. Proposed 11 CFR 100.93(g) Recordkeeping

Presidential and vice-presidential candidates are currently required to maintain records documenting the rates used in calculating their travel reimbursements. 11 CFR 9004.7(b)(5)(v) and 9034.7(b)(5)(v). Under proposed 11 CFR 100.93(g), these recordkeeping