

other candidates, the Commission is removing 11 CFR 9004.7(b)(5)(ii) and 9034.7(b)(5)(ii).

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

For other means of travel, such as limousines, other automobiles, trains, helicopters, and buses, a political committee must pay the service provider an amount equivalent to the normal and usual fare or rental charge for a comparable commercial conveyance that is capable of accommodating the same number of campaign travelers, including members of the news media, plus security personnel, if applicable. 11 CFR 100.93(d). This rate is consistent with the previous rules governing publicly funded presidential candidates' payments for the use of government conveyances other than airplanes. See 11 CFR 9004.7(b)(5)(iii) and 9034.7(b)(5)(iii). A "comparable commercial conveyance" is one that approximates the same class and type of the conveyance actually used, with similar features and amenities. For example, when a campaign traveler uses a private bus, a "comparable commercial conveyance" would be a similar type of motor vehicle with similar amenities and features. As with payment for travel by airplane, the rate must be available to the general public for the dates traveled or within seven calendar days thereof. See new 11 CFR 100.93(f).

Just as the Commission is no longer requiring advance payment for travel by airplane, the Commission is also setting a post-travel period of time for payment for 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 11 CFR 100.93(d). One commenter urged the Commission to fix the sixty-day time period from the date the travel ends, rather than when the travel commenced, to accommodate longer trips, invoice delays, and the resolution of any disputes between the campaign traveler and the service provider. The same commenter further cautioned against finding that a contribution occurs where a political committee fails to pay within the required time period if it has made a good faith effort to obtain or reasonably disputes an invoice. The Commission is cognizant of the potential tension between this thirty/sixty-day allowance and the general prohibitions on extension of credit outside the ordinary course of business. See 11 CFR part 116, discussed above. The Commission is permitting the

limited thirty/sixty-day provision with the expectation that the invoice will be sent within the ordinary course of business and payment will be made promptly. It therefore does not agree with the commenter's suggestion that the time period should be extended indefinitely so long as the campaign traveler continues to travel. The Commission notes that a political committee need not wait until the end of the travel to submit payment for the travel service. A political committee faced with an invoice delay or involved in a payment dispute with a service provider may, in the rare instance where the matter cannot be resolved within the sixty-day period, pay an approximate amount and seek reimbursement from the service provider. A political committee also may treat the matter as a disputed debt under 11 CFR 116.10.

This fixed deadline in new 11 CFR 100.93(d) adds greater clarity and certainty than the reference in the previous 11 CFR 114.9(e)(2) to a "commercially reasonable" period while retaining the flexibility necessary to account for costs that cannot be calculated until the completion of travel or shortly thereafter. The sixty-day cutoff will help to ensure that the invoice will be rendered to the political committee promptly. Any extensions of credit resulting from payments not being made within the sixty-day period are considered in-kind contributions to the candidate or other political committee responsible for payment of the travel, and thus violate the Act and Commission regulations where such contributions are prohibited or excessive. As set forth in new paragraph (f), the payment rate is set at the usual and normal fare or rental charge available to the general public for the dates traveled or within seven calendar days thereof.

F. 11 CFR 100.93(e) Government Conveyances

Paragraph (e) of 11 CFR 100.93 provides the required amount of 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. The required amount of payment for travel by a campaign traveler on government airplanes is the amount of payment set forth in paragraph (c) of § 100.93: A political committee must pay the first-class, coach, or charter rate in accordance with 11 CFR 100.93(c) and (f). 11 CFR 100.93(e)(1)(ii).

Under paragraph (c), however, Air Force One and many other military airplanes would be required to use a

comparable charter rate in some instances because their travel would be between military bases and not between cities served by regularly scheduled first-class commercial airline service. Because it would be difficult to find a charter airplane comparable to Air Force One and other military airplanes, new paragraph (e)(1)(i) provides a special rule for government airplanes traveling to or from a military base. When such travel occurs, the political committee may pay the lowest unrestricted and non-discounted first-class airfare to or from the city with regularly scheduled first-class service that is geographically closest to the military base actually used.

The required amount of payment for use of other means of travel owned or leased by a Federal, State, or local government is the amount of payment set forth in paragraph (d): The usual fare or rental charge available to the general public on the same travel date for a comparable vehicle that is capable of accommodating the same number of campaign travelers, including members of the news media, plus the Secret Service and other security personnel accompanying a candidate. A political committee paying for the use of government travel by airplane or other conveyance must also comply with the time limitations in paragraphs (c) and (d), respectively.

Note that paragraph (e), like all of section 100.93, is limited to travel in connection with a Federal election. Individuals traveling on official government business are not required to reimburse the service provider under this section. A significant portion of travel on government conveyances is paid for using funds authorized and appropriated by the Federal Government. The use of Federal funds is governed by general appropriations law and is subject to Congressional oversight. The prohibitions and limitations of the Act apply to a contribution or expenditure by a "person," as defined in 2 U.S.C. 431(11) and 11 CFR 100.10. See FEC Interpretation of Allocation of Candidate Travel Expenses, 67 FR 5,445 (Feb. 6, 2002). The statutory definition of the term "person" expressly excludes the Federal Government and any authority thereof.⁷ The Commission has previously concluded that the travel allocation and reporting regulations at 11 CFR 106.3(b) are not applicable to

⁷ 2 U.S.C. 431(11) provides: "The term 'person' includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government."