

Federal Election Commission

§ 100.72

on a commission or piecework basis, or is paid only for work actually performed and the employee's time is considered his or her own to use as he or she sees fit.

(c) *Vacation or earned leave time.* No contribution results where the time used by the employee to engage in political activity is bona fide, although compensable, vacation time or other earned leave time.

§ 100.55 Extension of credit.

The extension of credit by any person is a contribution unless the credit is extended in the ordinary course of the person's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation. If a creditor fails to make a commercially reasonable attempt to collect the debt, a contribution will result. (See 11 CFR 116.3 and 116.4.) If a debt owed by a political committee is forgiven or settled for less than the amount owed, a contribution results unless such debt is settled in accordance with the standards set forth at 11 CFR 116.3 and 116.4.

§ 100.56 Office building or facility for national party committees.

A gift, subscription, loan, advance, or deposit of money or anything of value to a national party committee for the purchase or construction of an office building or facility is a contribution.

§ 100.57 Funds received in response to solicitations.

(a) *Treatment as contributions.* A gift, subscription, loan, advance, or deposit of money or anything of value made by any person in response to any communication is a contribution to the person making the communication if the communication indicates that any portion of the funds received will be used to support or oppose the election of a clearly identified Federal candidate.

(b) *Certain allocable solicitations.* If the costs of a solicitation described in paragraph (a) of this section are allocable under 11 CFR 106.1, 106.6 or 106.7 as a direct cost of fundraising, the funds received in response to the solicitation shall be contributions as follows:

(1) If the solicitation does not refer to any clearly identified non-Federal candidates, but does refer to a political party, in addition to the clearly identified Federal candidate described in paragraph (a) of this section, one hundred percent (100%) of the total funds received are contributions.

(2) If the solicitation refers to one or more clearly identified non-Federal candidates, in addition to the clearly identified Federal candidate described in paragraph (a) of this section, at least fifty percent (50%) of the total funds received are contributions, whether or not the solicitation refers to a political party.

(c) *Joint fundraisers.* Joint fundraising conducted under 11 CFR 102.17 shall comply with the requirements of paragraphs (a) and (b) of this section except that joint fundraising between or among authorized committees of Federal candidates and campaign organizations of non-Federal candidates is not subject to paragraph (a) or (b) of this section.

NOTE TO §100.57: On November 30, 2009, the United States District Court for the District of Columbia ordered that §100.57 is vacated. See *Final Order, EMILY's List v. FEC*, No. 05-0049 (D.D.C. Nov. 30, 2009).

[69 FR 68066, Nov. 23, 2004, as amended at 70 FR 75384, Dec. 20, 2005; 74 FR 68662, Dec. 29, 2009]

Subpart C—Exceptions to Contributions

SOURCE: 67 FR 50585, Aug. 5, 2002, unless otherwise noted.

§ 100.71 Scope.

(a) The term *contribution* does not include payments, services or other things of value described in this subpart.

(b) For the purpose of this subpart, a contribution or payment made by an individual shall not be attributed to any other individual, unless otherwise specified by that other individual in accordance with 11 CFR 110.1(k).

§ 100.72 Testing the waters.

(a) *General exemption.* Funds received solely for the purpose of determining whether an individual should become a