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Ms. Amy Rothstein
Acting Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

**RE: Comments of the Campaign Finance Institute on: Request for Comment:
“Purpose of Disbursement” Entries for Filings with the Commission**

Dear Ms. Rothstein:

The Campaign Finance Institute, a nonpartisan organization conducting objective research on and policy analysis of campaign finance issues, respectfully submits the attached comments on the Request for Comment: “Purpose of Disbursement” Entries for Filings with the Commission.

Sincerely,

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Attachment

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Comments of the Campaign Finance Institute on: Request for Comment: “Purpose of Disbursement” Entries for Filings with the Commission

The Campaign Finance Institute greatly appreciates the opportunity to comment on the proposed Commission guidance. CFI has done considerable research and analysis on the federal campaign finance disclosure system including two public reports by its blue ribbon Task Force on Disclosure and a series of public reports on the need for Senate electronic disclosure. For this comment, we also draw on our research into national party committee expenditures in the 2004 election and convention host committee ones in 2000 and 2004.

The Commission’s goal in providing filers with “non-exhaustive” lists of “purpose of disbursement” entries that are “generally acceptable” and “generally not acceptable” is “to make the purpose of the disbursement clear” so that the public can “easily discern why the disbursement was made when reading the name of the recipient and purpose.” CFI strongly supports the Commission’s objective. Steps to increase expenditure purpose disclosure can provide useful information about how money is actually spent in democratic elections. Greater disclosure can also provide policy makers (including the Commission itself) with data on changing campaign costs and their components. If such information is not available in readily searchable electronic form, we can end up with policymaking in the dark. For example, CFI is frequently asked by Congressional staff how much the cost of TV political advertising has risen between campaigns. But in the absence of standard, detailed categories covering all costs (including media consultants and production services) of employing each form of media, we have no way of answering these questions.

CFI believes that the best, most useful system for public disclosure would be one in which filers were required to indicate, for each specific transaction description, whether the purpose of the disbursements fits one of a limited set of inclusive categories. There might be, say, 15-30 defined choices and a residual “other” category. This amended system would put little burden on the regulated community, while giving it greater reassurance that its filings would not be unnecessarily questioned by the Commission.

However, if the Commission proceeds along the path of incremental change charted in its proposed guidance, it is crucial that its expanded lists of acceptable and non-acceptable purposes have more “teeth” in them or disclosure will be too weak. In particular, it is not enough for the Commission to state that “if a committee uses a description that is listed as lacking sufficient detail, a RAD [Reports and Analysis Division] analyst *may* review the report closely,” but “in *most* instances” the Commission will only contact the filer and request an amendment to the report. To assure proper enforcement, the Commission should state that the analyst *will* review the report and, *in all instances*, require corrections.

Equally important, the “purpose of disbursements” list (together with the name of the recipient) must truly inform the citizen what the money is spent “for” rather than merely what it is spent “on.” For example, an expenditure for “Printing, for a disbursement to a printing company,” one of the proposed additions to the current “acceptable” categories, does not reveal whether the printing is for fundraising letters, voter communications, party events or something else. The focus of this category is on the product, not the purpose. It does not adequately convey to the public what the party is doing. On the other hand, the other suggested additions to the current list -- “Exit Polling,” “Door-to-Door Get-Out –the-Vote,” “Get-Out-the-Vote Phone Calls,” or “Driving Voters to the Polls” (to GOTV or voter registration vendors) -- more fully convey the purposive function of these expenditures. So do almost all of the Commission’s continuing, but more fully elaborated, categories such as “Salary, for a disbursement to a staff member.”

We want to emphasize that even though the recipient of an expenditure must be identified, this does not necessarily help reveal the purpose of the disbursement. We were continually frustrated in our effort to study 2004 cycle national party committee spending because the vendors of “Printing,” “Direct Mail,” “Postage,” “Telemarketing,” “Internet,” and “On-line services” were usually companies that delivered a variety of campaign services and generally invoked confidentiality agreements when asked directly which of these services (e.g. fundraising, get-out-the-vote, voter registration, brochures, voter identification, Web hosting) they provided.

A further requirement for adequate disclosure of expenditure purposes is that the most important campaign functions be covered. Two political science scholars who have already plowed in this field are Professor Ray LaRaja of the University of Massachusetts and Dr. Craig Holman of Public Citizen. In attempting to develop informative, purposive categories to characterize federally reported state party “soft money” campaign spending prior to enactment of the Bipartisan Campaign Reform Act of 2002, they came to similar conclusions. Based on their combined work, we suggest that the Commission augment the acceptable list (inserting the relevant vendor types) by incorporating the following wholly or partially omitted areas:

- *Fundraising: Require filers to state whether a communication is made and targeted primarily for the purpose of fundraising. Include separate categories of fundraising for such major modes as mail, telephone, Internet, canvassing or event. Do not permit filers to avoid the primary purpose by giving only the mode of production or delivery.*
- *Voter Communication and Mobilization: Require filers to state whether a communication is targeted and made primarily to communicate and mobilize voters in the relevant constituency. Include separate categories for such major methods of voter communication and mobilization as: creation and maintenance of databases, and communications via mail, telephone, Internet and canvassing. (The Commission’s newly proposed categories such as “Get-Out-The-Vote*

Phone Calls,” “Driving Voters to the Polls,” etc. are far too narrow to encompass contemporary political committees’ efforts to mobilize their followers); and

- *Media.* Include all expenses for the use of general public political advertising with separate categories for major media modes including radio, TV, newspapers and periodicals, internet, and video/audio. (The Commission’s proposed category, “Media for a disbursement to a radio or television communications company” is too narrow both in the forms of media included and in the omission of such media expenses as consultants, communication buyers and production services.)

Indeed many of the above activities (as well as others not included in the “acceptable” list such as rent and furniture) are specifically referred to in the Commission’s own Instructions to filers of Forms 3, 3X and 4. They come up as the individual ingredients for filers’ **voluntary** use of category codes that “broadly characterize disbursements,” like “Solicitation and Fundraising Expenses,” “Advertising Expenses,” “Campaign Event Expenses,” etc. But because filers only “should” use these quite broad categories -- and relatively few do so -- an opportunity for simplified public disclosure has been wasted. (According to our analysis of a sample of individual disbursements in 3rd quarter 2006 reports of House general election candidates, 64% of them had no codes. Moreover, even those who used codes did not use them consistently. As for the national and House major party committees, 93% of the reported disbursements thus far for calendar year 2006 – a total of 123,000 individual disbursements – lack codes. Senate expenditure analysis is effectively precluded by the lack of an electronic database.) Thus lack of use of these “super category” codes -- which also need updating -- underlines the need for the Commission to establish and enforce a valid set of acceptable disbursement purposes.

The Commission’s expanded list of 79 “generally unacceptable” purposes to support its 18 “generally acceptable” ones is helpful. But it is also seriously inadequate when one realizes that each political committee determines its own purpose descriptions and that these are therefore quite numerous and vary widely in content. To take one example, the Republican National Committee alone listed 1,964 individual purposes for its operating expense disbursements in the 2004 election cycle while the Democratic National Committee employed 184. And the parties’ descriptions of similar expenditures were often very different. In attempting to understand and communicate what these major political committees actually did during the cycle, we encountered major problems which prevented us from completing our projected public report. These are the same problems the public must confront in trying to understand the parties’ role in our democracy.

Based on our analyses of these party expenditures as well as those of the major party congressional campaign committees, we would suggest the following minimum additions to the “unacceptable” list:

- *Insert “consultant-political” because this has often been used as a catchall for a variety of fundraising, legal, polling, canvassing, media and other activities that should be accounted for separately.*
- *Add “printing,” “design,” “postage,” “direct mail,” “telemarketing,” and “gifts” because they do not allow the public to discover whether the function of the activity is to further fundraising, various forms of voter communication or something else.*
- *Make clear that minor variations of unacceptable listings are equally unacceptable.*

While our recommended changes in purposive categories reflect our recent research which has focused mainly on party spending, we think the Commission would gain additional insight from studying the purposes listed by candidates and PACs although we have reason to believe they are broadly similar. However convention host committees are a different story.

Finally, it is apparent that relatively few of the purpose descriptions in this proposed guidance apply to host committees for presidential nominating conventions. We therefore recommend that the Commission approach this issue in separate guidance.

CFI studies of the 2000 and 2004 host committee expenditure reports for the two major parties show that the most important spending beyond administration were described by such terms as: convention facility, construction, TV production and pre-production, radio system, communications equipment, computer equipment and software, rent, electricity, lighting, signs, security, convention transportation, media reception /consulting/public relations, and “lighted boat parade.” As we have previously pointed out in our May 22, 2003 written comments to the Commission on Notice 2003-8, the lack of any relevant descriptions for most of the special functions of host committees in existing “purpose of disbursement” regulations produces individual decisions by each host committee that hinders attempts to understand and compare host committee activities.

In order to understand the precise functions of these organizations, we have suggested that the Commission should separately elaborate a series of disclosure descriptions for host committees that matches the list of 11 host committee permissible expenditure purposes found in 9008.52 (b). (Such a listing should also apply to required statements, under 9008.51(c), by State and local Governments agencies providing facilities and services for the conventions).

In sum, CFI calls upon the Commission to revise its proposed guidance to ensure that all filers describe the purposes of their disbursements in a way that informs the public of the functional purpose of each expenditure and that the new system contains enough teeth to assure compliance.