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MEMORANDUM

TO: Interested Persons
 FROM: Michael J. Sullivan, Director *MJS*
 SUBJECT: Reimbursements for goods and services purchased by individuals

This memorandum provides guidance for political committees that reimburse individuals for goods or services purchased by such individuals on behalf of the candidate or committee. The timing and disclosure of a reimbursement is important. If a reimbursement is not made promptly, i.e., within thirty days of the underlying purchase, the recipient candidate or committee may be considered to have received a "contribution" from the purchaser. In addition, committees must fully disclose the details of the purchase for which reimbursement is being made.

I. Determining if a contribution has been received

A "contribution" is defined by the campaign finance law as any "gift, subscription, loan, advance, deposit of money, or thing of value, except a loan of money to a candidate by a national or state bank made . . . in the ordinary course of business . . ." given "for the purpose of influencing the nomination or election" of a candidate "or for the purpose of promoting or opposing a [ballot question]." See M.G.L. c. 55, § 1. Contributions, including loans and in-kind contributions, from individuals to candidate committees and political action committees are limited. For example, contributions by individuals to candidates are limited to \$1,000 per calendar year, and contributions by individuals to PACs are limited to \$500 per calendar year. See M.G.L. c. 55, § 7A.

Whether a payment made by an individual for goods and services purchased on behalf of a candidate or committee is a "reimbursement" or a "contribution" depends, in most instances, on how quickly reimbursement is made. If a committee promptly, i.e., within thirty days after the purchase of a good or service by an individual, reimburses the individual for his purchases, such a payment would be a "reimbursement." If a committee does not reimburse the individual within 30 days of purchase, however, the individual's out-of-pocket expense may be considered an advance and therefore would be defined as a contribution, i.e. either an in-kind contribution or a contribution in the form of a loan, subject to the relevant contribution limitation. See 970 CMR 2.10(2)(d).¹

¹ No person authorized to sign checks for a campaign committee may write a reimbursement check to himself or herself. To reimburse a person, including a candidate or treasurer of a committee, for out-of-pocket campaign expenditures, another authorized person, other than the person being reimbursed, must write the check. See M.G.L. c. 55, § 5.



II. Reporting the transaction

(a) Reimbursements: A non-depository committee² which reimburses an individual who has obtained goods or services on behalf of the committee should report the reimbursement on Schedule B (Expenditures) of its campaign finance report. If the reimbursement is for more than \$50, the committee must also file an Itemization of Reimbursements (Form CPF R-1) to ensure full disclosure of the original purchase. See 970 CMR 2.10(6). The Form R-1 must be filed electronically if a candidate files campaign finance reports electronically. An example is attached at the end of this memorandum. Any amount due to an individual who made a purchase on behalf of a committee, which remains unpaid when a report is due, is a debt of the committee, which must be reported as a liability on Schedule D (Liabilities) of the campaign finance report.

(b) Credit Card Purchases Made by an Individual on Behalf of a Committee: If a committee reimburses an individual (including the candidate) for payments made by the individual using the individual's credit card, the completed Form R-1 should identify the goods purchased or services obtained through the use of the credit card and the vendor(s) that provided the goods or services.³ The payment by the committee should be made by check payable to the individual, not to the individual's credit card company.

The method of reimbursement and subsequent disclosure of credit card purchases, therefore, is identical to that of purchases made by other means, such as cash or check. For example, a person who buys office supplies for a campaign is reimbursed in the same manner, whether the items were purchased with the individual's personal check or credit card.

(c) In-kind Contribution: If the individual does not intend to be reimbursed, the individual has made an in-kind contribution, which must be reported on Schedule C (In-kind Contributions) of the committee's campaign finance report. The amounts that may be given as in-kind contributions are subject to the campaign finance law's limits on contributions. For example, the total amount an individual may contribute to a candidate (including both monetary and in-kind contributions) is \$1,000 during a calendar year. See M.G.L. c. 55, § 7A.

(d) Loans: If the individual intends to be reimbursed, but this does not happen within 30 days of purchase, the individual has made a contribution in the form of a loan. If the loan is outstanding when the next report is filed, the amount of the outstanding loan to the individual must be reported as a liability of the committee on Schedule D of the campaign finance report. In addition to the name of the individual making the loan, the information reported should disclose the date the liability was incurred, the name and address of the vendor(s) providing the goods or services, a description of the goods or

² Depository committees are committees that are organized on behalf of candidates for statewide office, Governor's Council, county office, or mayor or city council in cities with a population of 65,000 or more (currently Boston, Cambridge, Lowell, Springfield, Worcester, New Bedford, Brockton, Quincy, Lynn, Fall River, Newton, Lawrence, Somerville and Framingham), PACs organized with OCPF (other than independent expenditure PACs), and state party committees. All other committees are referred to in this Memorandum as non-depository committees.

³ Alternatively, a political committee may use its own credit card to make expenditures. See 970 CMR 2.09. Form CPF 9 ("Disclosure of Credit Card Activity") must be used by committees to identify the goods purchased or services obtained using a committee credit card.

services and the amount of the liability. Expenditures made by the committee to subsequently repay the loan, in whole or in part, should be reported on Schedule B with corresponding reductions reflected on Schedule D.

III. Depository Candidates and Committees

By statute, depository candidates and committees must pay for goods and services costing \$100 or more by a check drawn on the candidate or committee's depository account. Reimbursement reports (Form R-1) should be filed (generally, in electronic form) as soon as any reimbursement is made. See 970 CMR 2.10(7). Nonetheless, if an individual makes a payment to a third party for goods and services and is not reimbursed within 30 days, the committee should consider such payment as a loan or in-kind contribution from the individual. In the depository system, loans which remain outstanding at the end of the year and in-kind contributions received during the year must be reported on a depository candidate or committee's year end report, Form CPF D102.

IV. Recordkeeping

Regardless of the nature of a particular transaction or the manner in which it is reported, candidates and committees must keep complete and accurate records, including receipts obtained from any person being reimbursed for out-of-pocket expenditures. The records must identify the source of the goods and services as well as the amount and date of purchase. See M.G.L. c. 55, §§ 2 and 5 and 970 CMR 1.10.

For further information and guidance with respect to this memorandum, please contact OCPF.