



**Solicitation Information**  
**24 May 06**

**RFP # B06396**

**TITLE: Auditing Services – Campaign Finance Reporting**

**OPENING DATE AND TIME: 16 June 06 @ 1:40 PM (EDT)**

Questions concerning this solicitation may be e-mailed, *in a Microsoft Word format*, to the Division of Purchases at [questions@purchasing.state.ri.us](mailto:questions@purchasing.state.ri.us) no later than **6 June 06 at 12:00 Noon EDT**. Please reference the RFP / LOI number on all correspondence. Answers to questions received, if any, will be posted, as an addendum to this solicitation, on the internet at [www.purchasing.ri.gov](http://www.purchasing.ri.gov)

**SURETY REQUIRED: No**

**BOND REQUIRED: No**

**Jerome D. Moynihan, C.P.M., CPPO**  
**Administrator of Purchasing Systems**

**Vendors must register on-line at the State Purchasing Website at [www.purchasing.ri.gov](http://www.purchasing.ri.gov).**

**NOTE TO VENDORS:**

**Offers received without the entire completed three-page RIVP Generated Bidder Certification Form attached may result in disqualification.**

**THIS PAGE IS NOT A BIDDER CERTIFICATION FORM**

The Rhode Department of Administration/Division of Purchases, on behalf of the Rhode Island Board of Elections is soliciting proposals from qualified firms to provide auditing and consulting services as described elsewhere herein, and in accordance with the terms of this Request and the State's General Conditions of Purchase which may be obtained at the Rhode Island Division of Purchases home page by Internet at <http://www.purchasing.ri.gov>.

This is a request for proposals not an invitation for bid; responses will be evaluated on the basis of the relative merits of the proposal, in addition to price; there will be no public opening and reading of responses received by the Office of Purchases pursuant to the Request other than to name those offerors who have submitted proposals.

Potential offerors are advised to review all sections of this Request carefully and to follow instructions completely, as failure to make a complete submission as described elsewhere herein may result in rejection of the proposal.

Alternative approaches and/or methodologies to accomplish the desired or intended result of this procurement are solicited. However, proposals from offerors that materially alter the terms, requirements, or scope of work defined by this Request will be rejected as being non-responsive.

All costs associated with developing or submitting a proposal in response to submitting this Request, or to provide all or written clarification of its content, shall be borne by the offeror. The State assumes no responsibility for these costs.

Proposals are considered to be irrevocable for a period of not less than sixty (60) days following the opening date, and may not be withdrawn, except with the express written permission of the State Purchasing Agent.

All pricing submitted will be considered to be firm and fixed unless otherwise indicated herein.

Proposals misdirected to other State locations or which are otherwise not present in the Office of Purchases at the time of the opening for any cause will be determined to be late and will not be considered. For the purposes of this requirement, the official time and date shall be that of the time clock in the reception area of the Office of Purchases.

It is intended that an award pursuant to this Request will be made to a prime contractor, who will assume responsibility for all aspects of the work. Joint venture and cooperative proposals will be considered, but sub-contracts are permitted, provided that their use is clearly indicated in the offeror's proposal and the sub-contractor(s) proposed to be used are identified in the proposal.

In accordance with Title 7, Chapter 1.1 of the General Laws of Rhode Island, no foreign corporation, a corporation without a Rhode Island business address, shall have the right to

transact business in the State until it shall have procured a Certificate of Authority to do so from the Rhode Island Secretary of State (401-222-2340).

Bidders are advised that all material submitted to the State of Rhode Island for consideration to this Request for Proposals will be considered to be public record, as defined in Title 38, Chapter 2 of the Rhode Island General Laws of Rhode Island, without exception, and will be released for inspection immediately upon request once an award has been made.

**I. INTRODUCTION**

**A. GENERAL PURPOSE**

The Board of Elections of the State of Rhode Island (the “Board”) is soliciting proposals from qualified auditors to administer the state’s matching public funds (“MPF”) program during the 2006 election cycle and conducting audits of said accounts. Auditors of the highest professional caliber shall be prepared to accept responsibility for the implementation and maintenance of a program designed to ensure accountability in the distribution of matching public funds and disbursements to political candidates.

**B. NOTIFICATION TO OFFERORS**

Review all sections of this Request carefully and follow the instructions completely as failure to make a complete submission may result in rejection of the proposal. Proposals misdirected to other State locations, or which are not otherwise present in the Office of Purchasers at the time of opening, will not be considered.

**C. DEADLINE FOR RECEIPT OF PROPOSALS**

Interested offerors may submit proposals to provide the goods and services covered by this request on or before the date & time listed on page one of this solicitation. Responses must include an R.I.V.I.P. generated bidder certification cover sheet (downloaded from the R.I. Division of Purchases Internet home page at <http://www.purchasing.ri.gov> and a letter of transmittal signed by an owner, officer or authorized agent of the firm acknowledging and accepting the terms and conditions of the Request and tendering an offer to the State. It shall be signed and sworn before a notary public declaring that the terms and conditions are true and accurate.

Technical Proposals (one (1) original and nine (9) copies) and separate sealed Cost Proposals (one (1) original and one (1) copy) in a sealed envelopment clearly marked “RFP# B06396 Auditing Services For Campaign Finance Reporting” to:

State of Rhode Island

Department of Administration, Division of Purchases (2<sup>nd</sup> fl)  
One Capitol Hill  
Providence, Rhode Island 02908

NOTE: Proposals received after the above-referenced due date and time may not be considered.

Proposals misdirected to other State locations or which are otherwise not presented in the Division of Purchases by the scheduled due date and time will be determined to be late and may not be considered. Proposals faxed or emailed to the Division of Purchases will not be considered. The official time clock is located in the reception area of the Division of Purchases

## **II. SYSTEM OVERVIEW**

### **A. MATCHING PUBLIC FUNDS (MPF) PROGRAM**

The matching public funds (MPF) program provides candidates for Rhode Island general office with public financing of their campaigns pursuant to §17-25, et al. In order to qualify for these funds candidates who elect to receive them are subject to the laws governing their disbursement and expenditures, in particular §17-25-18 through §17-25-30, and the rules and regulations promulgated by the Board of Elections. The Board is responsible for administering the MPF program and for ensuring that participating candidates comply with the relevant statutes. Attached hereto is Appendix A which describes the MPF program as well as the requirements and responsibilities of the participants.

## **III. POWERS AND DUTIES OF THE BOARD OF ELECTIONS**

### **A. REGULATION AND AUDITING OF MATCHING PUBLIC FUNDS**

The Board of Elections is empowered to adopt and enforce rules and regulations and auditing procedures required to fulfill the mandates of §17-25-19 through §17-25-27 of the Rhode Island General Laws. Amongst other functions, the Board is empowered to:

1. Ascertain whether any contributions or expenditures have exceeded the prescribed limits;
2. Ascertain the amount and source of contributions received and expenditures made by candidates for General Office;
3. Issue advisory opinions on its own initiative or upon application of any candidate; and
4. Conduct investigations and/or hearings relative to alleged violations

on its own initiative or upon receipt of a verified written complaint. The complaint must be based on actual knowledge not merely information and belief.

- (a) Upon receipt of such a complaint, the Board may initiate a preliminary investigation into any alleged violation. All Board proceedings and records relating to the preliminary investigation shall be confidential, except the Board may turn over evidence which may be used in a criminal proceeding to the Attorney General. The Board shall notify a person that he is the subject of the preliminary investigation and the general nature of the alleged violation by certified or registered mail, return receipt requested, within seven (7) days of the start of the investigation.
- (b) If the preliminary investigation fails to indicate reasonable cause for belief that a violation has occurred, the Board shall completely terminate the investigation and notify the complainant and the subject of the investigation in writing.
- (c) If the investigation indicates reasonable cause for belief that a violation has occurred, upon a majority vote, the Board may initiate a full investigation.
- (d) All testimony in Board proceedings shall be under oath and parties shall have the right to call witnesses for direct and cross examination. Furthermore, all parties may introduce evidence and exhibits and may be represented by counsel if they choose. Before testifying, all witness shall be given a copy of the regulations governing Board proceedings.
- (e) Any person whose name is mentioned during a proceeding and who may be adversely affected thereby may appear personally before the Board or file a written statement to be incorporated into the record of the proceeding.
- (f) Within fourteen (14) days after the end of the proceedings, the Board shall meet in executive session to review the evidence. Within thirty (30) days after completion of deliberations, the Board shall publish a written report of its findings and conclusions.
- (g) Upon a finding that there has been a violation, the Board may issue an order requiring the violator to;
  - (i) cease and desist from the violation;

- (ii) file any report or other information required; or
  - (iii) pay a civil fine for each violation in an amount authorized by the section or, if no amount is stated, an amount not to exceed the greater of One Thousand and 00/100 (\$1,000.00) Dollars or three (3) times the amount the violator failed to report properly or unlawfully contributed, expended, gave or received. The Board may turn over to the Attorney General any evidence which may be used in a criminal proceeding against the violator.
- (h) The Board may file a civil action in Superior Court to enforce an order issued.
  - (i) Any final action made by the Board pursuant to the above shall be subject to review in Superior Court upon a petition of any interested person. The petition shall be filed within thirty (30) days after the action being reviewed has taken place. The Court shall enter a judgment enforcing, modifying or setting aside the order of the Board or it may remand the proceeding to the Board for further action.

#### **IV. INFORMATION AND INSTRUCTIONS**

##### **A. SERVICES REQUESTED**

The Rhode Island Board of Elections is seeking proposals from firms of certified public accountants for the purpose of overseeing, directing and administering, under the supervision of the Board, the public financing of campaigns for general office pursuant to Chapter 17-25 of the Rhode Island General Laws. An overview of the Board's duties and responsibilities under the campaign finance laws relative to campaign contributions and expenditures is attached hereto as part of Appendix A. The specific assertion (and related subject matter) to which the agreed upon procedures will be applied relate to the representations and reports made by candidates participating in the Matching Public Funds program.

The specific agreed upon procedures to be performed will be developed by the Board of Elections with the advice and technical consultation of the successful vendor. Due to the evolving nature of the engagement, agreed upon procedures may be identified and modified as the work progresses. The agreed upon procedures to be performed will be outlined in writing as part of the contract between the Board of Elections and the successful vendor.

The agreed upon procedures will generally consist of assessing compliance pursuant

to chapter 17-25 of the Rhode Island General Laws. The agreed upon procedures for the administration of the state's matching public funds (MPF) program must be performed within time frames imposed upon the Board of Elections by law. The services, including auditing services, requested for the MPF Program will be performed in connection with elections held during November 2006, and with reference to the political campaign contributions, expenditures and disbursements for the election cycle beginning January 1, 2003 through December 31, 2006.

The engagement will be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE) issued by the American Institute of Certified Public Accountants (AICPA).

The specified user of the reports resulting from the agreed upon procedures in said engagement will be the Board of Elections. Reports prepared in conjunction with the MPF program will be used by the Board for approving eligible campaign contributions and expenditures. Said MPF reports will be a matter of public record and their distribution will not be limited.

B. QUALIFICATIONS

The proposer shall be a firm of certified public accountants. The proposer shall have sufficient experienced, professional staff to meet the needs of the Board. The proposer shall have experience in performing the agreed upon procedure engagements and shall be familiar with the general laws governing elections and campaign and the manuals regarding same published by the Rhode Island State Board of Elections. All proposers must be independent of any of the candidates for general office and/or municipalities of the State of Rhode Island and not be engaged in providing any other additional services for the Rhode Island Board of Elections. The successful bidder shall, during the period of engagement, refrain from participating in, or contributing to, political campaigns or organizations

C. SELECTION

The firm will be selected based on the criteria set forth herein. Evaluation shall be based on the criteria set forth in Section VII.

D. CONTRACTUAL AGREEMENT

The contract period shall initially extend from the date the contract is awarded, indicated by the release of the purchase order, through completion of the services contracted for, as determined by the Board which shall be on, or about June 30, 2007.

Payment of professional fees will be based upon the submission of progress billings detailing actual hours expended. However, the initial billing shall be on or after July 1, 2006

**V. SPECIFIC REQUIREMENTS**

**A. DUTIES**

In addition to the duties set forth below, the successful bidder will be expected to be prepared to assume additional tasks as they are identified, including, but not limited to:

1. meeting with the Board, staff, candidates and other entities on an as needed basis;
2. conducting examinations, audits and compliance reviews of campaign accounts of candidate's participating in the Matching Public Funds program; and
3. appearing at any hearings, investigations or legal proceedings regarding the firm's findings and reports

**B. IMPLEMENTATION**

The bidder shall submit a work plan for the project. Said plan shall be comprehensive and detailed and should demonstrate a thorough understanding of the scope of the work in this project. It should reasonably estimate the duration, level of effort and cost of each work activity. The work plan should be flexible on terms of estimating and accommodating changes in project requirements and with coping with development problems. The work plan should include plans for project management and should detail:

1. staff organization and supervision
2. integration of Board staff in project
3. progress or status reporting
4. major decision making and sign off procedures
5. defining, achieving and verifying project milestones.

**VI. PROPOSAL Questions**

Questions may be submitted by email, in accordance with the terms and conditions expressed on page on of this solicitation.

B. ORAL PRESENTATIONS

The Board may, at their discretion, require any or all bidders to make an oral presentation of their proposals on-site at the Board of Elections offices. Bidder participants should include at least one person but not more than five persons who are knowledgeable of the RFP and the technical response submitted by the bidder's organization, and who are qualified to answer questions.

Cost negotiations shall not be included in oral presentations. The purpose of the oral presentation will be to provide a summary of the bidder's proposal for the benefit of the Board and permit Board and staff to ask relevant questions pertaining to the proposal.

C. INFORMATION REQUESTED

1. State the location of the principal office from which the work is to be performed and the number and composition of professional staff.
2. Identify the professional staff who will work on the engagement and summarize their relevant experience.
3. Affirm that the proposer is licensed as a firm of certified public accountants.
4. Affirm that the proposer is independent of any candidate for general office under the requirements of the American Institute of Certified Public Accountants.
5. Affirm that, if the proposer is the successful bidder he shall, during the period of engagement, refrain from participating in, or contributing to, political campaigns or organizations.
6. Describe any current or professional relationships with any candidates for public office.
7. State a composite **hourly rate** for the professional services described herein. **This information should be signed and submitted in a separate sealed envelope marked "Cost Proposal – RFP."**
8. Include a general description of the approach and work to be performed during the project. A general description of the techniques, tools, standards and methodology the firm will employ to clarify, finalize, and implement the specifications and requirements of this RFP must follow.

9. Identify all of the areas in the proposal in which subcontractors may be used and describe the tasks and responsibilities for which they will be responsible.
10. Indicate where state resources such as office space, equipment, computer resources, state staff and materials will be needed.
11. Indicate the location and availability of support services for the application.

D. PROPOSAL FORMAT

1. Cover Letter

An introductory letter including the name and address of the firm submitting the proposal should be submitted. This letter should also include the name, address and telephone number of the contact person who will be authorized to represent and commit the firm.

This letter must be signed by an officer of the company who is authorized to bind the firm(s) to all commitments made in the proposal.

2. Company Introduction

This introduction to the bidder must include:

- (a) An indication of the bidder's financial stability.
- (b) Indicate if your company has, within the last seven years, been subject to reorganization under bankruptcy laws and explain the nature, extent and current status of the reorganization.
- (c) List and describe any outstanding litigation relating to performance on contracts in which your company is involved. Also, list litigation within the last three years relating to contract performance regardless of its current status.
- (d) The length of time that the bidder has been engaged in providing the types of services and product described in the RFP, as well as the overall business experience and maturity of the bidder.
- (e) Client list and references.

3. General Approach

- (a) A general description of the approach and work to be performed during the project should be included along with a description of the tools, techniques, standards, and methodology the firm will employ to clarify, finalize, and implement the specifications and requirements of this RFP.
- (b) Identify all of the areas in the proposal where subcontractors may be used and describe their tasks and responsibilities.
- (c) Indicate where state resources such as office space equipment, computer resources, state staff and materials will be needed.
- (d) Indicate the location and availability of support services.

4. Work Plan

The work plan should be comprehensive and detailed and should demonstrate a thorough understanding of the scope of the work involved in this project. It should reasonably estimate the duration, level of effort and cost of each work activity.

It should include plans for project management and should detail:

- (a) staff organization and supervision;
- (b) integration of Board staff in project;
- (c) progress/status reporting;
- (d) major decision making and sign-off procedures; and
- (e) defining, achieving and verifying project milestones.

It should be flexible in terms of:

- (i) estimating and accommodating changes in project requirements; and
- (ii) coping with developmental problems.

5. Staffing

The bidder must provide the Board with the name and qualifications of the Project Manager as well as the number of staff who will be working on this project and submit their qualifications. A single account representative must be designated to oversee the project and serve as the contact.

6. Cost

The cost proposal must be submitted with a letter signed by an owner, officer or agent of the bidder organization acknowledging and accepting the terms and conditions of this Request for Proposal and tendering an offer to the State. Included in said proposal shall be an hourly rate for each of the assigned staff to the project. The initial billing for work performed on this project shall be on or after July 1, 2006 .

**VII. EVALUATION**

The State will commission a Technical Review Committee which will evaluate and score all proposals using the following criteria:

- |    |   |           |
|----|---|-----------|
| 1. | Capability, Capacity and Qualifications                   | 20 points |
| 2. | Analogous Experience                                      | 20 points |
| 3. | Methodology and Understanding of The Scope of the Project | 20 points |
| 4. | Plans For Project Management & Project Control Mechanisms | 20 points |
| 5. | Cost<br>(lowest cost / cost of this proposal X 20 points) | 20 points |

**A minimum technical score of sixty-five (65) points**, out of a possible eighty (80) points, **must be achieved to warrant further consideration**. Proposals scoring less than sixty-five (65) technical points will not have their cost proposals opened and will be dropped from further consideration.

Proposals found to be technically or substantially non-responsive at any point in the evaluation process will be rejected and not considered further.

Notwithstanding the above, the State reserves the right to accept or reject any or all options, bids or proposals, and to act in its best interest.

The State may, at its sole option, elect to require presentation(s) by offerors clearly in consideration for award..

The Technical Review Sub-Committee will present written findings, including the results of all evaluations, to the State Purchasing Agent, or his designee, who will make the final selection for this requirement.

**VIII. PROFESSIONAL LIABILITY COVERAGE**

The selected vendor will be required to provide proof of and maintain Professional Liability coverage according to the following:

1. Limits - \$1,000,000. per occurrence;
2. coverages issued on a claims made basis should stipulate uninterrupted coverage for the length of the agreement and at least three (3) years thereafter; and
3. self-insured retentions in excess of \$10,000 require prior State approval.

**END**

- A. APPENDIX A\*  
1. PUBLIC FINANCING OF CAMPAIGNS

**FOR CANDIDATES FOR  
GENERAL OFFICE**

*\* The forms used in conjunction with the Matching Public Funds (MPF) Program are not included herein as part of this Request For Proposal but may be obtained from the Board of Elections upon request.*

**SUMMARY OF PUBLIC FINANCING OF CAMPAIGNS  
FOR CANDIDATES FOR GENERAL OFFICE**

**I. ELIGIBILITY**

To be eligible for matching public funds the candidate must comply with the following:

- A. Must be a candidate for general office (Governor, Lt. Governor, Secretary of State, General Treasurer, Attorney General) of the State of Rhode Island. (17-25-19)
- B. Candidate must agree to abide by limitations on the total amount of campaign contributions and expenditures. (17-25-19)
- C. Must be the nominee of a political party as defined in 17-1-2(9). Independent candidates (i.e. candidates not nominated by a political party as defined in 17-1-2(9)) are also eligible but must meet the additional requirements described below. (17-25-19, 17-25-22)
- D. Candidate must, at the time he/she becomes a candidate as defined in 17-25-3(a), sign a statement under oath pledging to comply with the limitations on campaign contributions and expenditures and all other terms and conditions in the public finance laws. Any candidate who fails to file such a statement shall be ineligible for matching funds. (17-25-19, 17-25-20(1), 17-25-22)

**E. Independent Candidates:**

Independent candidates must also meet the following additional requirements:

- 1. Raise an amount in qualified private contributions equal to 20% of the total amount eligible to be matched for election to the office sought. (17-25-20(6), 17-25-22)

2. Receive private contributions from a minimum of 250 individuals contributing at least \$25 each. (17-25-20(6), 17-25-22)
3. Comply with all nomination provisions in Title 17 of the Rhode Island General Laws and qualify to be placed on the general election ballot. (17-25-20(6), 17-25-22)

Upon the filing of a statement pledging to comply with the limitations on campaign contributions and expenditures, a candidate shall be bound to abide by the limitations set forth in Chapter 25 of Title 17 of the General Laws of Rhode Island and may not withdraw from his or her obligation to abide by said restrictions.

## **II. LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES**

No candidate for general office shall receive or expend for election purposes more than a total of public and private funds in an election cycle than the sum set by the Board of Elections pursuant to §17-25-20(2). The limitations shall apply in the November 2006 general election and shall be determined by the Board of Elections in January of 2006. The election cycle is the 48 month period commencing on January 1, 2003 and ending on December 31, 2006. (17-25-3(k))

### **A. Increase in limits for candidates who have primaries**

Any candidate for general office who is challenged for nomination in a political party primary shall be permitted to raise and expend an additional amount of private funds equal to one-third (1/3) of the maximum allowable expenditure amount or the total amount spent by said candidate's opponent or opponents in said primary, whichever amount is less. The additional amounts received must be expended prior to the primary election. The additional private contributions shall not be eligible for matching public funds. (17-25-21)

### **B. Increase in limits in certain cases where opponent does not elect to receive public funds** **(17-25-24)**

Any eligible candidate who elects to receive public funds whose opponent does not elect to receive public funds shall be permitted to raise additional private contributions and make additional expenditures for election purposes. The additional amount allowed shall be equal to the amount by which the expenditures of said opponent exceeds the maximum allowable expenditure limit that would have applied to said opponent's expenditures had the opponent elected to receive public funds.

### **C. Certain costs not counted toward limitation and expenditure limits**

Direct costs incurred in connection with raising campaign funds

on behalf of a candidate are not counted for the purposes of the limitation on expenditures. Direct costs include the costs of printing and mailing invitations to fundraising events, solicitations for contributions, costs of hosting fundraising events and travel to those events. Direct costs do not include any portion of the salary or wages of campaign employees nor the cost of any radio, television or print advertisement. To qualify for this exclusion the cost of the fundraising event must be less than the amount of money realized from the gross proceeds of said event. (17-25-20(4))

**D. Certain expenditures of persons, political party committees or political action committees that count toward expenditure limits (17-25-23)**

Any funds expended by a person, political party committee or political action committee to directly influence the outcome of the electoral contest involving the candidate shall be considered a contribution received by or an expenditure made by said candidate for general office if any of the following relationships between said candidate and the person, committee of a political party or political action committee is present:

1. there is any arrangement, coordination or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure;
2. in the same election cycle, the person making the expenditure (including any officer, director, employee or agent of such person) is or has been authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or is or has been an officer of the candidate's authorized committees, or is or has been receiving any form of compensation or reimbursement from the candidate's authorized committees, or the candidate's agent;
3. the person making the expenditure (including any officer, director, employee or agent of such person) has communicated with, advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects or needs relating to the candidate's pursuit of the election to general office in the same election cycle, including any advice relating to the candidate's decision to seek election to general office;
4. the person making the expenditure retains the professional services of any individual or other person also providing those services to the candidate in connection with the candidate's pursuit of the election to general office in the same election cycle, including any advice relating to the candidate's decision to seek election to general office;
5. the person making the expenditure (including any officer, director, employee or agent of such person) has communicated or consulted at any time during the same election cycle about

the candidate's plans, projects, or needs relating to the candidate's pursuit of election to general office, with: (i) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, in connection with the candidate's campaign; or (ii) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions;

6. the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects or needs, provided that the candidate or the candidate's agents are aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election; or
7. the expenditure is made by a person with the intention of seeking or obtaining a governmental benefit or consideration from the candidate by reason of the expenditure.

**E. Joint advertisements-equal apportionment of expenditures (17-25-26)**

Any expenditure jointly made by any 2 or more candidates for any newspaper, radio or television advertisement primarily benefiting said candidates shall be attributed to and apportioned equally among those candidates who are clearly identified in that advertisement.

**F. Types of allowable expenditures**

No public funds and no private funds used to qualify for public funds shall be expended by a candidate for any purpose except to pay reasonable and necessary expenses directly related to the candidates campaign. (17-25-20(7))

No public funds shall be expended by a candidate except for the following uses which are directly related to the campaign of the candidate (17-25-20(8)):

1. purchase of radio or television time;
2. purchase of rental space on outdoor signs or billboards;
3. purchase of advertising space in newspapers and regularly published magazines and periodicals;
4. payment of the cost of producing the material aired or displayed on radio, television, outdoor signs or billboards and in newspapers, regularly published magazines and periodicals;
5. payment of the cost of printing and mailing campaign literature and brochures;

6. purchase of signs, bumper stickers, campaign buttons and other campaign paraphernalia;
7. payment of the cost of legal and accounting expenses incurred in complying with the public financing laws and regulations;
8. payment of the cost of telephone deposits, installation and monthly charges in excess of deposits;
9. payment of the cost of public opinion polls;
10. payment of rent, utilities and associated expenses connected with the operation of an election headquarters or satellite election offices.

**G. Defraying expenses from previous campaigns**

Contributions received and expended by any candidate for the purpose of defraying an expense or satisfying any loan obligations incurred prior to January 1, 1991 by the candidate in furtherance of his or her candidacy in a previous election cycle (as defined in §17-25-3(5)) shall not be counted toward any contribution or expenditure limitation. (17-25-20(9))

**H. Contributions from political action committees (17-25-3(9))**

Only political action committees, registered with the Board, which have accepted contributions from fifteen (15) or more persons in amounts of \$10.00 or more within an election cycle shall be permitted to make contributions which are eligible to be matched with public funds, and said committees must make contributions to at least 5 or more candidates for state or local office within an election cycle.

**III. FUNDS AVAILABLE**

**A. Matching funds**

Qualified candidates for general office shall be eligible to receive two dollars (\$2.00) of public funds for each qualified dollar (\$1.00) of private funds contributed which do not exceed an aggregate of \$500 from a single source within an election cycle, and one dollar (\$1.00) of public funds for each qualified dollar (\$1.00) of private funds contributed which exceed an aggregate of \$500 from a single source within an election cycle but do not exceed the limitations on aggregate contributions which are eligible to be matched as set forth in subsection (3) of section 17-25-20, (i.e. for governor: \$2,000 from a single source within an election cycle; for other general offices: \$1,000 from a single source within an election cycle. (17-25-19, 17-25-20(3)) However, the entire amount contributed shall be considered toward the dollar limitations provided in the section on limitation of contributions and expenditures. (17-25-20(3))

**B. Time and manner for disbursement of matching public funds**

No public funds shall be dispersed until after the date of the primary election. Candidates must submit to the Board of Elections proof of receipt of qualifying private contributions

and such supporting documentation as required by and in the manner prescribed by the Board. The Board of Elections shall within 5 days of the receipt of the request for payment of matching funds either pay over such funds to the candidate or disallow all or a portion of the request and state in writing the reasons therefor. Candidates may submit supplemental applications for public funds until such time as the limits are reached. (17-25-22)

#### **IV. PENALTY FOR EXCEEDING LIMITS**

If a candidate who accepted public funds makes expenditures in excess of the permitted amounts the candidate shall be liable for a civil assessment in an amount equal to 3 times the amount of the excess funds expended. (17-25-20(5)) See also section VI(E) hereof.

#### **V. 50% OF SURPLUS CAMPAIGN FUNDS TO BE RETURNED TO GENERAL TREASURER (17-25-25)**

Any candidate receiving public funds during any election cycle shall, with 90 days after the completion of said election cycle, transfer to the general treasurer 50% of any amount of said candidate's total campaign funds unexpended as of the last day of said election cycle. The candidate may convert the remaining 50% of said surplus to use for any political purposes not otherwise prohibited by law, but the candidate may not convert this money to personal use.

#### **VI. POWERS AND DUTIES OF THE BOARD OF ELECTIONS (17-25-27)**

The Board may conduct a post-audit of all accounts and transactions for any election cycle and may conduct such other special audits and post-audits as it may deem necessary. (17-25-27)

##### **A. Publication of finance reports (17-25-27)**

The Board shall publish a summary of the reports filed by candidates for general office pursuant to the public financing provisions on or before April 1 of the year following any year in which elections are held for statewide elective office. (17-25-27) (17-25-28)

##### **B. Determine compliance with contribution and expenditure limits (17-25-28(1))**

The Board is empowered to ascertain whether any contributions to or expenditures for candidates for general office have exceeded allowable limits. The Board is also empowered to ascertain the amount and source of contributions received and expenditures made by all candidates for general office whether or not said candidate chose to participate in public financing.

##### **C. Advisory Opinions (17-25-28(2))**

The Board may issue advisory opinions upon its own initiative or upon application of any candidate.

**D. Conduct Investigations/Hearings (17-25-28(3))**

The Board may conduct investigations and/or hearings relative to alleged violations of the public financing laws on its own initiative or upon receipt of a verified written complaint, which complaint shall be under pain and penalty of perjury and be based upon actual knowledge and not merely on information and belief.

The Board may initiate a preliminary investigation into any alleged violation of the public financing laws and all proceedings and records relating thereto shall be confidential, except that the Board may turn over to the attorney general evidence which may be used in a criminal proceeding. The Board shall notify any person who is the subject of the preliminary investigation of the general nature of the alleged violation by certified or registered mail, return receipt requested, within 7 days of the commencement of the investigation.

If the investigation fails to indicate reasonable cause for belief that the public finance laws have been violated, the Board shall immediately terminate the investigation and so notify, in writing, the complainant, if any, and the person who had been the subject of the investigation.

If the preliminary investigation indicates reasonable cause for belief that the public finance laws have been violated, the Board may, upon a majority vote, initiate a full investigation to determine whether there has been such a violation.

Testimony at hearings shall be under oath. All parties shall have the right to examine witnesses, introduce exhibits, submit evidence and be represented by counsel. Before testifying, witnesses shall be given a copy of the regulations governing Board proceedings. Witnesses shall be entitled to be represented by counsel.

Any person whose name is mentioned during a proceeding of the Board and who may be adversely affected thereby may appear personally before the Board on his/her own behalf or file a written statement for incorporation into the record of the proceeding.

Within 14 days after the end of the proceedings, the Board shall meet in executive session for the purpose of reviewing the evidence before it. Within 30 days after completion of deliberations, the Board shall publish a written report of its findings and conclusions.

**E. Penalties for violations(17-25-28(3))**

Upon a finding that there has been a violation of the public financing provisions (RIGL §17-25-18 through 17-25-27) or any other campaign finance law, the Board may issue an order requiring the violator to (a) cease and desist from such violation, (b) file any report, statements or other information

required by the campaign finance laws, and/or (c) pay a civil fine for each violation of any section of this chapter in an amount authorized by such section or, if no such authorization exists, in an amount not to exceed the greater of \$1,000.00 or 3 times the amount the violator failed to report properly or unlawfully contributed, expended, gave or received. In addition, the Board may turn over to the attorney general any evidence which may be used in a subsequent criminal proceeding against any violator.

In addition to the above civil penalties, any person who willfully and knowingly violates the provisions of the public financing laws shall upon conviction be guilty of a misdemeanor and shall be fined not more than \$1,000 per violation. (17-25-13)

#### **F. Enforcement (17-25-28(3))**

The Board may file a civil action in Superior Court to enforce an order issued by it.

#### **G. Appeals (17-25-28(3))**

Any interested person may seek review of any final action by the Board made pursuant to this chapter by filing a petition in the Superior Court within 30 days after the final action of the Board. The Superior Court shall enter a judgment enforcing, modifying or setting aside the order of the Board or it may remand the proceeding to the Board for such further action as the court may decide.

### **VII. COMPLIANCE BENEFITS (17-25-30 and 17-25-30.1)**

A. Any candidate eligible to receive public funds who shall comply in full with all eligibility criteria for receipt of such funds shall be:

- (1) entitled to an additional benefit of free time on community antenna television to be allocated pursuant to rules determined by the administrator for the division of public utilities. During all such allocated free time the candidate shall personally appear and present the message of the advertisement; and
- (2) entitled to an additional benefit of free time on any public broadcasting station operating under the jurisdiction of the Rhode Island public telecommunications authority pursuant to rules determined by said authority. During all such allocated free time the candidate shall personally appear and personally present the message of the advertisement; and
- (3) entitled to accept a contribution or contributions which in the aggregate do not exceed two thousand dollars (\$2,000) from any person or political action committee within a calendar year.

- B.** The administrator for the division of public utilities for the State of Rhode Island shall formulate rules and regulations concerning the allocation of advertising time to be used by those candidates for public office who are eligible to receive public funds who comply in full with all eligibility criteria for receipt of such funds.

# **REGULATIONS**

**ADOPTED BY THE STATE BOARD OF ELECTIONS**

**IN CONNECTION WITH PUBLIC FINANCING OF CAMPAIGNS**

**FOR CANDIDATES FOR GENERAL OFFICE**

**PURSUANT TO SECTIONS 17-25-18 THROUGH 17-25-30**

**OF THE GENERAL LAWS OF**

**RHODE ISLAND**

The following regulations have been adopted by the State Board of Elections under authority of §§ 17-25-5 and 17-25-28 of the Rhode Island General Laws. The regulations are listed under the heading of the section of the General Laws to which they principally apply. However, the regulations as set forth shall apply not only to the section under which it is listed but to any other section of Chapter 17-25 to which it may be applicable.

**17-25-19: Public financing of election campaigns.-** Under the provisions of § 17-25-19, each candidate for general office who desires to be eligible for matching public funds (MPF) shall, at the time he or she becomes a candidate for general office as defined in § 17-25-3(2), but no later than 4:00 P.M. on the last day for filing declarations of candidacy for general office with the Secretary of State, sign and file a statement under oath, on a form provided by the Board of Elections pledging to comply with the limitations on campaign contributions and expenditures and with all of the terms and conditions of the statutes, and regulations adopted pursuant thereto, relating to the public funding of election campaigns or request not to participate in the MPF program. Any candidate who fails to file said statement within the time set forth above shall be ineligible to receive public funding. Once a candidate files the statement under oath required under § 17-25-19, such candidate may not withdraw from that pledge, notwithstanding his or her failure to thereafter request payment of such public funding.

The nominees for general office of each political party as defined §17-1-2(9) and independent candidates for those offices who meet the requirements set forth in §17-25-20(6) shall be eligible to receive two dollars (\$2.00) of public funds for each qualified dollar (\$1.00) of private funds contributed which do not exceed an aggregate of five hundred dollars (\$500) from a single source within an election cycle. A candidate for governor can also receive one dollar (\$1.00) for the next one thousand five hundred dollars (\$1,500) of private funds from a single source within an election cycle. Candidates for all other general offices can receive one

dollar (\$1.00) for the next five hundred dollars (\$500) of private funds from a single source within an election cycle.

**17-25-20: Eligibility criteria for MPF.-** With respect to the provisions of § 17-25-20, only the first two thousand dollars (\$2,000) contributed by a candidate for governor to his or her own campaign within an election cycle (as defined in §17-25-3(5)) and only the first one thousand dollars (\$1,000) contributed by a candidate for other general offices to his or her own campaign within an election cycle shall be eligible for matching public funds; provided, however, that the entire amount contributed by a candidate to his or her own campaign shall count towards the dollar limits.

No participating candidate for general office shall either receive or expend for election purposes more than a total of public and private funds in an election cycle than the sum set by the Board of Elections.

**ADVISORY OPINION 94-05, Section #2:** *Contributions received in this cycle and used to pay for expenses of the past cycle must be counted towards contributions/expenses in the present election cycle.*

**ADVISORY OPINION 98-01, Section A:** *Expenditures incurred in a previous cycle and paid for in the present cycle with funds raised in the previous election cycle, does not cause them to be deemed expenditures in the present election cycle and as such, must be deducted from the present cycle when calculating the expenditure limits under §17-25-19.*

Only contributions of money shall be eligible for matching public funds and not any other kind of contribution as defined in § 17-25-3(3). However, all contributions (as defined in §17-25-3(3)) shall be taken into account for the purpose of determining the receipt or expenditure of funds.

Contributions that exceed one hundred dollars (\$100) in the aggregate from a single source and which do not list a place of employment, as prescribed in §17-25-7, shall not be eligible to receive matching public funds for those contributions. A candidate must provide proof that a good faith effort was made to secure a place of employment for all contributions of one hundred dollars (\$100) or less from a single source.

Contributions from political action committees (PACs) that have not fulfilled the requirements of §17-25-3(9) requiring that a PAC must make contributions to at least five (5) non-federal Rhode Island candidates in the present two (2) year election cycle shall not be eligible for matching public funds until such time that the Board can confirm that the provisions of §17-25-3(9) have been met or the Board has received a signed affidavit, on a form provided by the Board, and that the PAC has met the requirements of §17-25-3(9) by contributing to five or more non-federal Rhode Island candidates.

Expenditures qualifying for exclusion under § 17-25-20(4) (direct costs incurred with raising campaign funds) shall nevertheless be reported to the Board in all reports required of candidates under Chapter 17-25, but shall be separately identified in reports as qualifying for exclusion from the expenditure limitations.

**ADVISORY OPINION 93-02 & 98-01:** *It is and has been the opinion of the Board that all contributions made in the course of raising funds are to be counted for the purpose of contribution limits. The full amount of funds contributed towards raising funds must be counted towards the limits related to contributions. This will encourage frugality among candidates and the amount of dollars expended in the hosting of such fundraising. A contrary opinion would encourage lavish expenditures in the hosting of fundraising events by allowing candidates to pay such expenditures by raising additional contributions above and beyond the contribution limits which would ordinarily be applicable.*

Interest or other income earned on the deposit or investment of campaign funds shall not be eligible for matching public funds and shall not be included as funds received by the candidate under § 17-25-20(2), but the expenditure of such interest or other income shall be counted in determining total expenditures under § 17-25-2-(2). Also, such interest or other income shall be subject to the provisions of § 17-25-25.

With respect to an independent candidate, such candidate may qualify under the provisions of § 17-25-20(6)(i) only by raising 20% of the total amount eligible to be matched for election to the office sought through qualified private contributions (i.e. through private contributions not exceeding two thousand dollars (\$2,000) from each contributor within the same election cycle for the office of governor, and through private contributions not exceeding one thousand dollars (\$1,000) from each contributor within the same election cycle for the other general offices. For this purpose, an independent candidate may contribute to his or her campaign, but only the first two thousand dollars (\$2,000) (for governor) and the first one thousand dollars (\$1,000) (for other general offices) of any such contribution shall be eligible to be used for the purpose of determining compliance with the 20% provision § 17-25-20-(6)(i).

Independent candidates must also receive contributions from a minimum of two hundred fifty (250) individuals contributing at least twenty five dollars (\$25.00) each; and comply with any and all applicable nomination provisions and qualify for the general election ballot pursuant to the Rhode Island General Laws.

Only funds received in one and the same election cycle shall be used to determine eligibility.

Only reasonable and necessary expenses directly related to the candidate's campaign may be expended with public funds and private funds used to qualify for the public funds.

No public funds shall be expended by the candidate except for one or more of the following uses directly related to the campaign of the candidate:

- 1) purchase of time on radio or television stations;
- 2) purchase of rental space on outdoor signs or billboards;
- 3) purchase of time on advertising space in newspapers and regularly published magazines and periodicals;
- 4) payment of the cost of producing the material aired or displayed on radio, television, outdoor signs or billboards, and in newspapers, regularly published magazines, and periodicals;
- 5) payment of the cost of printing and mailing campaign literature and brochures;
- 6) purchase of signs, bumper stickers, campaign buttons, and other campaign paraphernalia;
- 7) payment of the cost of legal and accounting expenses incurred in complying with the public financing law and regulations as required by this chapter;
- 8) payment of the cost of telephone deposits, installation charges, and monthly billings in excess of deposits;
- 9) payment of the costs of public opinion polls and surveys; and
- 10) payment of rent, utilities and associated expenses connected with the operation of an election headquarters or satellite election offices.

Candidates shall be required to make and maintain adequate records to verify expenditures which are excludable from the candidate's expenditure limitations under §17-25-(4). Candidates shall likewise be required to keep and maintain adequate records to verify contributions received and expenditures made which are excludable from contribution or expenditure limitations provided for under §§17-25-20(2) and 17-25-21 when used for the purpose of defraying any expenditure or satisfying any loan obligation incurred prior to January 1, 1991 by the candidate in furtherance of his or her candidacy in a previous election cycle.

Such records shall include canceled checks, invoices, purchase orders, itemized vendor statements and all other documents which may be used to verify contributions or expenditures qualifying for such exclusion.

While contributions received and expenditures made by any candidate for the purpose of defraying any expenditure or satisfying any loan incurred prior to January 1, 1991 shall not be counted toward any contribution or expenditure limitation as provided above, any contributions received and expended for such purpose during the then-current election cycle shall be eligible for matching public funds under §17-25-20(3).

Expenditures used to defray any expenses or satisfy any loans incurred prior to January 1, 1991 must be separately identified on

all reports filed with the Board of Elections following the date when such candidate elected to become eligible for public funding, when such forms require a listing of expenditures qualifying for exclusion.

**17-25-21: Primary elections.-** Although the statute provides that any additional amount received in contributions for the purpose of a primary election must be expended prior to the primary, it is not necessary that payment of such expenses occur before the primary so long as it can be clearly shown that such expenses were incurred prior to the primary. The additional amount permitted to be raised and spent by a candidate in a primary election shall be the lesser of one-third (1/3) of the maximum allowable expenditure amount for the office sought or the sum of the amounts spent in the primary by all of said candidate's primary opponents.

Any candidate for general office who is being challenged for nomination in a party primary, including those who have elected not to avail themselves of the public funding provided under §§17-25-18 through and including 17-25-29, shall, on a form provided by the Board of Elections (form MPF-2), file with the Board a summary of contributions received and expenditures incurred (whether or not yet paid) from the beginning of the election cycle through and including the day preceding the date of filing of said report. The initial report (and all supplemental reports as hereinafter provided) shall also indicate the amount of such contributions received which are eligible for matching public funds and the amount of such expenditures qualifying for exclusion under §17-25-20(4).

The initial report shall be filed on the 50th day preceding the primary. Supplemental reports shall be filed on the 40th, 30th, 21st and 14th days preceding the primary. Thereafter, such supplemental reports shall be filed daily through and including the date of the primary, except for Saturdays, Sundays and legal holidays (e.g. the report for the 9th day preceding the primary shall be due by 1:00 P.M. on the 8th day preceding the primary, with the last supplemental report being due by 1:00 P.M.

on the day of the primary election.) Supplemental reports shall include the period from the last previous report to and including the day preceding the date of filing of each such supplemental report and shall report any changes since the previous report, or if there are no changes, stating such fact.

The purpose of this report is twofold. First, it will enable the Board to monitor and enforce the receipt and expenditure limitations and other requirements of §§17-25-18 through 17-25-29. Second, it will provide information to all other candidates for the same office being challenged in said party primary so as to enable them to avail themselves of the provisions of §§17-25-21 allowing a candidate to raise and expend, for purposes of the primary election, an additional amount of private funds equal to the sum of the amounts spent by all of his or her primary opponents in said primary

but not more than one-third (1/3) of the maximum allowable expenditure amount for the office sought. For this latter purpose, said reports shall separately identify as "Expected Contributions", any contributions which the candidate has not yet received but for which he or she has received pledges or commitments, including any loans not yet received but which the candidate reasonably expects to receive either from the candidate himself or herself or from a third party; and shall also separately identify as "Anticipated Expenditures" any expenditures anticipated to be incurred (though not yet paid or even formally contracted for) such as, but not limited to, the reservation of television or radio time or print media space.

The intent and thrust of this regulation is to prevent a candidate who is being challenged in a primary from deferring either contributions or expenditures until a point in time when it will be difficult or impossible for his or her opponent or opponents to raise and expend before the primary an additional sum of money as permitted by §17-25-21.

All contributions and expenditures shall be reported regardless of the amount, notwithstanding any other provision of Chapter 17-25. All expenditures incurred prior to the primary by a candidate being challenged in such primary shall be deemed to have been incurred in connection with such primary election.

Candidates who are not being challenged in a primary need not file the reports required by this regulation but shall be required to file the reports required by the regulations under §17-25-24 when they have exceeded the contribution or expenditure limits of §17-25-20(2).

Candidates who are being challenged in a party primary and who exceed the contribution or expenditure limits of §17-25-20(2) before such primary shall no longer be required to report under this regulation but shall immediately become subject to the reporting requirements of the regulations under §17-25-24. Candidates who are being challenged in a party primary but who do not exceed the contributions or expenditures limits of §17-25-20(2) until after the primary are not required to comply with the reporting requirements of the regulations under §17-25-24 until such time as such contribution or expenditure limits have been exceeded.

**ADVISORY OPINION 94-05, Section #1:** *When contributions or expenditures limits are exceeded during the election*

*cycle, reporting is required on MPF form-2, part VI.*

Except as herein provided, all reports required under this regulation shall be in addition to all other reports required under Chapter 17-25.

Only a candidate involved in a primary election shall be permitted to raise and expend an additional amount of private funds. For example, if one political party has a primary election for the office of governor but other political parties do not, the candidates of the political parties not having primary elections do not have the right to raise and expend the additional amount of private funds referred to in § 17-25-21.

The maximum additional amount of private funds which may be raised and expended by a candidate in a primary election is limited to the lesser of (a) the total amount spent by the opponent or opponents of such candidate in the primary election or (b) one third of the maximum allowable expenditure amount for the office sought.

**17-25-22: Time period for payment of public funds.-** The form (MPF-2) to be used for reporting to the Board under this regulation shall be the same form to be used for reporting under the §17-25-24 regulations. The summary reports required under this regulation need not be signed by the candidate so long as they are signed by his or her campaign treasurer or a deputy campaign treasurer whose names are on file with the Board. However, the candidate shall be responsible for the contents of such reports even though not a signatory thereto.

Together with each request for payment of public funds the candidate must submit to the Board of Elections proof of receipt of qualifying private contributions and such supporting documentation as the Board may require. The Board shall require candidates to submit copies of checks received from contributors (including those made by the candidate to his or her own campaign) accompanied by and made part of an affidavit signed by the candidate on a form provided by the Board (forms MPF-3, -4 & -4A).

In the event that any contribution to a candidate is made in cash, the candidate, in such affidavit, shall certify under oath that contributions were received on the dates and in the amounts indicated in and from persons whose names and addresses shall be included in

such affidavit.

Each affidavit shall also be accompanied by copies of deposit slips and matching deposit receipts and also by bank statements, or comparable statements, issued by the depository or custodian of such funds showing the amounts on deposit or the investment of the funds received. Said supporting documentation, although submitted as above required, shall not be deemed to be in compliance with these regulations unless deposit slips and deposit receipts are matched and submitted in chronological order.

To the extent that bank statements, or comparable statements, for a particular time frame are not available for submission to the Board with a request for payment, because such statement has not yet been issued by the depository or custodian of the funds, then the candidate shall be required to furnish such statements as soon as they have been issued by the depository or custodian.

**ADVISORY OPINION 94-05, Section #3:** *In the use of MPF forms -4 and -4A, contributors must be listed in alphabetical order and all the dates that such contributor contributed to the campaign must be listed at that one location on the form.*

Each request by a candidate for payment of public funds shall be on a form provided by the Board, signed by the candidate, and also accompanied by a special report (MPF form -5, -5A and -5B and signed by the candidate) of campaign contributions and expenditures, received or incurred by the candidate, from the first day of the cycle or the day he or she became a candidate for the office being sought to the date preceding the date of the request, which special report shall indicate the names and addresses of each contributor (including the candidate to his or her own campaign), the amount or amounts and dates of each contribution made by each contributor, the amount of each contribution eligible for matching public funds; and shall also indicate the dates and amounts of each expenditure incurred (whether or not paid), the name and address of the person or entity to whom incurred, the purpose of each expenditure and whether the expenditure was incurred for the primary or general election. This special report shall be made on a form (MPF -5, -5A and -5B) provided by the Board. All expenses reported to the

Board by candidates shall be reported on the accrual basis (i.e. when incurred, regardless of when paid). Contributions, however, shall be reported on the cash basis. Any expenditure incurred within an election cycle shall be reported as an expenditure within the election cycle during which it was incurred. Similarly, contributions shall be reported as such within the election cycle during which such contribution was received, even though said contribution or some portion thereof is intended for use to pay an expenditure incurred in a succeeding election cycle.

**ADVISORY OPINION 94-05, Section #4:** *A returned contribution should not be recorded as an expense since this would affect the candidate's expenditure limits. The proper way to report a returned contribution is to record it on the next succeeding report following the date of return of the contribution under the heading of "other disbursements" noting the name of the contributor, the amount of the returned contribution and the date it was returned.*

Such special report is designed to enable the Board to determine compliance by the candidate with the receipt and expenditure limitations of § 17-25-20(2) and will enable the Board to enforce the provisions of § 17-25-20(5).

All candidates for general office shall file a final special report (in addition to all other reports required by Title 17-25 of the General Laws) showing the total amount of contributions and expenditures received and expended from the first day of the election cycle or date when he or she became a candidate for the office sought to December 31 of the year of the election, such report to contain the same information as required above for special reports and said special report shall be due not later than January 31 of the succeeding year. Such final special report need not be signed by the candidate so long as it is signed by his or her treasurer or a deputy treasurer whose names are on file with the Board. However, the candidate shall be responsible for the contents of such report even though not a signatory thereto.

**ADVISORY OPINION 94-05, Section #1:** *Forms MPF-5, -5A and -5B must be filed, together with the other necessary forms, when applying for payment of public funds after the primary election. These forms are also to be used for filing the final special report due not later than January 31 of the year following the election year.*

All requests for funds must be submitted to the Board after the date of the primary and not later than November 20 of the last year of the election cycle. Requests submitted after November 20 shall be denied unless accompanied by an affidavit setting forth facts showing that such request was not timely submitted because of circumstances beyond the control of the candidate.

**17-25-23: Funds expended by a person, committee of a political party or a political action committee - private expenditures.-** Any funds expended by a person, committee of a political party or a political action committee to directly influence the outcome of the electoral contest involving the candidate shall be considered a contribution received by or an expenditure made by the candidate for general office.

**17-25-24: Additional expenditures.-** All candidates for general office, including those who have elected not to avail themselves of the public funding provided under §§17-25-18 through and including 17-25-29, shall, immediately report to the Board when such candidate has exceeded either the contribution or expenditure limits of §17-25-20(2), such report (form MPF-2) to be filed with the Board not later than 4:00 P.M. of the next business day following the day when such contribution or expenditure limits have been exceeded. A copy of such initial report shall be mailed on the same date as the filing date, by certified or registered mail, return receipt requested, by the candidate filing the same, to every other candidate for the same office at the address shown on the declaration of candidacy. A stamped receipt of mailing or other appropriate evidence shall be retained by the candidate mailing such report as evidence of mailing. Said initial report may also be hand delivered to the other candidate or his campaign treasurer or deputy but the only acceptable evidence of such delivery shall be a receipt signed by the candidate or campaign treasurer or deputy.

Said initial report shall be filed on form MPF-2 which shall include a summary of contributions received and expenditures incurred (whether or not yet paid) from the beginning of the election cycle through and including the day preceding the date of filing said initial report. Said report (and all supplemental reports as hereinafter provided) shall also indicate the amount of such contributions received which are eligible for matching public funds and the amount of such expenditures qualifying for exclusion under §17-25-20(4).

Following the initial report, said candidate shall file a supplemental report with the Board seven (7) days following the filing date of said initial report and every seventh day thereafter, reporting on any changes from the previous report through and including the day preceding the due date of each such report, or if there are no changes, stating such fact. Provided, however, that during the fourteen (14) days immediately preceding the date of the election, such reports shall be filed on a daily basis except for Saturdays, Sundays and legal holidays.

The purpose of this regulation is twofold. First, it will enable the Board to monitor and enforce the receipt and expenditure limitations and other requirements of §§17-25-18 through 17-25-29. Second, it will provide notification to all other candidates for the same office so as to enable them to avail themselves of the provisions of 17-25-24 (to increase contributions if the candidate's opponent goes over limits). For this latter purpose, said reports shall separately identify as "Expected Contributions" any contributions which the candidate has not yet received but for which he or she has received pledges or commitments, including any loans not yet received but which the candidate reasonably expects to receive; and shall also separately identify as "Anticipated Expenditures" any expenditures anticipated to be incurred (though not yet paid or even formally contracted for) such as, but not limited to, the reservation of television or radio time or print media space.

The intent and thrust of this regulation is to prevent a candidate from deferring either contributions or expenditures until a point in time when it will be difficult or impossible for an opponent to raise and expend before the election an additional sum of money as permitted by law.

All contributions and expenditures shall be reported regardless of the amount, notwithstanding any other provision of Chapter 17-25.

Except as herein or in the regulations under §17-25-21 otherwise provided, all reports required under this regulation shall be in addition to all other reports required under Chapter 17-25.

**17-25-25: Surplus campaign funds.-** Any candidate receiving public funds during any election cycle under

the provisions of this chapter shall, within ninety (90) days after the completion of the election cycle, transfer to the General Treasurer for deposit in the general fund fifty percent (50%) of any amount of the candidate's total campaign funds unexpended as of the last day of the election cycle.

**ADVISORY OPINION 98-01, Section B:** §17-25-25 specifically requires a candidate receiving public funds during an election cycle to return at least fifty percent (50%) of the unexpended portions of those funds to the General Treasurer. Said refund to the General Treasurer is done in the present cycle with funds raised in the past cycle. These funds as well as refunds to any other campaign contributor is permitted and will not count toward expenditure limits in the current election cycle.

**ADVISORY OPINION 98-01, Section C:** It is the decision of the Board of Elections that all funds expended for "holding public office" in an election cycle are subject to the dollar limitations of §17-25-20. This ruling extends to charitable contributions made by the candidate as well as state-related and miscellaneous expenses.

**17-25-26: Equal apportionment of expenditures for joint advertisement.-** Any expenditure jointly made by any two (2) or more candidates for any advertisement primarily benefiting the candidate shall be attributed to and apportioned equally among those candidates who are clearly identified in that advertisement. The apportionment shall constitute campaign expenditures subject to all reporting requirements of this chapter.

**17-25-27: Post-audit of accounts.-** The Board may conduct a post-audit of all accounts and transactions for any election cycle and may conduct such other special audits and post-audits as it may deem necessary.

**17-25-28: Board of Elections-Regulations and auditing of Matching Fund Program-** The Board may audit all of the campaign records of any candidate for general office whether or not said candidate is participating in the public funding program. For such purposes, candidates and their campaigns are directed to retain complete records until the close of the third full year following the end of each election cycle. Among the records to be kept and maintained are the following:

- With respect to RECEIPTS: copies of all

checks, money orders or like instruments representing contributions received, and copies of deposit slips. Also to be kept and maintained are all deposit receipts, and bank statements or comparable statements issued by the depository or custodian of campaign funds.

- With respect to EXPENDITURES: canceled checks, receipts or invoices for expenditures incurred and/or paid, receipts for cash expenditures, bank statements or comparable statements, credit or charge card statements, payroll records including tax reports, if any, and W-2 or 1099 forms.
- In all hearings and proceedings before the Board of Elections relating to public funding of campaigns of candidates for general office, all testimony shall be under oath. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses who testify, to submit evidence, and to be represented by counsel. All witnesses shall be entitled to be represented by counsel. The rules of evidence as applicable in the Superior Court of the State of Rhode Island shall apply to all proceedings under §17-25-28.
- Investigations conducted by the Board of Elections to determine violations of the provisions of §§17-25-18 through 17-25-29 and §17-25-10.1 shall be conducted as provided in those sections and in accordance with the opinion of the office of the Attorney General.

**17-25-29: Appropriations.-** In the event the funds generated by the tax credit of §44-30-2(d) fail to produce sufficient money to meet the requirements of the public financing of the electoral system as set forth in §§17-25-19 through 17-25-27, then funds sufficient to meet the levels of public financing as set forth herein shall be supplied from the general fund of the state treasury.

**17-25-30: Public financing of election campaigns- Compliance benefits.-** Any candidate eligible to receive public funds who shall comply in full with all eligibility criteria for receipt of the funds shall be:

- entitled to an additional benefit of free time on community antenna television to be allocated pursuant to rules determined by the

administrator for the division of public utilities. During all such allocated free time the candidate shall personally appear and present the message of the advertisement;

- entitled to an additional benefit of free time on any public broadcasting station operating under the jurisdiction of the Rhode Island public telecommunications authority pursuant to rules determined by the authority. During all such allocated free time the candidate shall personally appear and personally present the message of the advertisement; and
- entitled to accept a contribution or contributions which in the aggregate do not exceed two thousand dollars (\$2,000) from any person or political action committee within a calendar year.

The compliance benefits referred to in section 17-25-30 shall only be available to eligible candidates, whether party candidates or independent candidates, after the date of the primary election to select the party candidate. ( Adopted at a meeting of the Board of Elections held on January 26,1993.

END