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# WEBSITE WOES

THE FEDERAL NON-SYSTEM  
FOR CAMPAIGN FINANCE  
DISCLOSURE

**Second Report of**  
THE CAMPAIGN FINANCE INSTITUTE  
TASK FORCE ON DISCLOSURE  
OCTOBER 2002

## Acknowledgements

This is the second report of the Campaign Finance Institute's Task Force on Disclosure. It is endorsed unanimously by the Task Force's members.

This report was researched and drafted by Steve Weissman, CFI's Associate Director for Policy. Some of the early research was conducted by Weissman's predecessor, Daniel Manatt. We also gratefully acknowledge the help of Lowell Schiller, a research assistant at CFI.

The Task Force's first report, "Issue Ad Disclosure: Recommendations for a New Approach," was published in February 2001. Copies are available at [www.CFInst.org](http://www.CFInst.org).

## About CFI

The Campaign Finance Institute is a non-partisan, non-profit institute, affiliated with The George Washington University, that conducts objective research and education, empanels task forces and makes recommendations for policy change in the field of campaign finance. It is supported by generous grants from the Joyce Foundation, Smith Richardson Foundation and The Pew Charitable Trusts. For further information, visit the CFI web site at [www.CFInst.org](http://www.CFInst.org).

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# WEBSITE WOES

THE FEDERAL NON-SYSTEM  
FOR CAMPAIGN FINANCE  
DISCLOSURE

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## Executive Summary

The much-vaunted federal campaign finance disclosure system has improved in recent years. But it still creaks in some spots, and is riddled with problems in others. The promise of the Internet – to get accurate and timely information about candidates to the public – is not being fulfilled.

When viewed on an agency-by-agency basis, the issues range from the inadequacies of the Federal Election Commission's database, and the improved but still mediocre design of the FEC's website, to problems that are much worse at the Internal Revenue Service and Federal Communications Commission.

But the long-term concerns cannot be confined to single agencies. The campaign finance system has become more complex, with activities relevant to federal elections spilling across the jurisdictions of several agencies, each gathering information that could complement the others, but does not now.

This report discusses problems with the current system and offers recommendations. We do want to make clear that the problems stem neither from incompetence, or a lack of good will. The issue instead is about priorities.

There is much disagreement about campaign finance law, but almost everyone claims to support disclosure. However, when workloads become heavy, disclosure projects silently move down the list. Our recommendations should have only a modest financial cost, but they will require a sustained commitment that can only come from the top. Political leaders in the executive and legislative branches will need to maintain a steady interest in projects that have little immediate payoff. Without such a commitment, the future of disclosure seems shaky indeed.

### ***PROBLEMS***

The most serious problems are:

#### **Federal Election Commission (FEC):**

- Senate candidates and party committees are exempted from electronic filing requirements.
- The FEC's archaic database does not allow the public to search for many significant campaign finance facts, such as details of campaign spending, and allows only a limited range of questions to be posed.
- The FEC's website makes it difficult for users to find relevant information.

## **PROBLEMS**

- The FEC does not adequately employ software to get electronic filers to submit accurate information, negating many of the advantages of electronic filing.
- The data format creates cumbersome programming difficulties for users of the FEC's large data sets.
- The FEC's limited auditing and weak civil enforcement process raise questions about the reliability of the information submitted.

### **Internal Revenue Service:**

- Disclosure of Section 527 political groups' finances by the Internal Revenue Service (IRS) is hindered by the absence of legal requirements for electronic filing and for the submission of key information on organizational changes and the dates of financial activities and the purposes of spending.
- The IRS's website does not provide a searchable, downloadable database.
- The IRS's compliance program does not check adequately for accurate and timely reporting and the agency does not adequately utilize its audit and civil penalty powers.

### **Federal Communications Commission, Other Agencies and System-Wide Problems:**

- Information on the sponsorship, time, cost and placement of political ads is disclosed and maintained only by individual stations. There is no requirement that the information be centralized and collected by the Federal Communications Commission (FCC). The result is that this supposedly disclosed material is essentially unavailable to the general public.
- Other relevant disclosure agencies, such as the Municipal Securities Rulemaking Board (for campaign finance activities by municipal securities dealers, brokers and professionals) and the Clerk of the House and Secretary of the Senate (for contribution-related lobbying activities) do not require electronic filing or provide fully searchable, downloadable databases.
- There is no single place on the web where the whole *system* of varied but related campaign finance data from different agencies is brought together in a common format so that the user can get a comprehensive view of the role of money in politics.

## **RECOMMENDATIONS**

### **FEC:**

- Congress should require Senate committees to file reports electronically.
- The FEC should make its database fully searchable and make its website structure more accessible to users.
- The FEC should eliminate archaic programming conventions that hinder use of its large data sets.
- The FEC should revise its software requirements to foster accurate data entries.
- Congress should reauthorize random audits; the FEC and Congress should strengthen the civil enforcement process.

### **IRS:**

- Congress should mandate electronic filing for Section 527 political groups.
- Congress should require current reporting of key organizational information, and of dates of contributions and expenditures and purposes of expenditures.
- Congress should mandate a fully searchable, downloadable database.
- The IRS should develop a plan for rapid establishment of an effective compliance and enforcement system.

### **FCC:**

- The FCC should provide searchable, downloadable web disclosure of local station political broadcast information, including "electioneering" broadcasts.

### **OTHER FEDERAL DISCLOSURE AGENCIES:**

- The Municipal Securities Rulemaking Board should require electronic filing and establish a fully searchable, downloadable database.
- Congress should mandate electronic filing with House and Senate for lobbying entities. Secretary of the Senate should develop a fully searchable, downloadable database.

### **SYSTEM-WIDE:**

- The FEC should take the lead, under the new law, in developing federal disclosure website links, joint agency website standards and possibly unified disclosure of related information received by other agencies. Congress should require a progress report within two years.

# Website Woes

## The Federal Non-System For Campaign Finance Disclosure

The much-vaunted federal campaign finance disclosure system has improved in recent years. But it still creaks in some spots, and is riddled with problems in others. What is worse, the system is not likely to be repaired unless agencies, whether prodded by Congress or on their own, give a higher priority to correcting the problems than they have done so far. Internet-based filing and dissemination hold great potential, but the promise of getting accurate and timely information to the public is not being fulfilled.

When viewed on an agency-by-agency basis, the problems range from the inadequacies of the Federal Election Commission's database, and the improved but still mediocre design of the FEC's website, to problems that are much worse at the Internal Revenue Service and Federal Communications Commission. The FEC's legal powers to verify the data received are also limited, as are its enforcement policies -- raising questions about the accuracy and value of the data provided. But the long-term problems cannot be confined to single agencies. The campaign finance system has become more complex over the past several elections, with activities and disbursements relevant to federal elections spilling across the jurisdictions of several agencies, each of which gathers information that could complement others, but does not do so now, and will not do so without conscious attention.

At the end of this report, we present a summary listing of problems and recommendations. Some of the recommendations require congressional action; many can be undertaken by agencies on their own initiatives. We do want to be clear about one important point: the problems we see do not stem from incompetence, or a lack of good will. The issue instead is about priorities.

There is a great deal of disagreement about much of campaign finance law, but almost everyone claims to support disclosure. However, when the workloads become heavy, these projects silently move down the list. Our recommendations should



have only a modest financial cost, but they will require a sustained commitment that can only come from the top. Political leaders in the executive and legislative branches will need to maintain a steady interest in projects that have little immediate payoff, and can too easily be pushed aside. Without such a commitment, the future of disclosure – which rightly has been called the “cornerstone” of campaign finance law<sup>1</sup> -- seems shaky indeed.

**Principles:** There is a huge gap between rudimentary disclosure, even rudimentary web-based disclosure, and a true disclosure system. A disclosure system is based on the premise that worthwhile information will be made available to citizens and other users in a manner, and time frame, that is relevant to their decisions. In its unanimous 1976 decision in *Buckley v. Valeo*, the United States Supreme Court articulated three different reasons for supporting disclosure. The *first* was the public’s need to know:

***There is a huge gap between . . . rudimentary web-based disclosure, and a true disclosure system.***

[Disclosure] allows voters to place each candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches. The sources of a candidate’s financial support also alert the voter to the interests to which a candidate is most likely to be responsive and thus facilitate predictions of future performance in office.

Unless the system works well, from first to last steps, the public is shortchanged. Some steps in the system do work well now. *Nevertheless, the system is like a chain; if any link fails, the system will not serve voters’ needs.*

Because this subject is the bedrock of campaign finance law, The Campaign Finance Institute appointed a Task Force on Disclosure more than two years ago. The Task Force’s first report, on Issue Ad Disclosure ([www.CFInst.org/disclosure](http://www.CFInst.org/disclosure)), focused on what kinds of communications should trigger disclosure requirements. After the report, the Task Force let the legislative dust settle, to see what demands a new law might place on the system. With that step completed, now it is time to see what the responsible agencies, or Congress, need to do to help the system live up to its promise.

The problem looks daunting on the demand side. The Bipartisan Campaign Finance Reform Act of 2002 (P.L.107-155 or BCRA) is expected to produce significant changes in patterns of

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<sup>1</sup> See *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 223 (1999) (“[T]otal disclosure’ has been recognized as the ‘essential cornerstone’ to effective campaign finance reform.”) (quoting H. Alexander & B. Haggerty, *The Federal Election Campaign Act: After a Decade of Political Reform* 39 (1981)).

campaign contributions and spending. Disclosure will be critical for public understanding of these changes. Financing of national parties and federal candidates by unlimited "soft money" contributions from corporations, unions and individuals will now be illegal. At the same time, state and local parties may have increased opportunities to use soft money and a new type of federally limited funds for activities influencing federal elections. And other political actors -- so-called "527" independent political groups and various 501 (c) nonprofit organizations -- are expected to become more important financiers of federal elections. Under the new system it will be more important than ever to trace transactions through layers, across multiple organizations, and through different federal disclosure agencies. (Addressing such "conduit" issues will be a challenge in itself. In our judgment, it requires a major separate research effort amidst changing law and practices.)

Promisingly, new technologies (website searching and electronic filing) have begun to make campaign finance information more accessible, comprehensive, accurate and timely. Using a computer, anyone, in principle, can access a website containing "databases" of individual campaign finance reports and all the useful information contained in those reports. The latter can be fully and rapidly "searched" to reveal specific, relevant information about one or more candidates, parties, donors, spending categories, etc. The resulting data can be ordered ("sorted") in various ways and totaled ("aggregated"). For in-depth analysis, the database can also be downloaded into a computer, subjected to statistical analysis, and combined with other data, such as election results, lobbying reports and candidates' personal financial disclosure information.

Electronic filing of reports can also contribute to improved disclosure. Not only is transmission of reports instantaneous, but the costly, time-consuming, error-prone process of hand-entering information into databases can be virtually eliminated. This means that consumers no longer have to wait weeks or months to search a vast array of data, and that all useful data can be entered at virtually no additional cost. Electronic filing software can also require or prompt filers to correct mistakes, making the data more accurate.

According to a 2001 Center for Governmental Studies survey of 50 states, 4 Canadian provinces, 6 cities and the Federal Election Commission (FEC), 31 of these jurisdictions scan pre-election candidate or committee reports and post them entirely online. More importantly, approximately 30 jurisdictions compile data from the reports that can be searched on the website according to contributor, candidate and committee. Furthermore,

***Under the new system it will be more important than ever to trace transactions through layers, across multiple organizations, and through different federal disclosure agencies.***

49 jurisdictions have electronic filing programs, 26 of which are mandatory.<sup>2</sup>

***Despite major advances in web-based disclosure and electronic filing . . . the promise of the new technologies is far from fulfilled.***

Yet despite major advances in web-based disclosure and electronic filing since 1996, the promise of the new technologies is far from fulfilled. This report focuses on the current federal public disclosure system and reveals some major weaknesses. These problems will be highlighted when the additional disclosure requirements of BCRA go into effect after November 6, 2002. This report also considers possible remedies and makes specific recommendations for action. Since the FEC is currently formulating regulations to implement the new law, and an effort is underway in Congress to improve public disclosure by the Internal Revenue Service (IRS) of the finances of 527 political groups, the time is now ripe for renewed thought, and commitment.

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<sup>2</sup> Center for Governmental Studies, *Electronic Filing and Disclosure: 2001 Survey Results*, pp. 1-6, [www.cgs.org](http://www.cgs.org).

## The Changing Disclosure System

In the last five years, there have been major advances in public disclosure of campaign finance information by federal, state and local government agencies.<sup>3</sup> It is increasingly possible for local as well as national journalists and interest groups -- and even average Americans -- to gain real-time access to campaign finance information.

As late as 1996, the major source of public information on money in federal elections was the small FEC Public Records office in Washington, D.C. A visitor could laboriously examine and, for a fee, copy microfilmed campaign finance reports submitted 48 hours or so earlier, and obtain computer printouts of answers to questions put to a less timely database (e.g., "Which congressional candidates received contributions from someone named William Gates in the last five election cycles?") In addition, a handful of public interest groups produced analyses of the FEC data. This federal disclosure system was overwhelmingly oriented to users in the Washington metropolitan area. It was also relatively slow -- a deterrent to journalists on deadline -- costly in fees, and limited in capacity to search for relevant information. Academic and other analysts could obtain the database on computer tapes, but they were costly and difficult to handle.

Today anyone with Internet access can go to the FEC's website and, without cost, call up campaign reports within 24 hours (or even minutes) of when they are electronically filed. (Paper reports, filed by Senate candidates, Senate national party committees and smaller political committees are available in approximately 48 hours). Through the FEC's "query" system, one can rapidly search for information about candidates, Political Action Committees (PACs), and political party committees -- and their contributors -- by one or more categories of interest such as: name, zip code, employer, occupation, amount given and election cycle. For example, in a few minutes one can find all the donors from a single zip code who gave \$1,000 donations to federal candidates and national parties from 1999-2002. This searchable system spares one from going through thousands of pages of individual reports and performing innumerable calculations by hand. Specialists can download the database into their computers in standard formats.

In addition, other free campaign finance websites maintained by groups such as the nonpartisan Center for



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<sup>3</sup> Craig B. Holman & Robert M. Stern, "Access Delayed is Access Denied," *Public Integrity* (Winter 2001), pp. 11-21.

Responsive Politics (Opensecrets.org) and FECInfo (Political Moneyline) download FEC data and add further value to it by:

***The new, web-based systems are being used widely.***

- Classifying contributions from a variety of individuals, Political Action Committees, companies and unions as reflecting the preferences of an industry, sub-industry or employer/affiliate (As a Government agency, the FEC cannot easily make assumptions about individual intent or assigning a company to a specific industry);
- Bringing together individual and PAC contributions to candidates and parties (both federally limited "hard" money and soft money) from similar sources, such as the executives, employees or members of a corporation, union or ideological interest group;
- Identifying "leadership PACs" associated with particular members of Congress;
- Providing useful summaries of data, such as in-state or out-of-state contributions to each candidate; and
- Adding important campaign finance-related information from non-FEC sources, such as the IRS for Section 527 political groups, the Labor Department for trade unions, and the Secretary of the Senate and Clerk of the House for lobbying and members of Congress's personal finances.

The new, web-based systems are being used widely -- especially by journalists, candidates, parties, interest groups, and scholars. In a typical month during the past year -- April 2002 -- the FEC had 146,113 visits to its website.<sup>4</sup> Although the site focuses on far more than campaign finance reports (because the Commission has major responsibilities for compliance with federal campaign finance law and the provision of information on voter registration and voting), its main campaign finance page was tops in Kbytes and exit pages. The Center for Responsive Politics' Opensecrets.org site focuses solely on campaign finance-related information, but it had 188,278 visitors -- 42,000 more than the FEC -- in April 2002.<sup>5</sup>

Journalists are the linchpins of web-based campaign finance disclosure because of their position as intermediaries in getting information to voters. A Spring 2000 survey of visitors to the Opensecrets.org site found that a quarter of them were

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<sup>4</sup> FEC, "Usage Statistics for [www.fec.gov](http://www.fec.gov): Summary Period: Last 12 Months" and "Summary Period: April 2002."

<sup>5</sup> The Center for Responsive Politics provided data on the last 12 months and on April 2002 usage of its website.

journalists. Press mentions of the Center for Responsive Politics have more than doubled since it launched the site in 1996. And a new survey of 271 political journalists by the Institute of Politics, Democracy and the Internet shows that reporters rank the campaign finance websites highest on an "Internet usefulness" scale. So partly as a result of new technology (and the related growth of computer-assisted reporting), money and politics stories are proliferating in the national, regional and local press.<sup>6</sup>

Notwithstanding this progress, certain federal policies are serious obstacles to achieving fully accessible, comprehensive, accurate, and timely Web-based disclosure. The current system routinely ignores opportunities to use electronic filing to improve the accuracy and speedy processing of reports. An archaic FEC disclosure database significantly limits the amount of useful information that can be extracted through flexible searching. Moreover, major non-FEC caches of campaign finance-related information -- most notably IRS data on 527 political groups -- are difficult to find and/or virtually unsearchable. Lastly, both the FEC and IRS websites are lacking in user-friendliness.

***Notwithstanding this progress, federal policies are serious obstacles to achieving fully accessible, comprehensive, accurate, and timely Web-based disclosure.***

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<sup>6</sup> This paragraph is based on a draft forthcoming report by the Institute of Politics, Democracy and the Internet provided by Professor Albert May, Journalism Program Director, George Washington University.

## FEC Disclosure

The FEC campaign finance website was introduced in 1996, but developed largely under the impulse of a subsequent congressional mandate.<sup>7</sup> Beginning in January 2001, Congress also required electronic filing by political committees that had, or expected to have, \$50,000 or more in contributions or expenditures.<sup>8</sup> Compliance is reported to be nearly 100%, covering about 95% of the finances of FEC-reporting committees.<sup>9</sup> (Enforcement issues are discussed in a separate section below).

### Problems

**Garbage In:** To reach its end goal, the FEC system needs to be improved from the first stage (data input) to the last (delivering needed data to the end user). One important problem occurs at the first step of the process. Electronic filing has not produced the timely, accurate data the public needs about elections. The FEC has not taken steps to ensure that its free electronic filing software (or the alternative commercial software it encourages) contains adequate “validators” to push filers into providing accurate, complete information.<sup>10</sup> For example, unlike the state of Illinois, the FEC will not reject submission of an electronically filed form that has the wrong date, contains itemized zero or negative entries, or is missing address information or a description of an in-kind contribution.<sup>11</sup> Nor does it reject multiple filings or ones that contain repetitive cumulative information. Unlike the Illinois system, FEC software does not prompt the filer to fill in missing employer and occupation data or missing purposes for expenditures (even though these failings would not, in themselves, result in immediate rejection of the form). In addition, FEC software does not ensure correction of mathematical errors, or of logically inconsistent submissions, as was recommended by

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<sup>7</sup> The House Appropriations Committee Report on the Treasury, Post Office and General Government Appropriation for FY 1998 stated, “Therefore, the Committee has provided \$300,000 for the specific purpose of establishing a system, no later than January 1, 1998, for disclosing and maintaining on the Internet, images of all filings with the FEC that are currently imaged and available to the Clerk of the House’s Office. The images shall be made available in a format which is directly viewable from commonly utilized Internet browsing software.” House Report 105-240, 105<sup>th</sup> Congress, 1<sup>st</sup> Session, p. 69.

<sup>8</sup> FEC, *Annual Report 2001*, p. 3.

<sup>9</sup> Interview with FEC official, July 30, 2002.

<sup>10</sup> Interviews with FEC official, August 9, 2002, and representatives of FECInfo, July 31, 2002 and Center for Responsive Politics, August 6, 2002; FEC Electronic Filing User Guide, Version 3.00.

<sup>11</sup> Illinois Disclosure Information System, *Electronic Filing Training Manual*, Fall 2001, p. 21, [www.elections.state.il.us/CDS/Pages/Down/DIS.htm](http://www.elections.state.il.us/CDS/Pages/Down/DIS.htm).

PricewaterhouseCoopers auditors in a January 1999 report.<sup>12</sup> This laissez-faire approach is consistent with the agency's tradition, which was criticized in the audit, of loose standards for paper filings -- including accepting handwritten and irregularly formatted documents.<sup>13</sup>

Because the system allows the entry of considerable "bad data" from electronic filers, the FEC has to engage in time-consuming review and correction of information, thus sacrificing much of the advantage of electronic filing. According to representatives of two leading nongovernmental websites that depend on the FEC system, there has been no dramatic improvement in the previous 30 or more day standard for production of "clean data" from paper filings.<sup>14</sup> An FEC representative confirms that there has not yet been "significant" change as a result of electronic filing.<sup>15</sup> This means that an inaccurate or incomplete individual campaign finance report posted on the website may be the only source of information for reporters and scholars before an election.

These problems are compounded by two confusing FEC practices: (1) leaving both incorrect and subsequently amended reports on its website, and (2) failing to update reports or summaries to reflect frequent amendments.<sup>16</sup> The FEC site does not even indicate whether an amendment changes the financial information in the initial report. This forces the user to open every amendment to discover such changes.

**The Absent Senate:** Unfortunately, the first step of the process is even more problematic for Senate candidate and party committees who are exempt from mandatory electronic filing. Current law provides that these committees file reports with the Secretary of the Senate who then transmits them to the FEC. (House committees have only filed directly with the FEC since 1996.)<sup>17</sup> This anomaly has been a longstanding headache for the Commission due to the lack of timely transmission of reports and the blurring of reports through repeated copying or inappropriate

***Because the system allows in "bad data" from electronic filers, the FEC has to engage in time-consuming review, sacrificing much of the advantage of electronic filing.***

<sup>12</sup> PricewaterhouseCoopers LLP, *Technology and Performance Audit and Management Review of the Federal Election Commission*, Volume I-Final Report, January 29, 1999 (posted at [www.gao.gov/special.pubs/publist.htm](http://www.gao.gov/special.pubs/publist.htm)), p. 4-35.

<sup>13</sup> *Ibid.*, pp. 4-26, 27.

<sup>14</sup> Interviews with representatives of FECInfo, July 31, 2002, and Center for Responsive Politics, August 6, 2002.

<sup>15</sup> Phone interview with FEC official, September 9, 2002.

<sup>16</sup> Interview with representative of Center for Responsive Politics, August 6, 2002 and phone interview with representative of FECInfo, August 22, 2002; Project on Government Oversight, *At the Federal Election Commission Things Just Don't Add Up*, Washington, D.C. March 28, 2001, pp. 12-13.

<sup>17</sup> PricewaterhouseCoopers, *Technology and Performance Audit...*, p. 4-37.



scanning. While those problems have recently been ameliorated through improved Senate scanning and transmission,<sup>18</sup> the lack of Senate electronic filing is a major limitation on the potential accuracy, timeliness and comprehensiveness of the disclosure system.

**Database Problems:** The next step in the process is to take the data received and to put it into a database that can be searched for relevant information that meets the user's needs. The FEC has also failed to capitalize on the efficiency of electronic data transmission to expand the amount of useful information in its searchable database. The most important missing information continues to be detailed campaign spending.<sup>19</sup> There is a strong public interest in knowing how candidates, parties and others spend their receipts. Breakdowns of spending -- on fundraising, media ads, and direct voter contact for instance -- are also valuable in gaining a deeper understanding of the election process. Yet the only way one can amass this information is through painstaking examination of individual campaign finance reports.

***The most important missing information continues to be detailed campaign spending.***

The continuing invisibility of detailed campaign spending will become an even more serious problem when the new campaign finance law goes into effect on November 6, 2002. BCRA and associated FEC regulations ban national parties, candidates and officeholders from spending soft money. But they allow state and local parties to spend funds raised outside strict federal contribution limits on some activities affecting federal elections. And federal candidates and officeholders may help raise some of these funds.<sup>20</sup> This means that some soft money previously channeled through federal entities will now be routed through state and local parties. Without readily available information on state and local party expenditures, it will be difficult to determine how successful the new legislation is in curbing soft money or in encouraging the spending of such funds on "grass roots" activities like voter registration and get-out-the-vote.

Since information about the *contributors* of state and local party soft money is not disclosed at the federal level and often

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<sup>18</sup>FEC, "Pricewaterhouse Coopers, Recommendations / Improvement Opportunities: September 2001 Status Report-Final," p. 2.

<sup>19</sup> Other prominent omissions are detailed information on loans and investments. It is only recently, with the advent of electronic filing, that the FEC inserted both employer and occupation of contributors into the database. Previously, it used only employer; if that was absent, it used occupation. Interview with FEC official, August 9, 2002.

<sup>20</sup> See Campaign Finance Institute, "Federal Election Commission (FEC) Regulations for the Bipartisan Campaign Reform Act of 2002: Soft Money-Issues and Controversies," at [www.CFInst.org](http://www.CFInst.org).

incomplete or inaccessible at the State level,<sup>21</sup> it is also important to improve dissemination of this information across state and local boundary lines. The University of California at Los Angeles School of Law and Center for Governmental Studies and California Voter Foundation have just launched a 50-state Campaign Disclosure Project to standardize formats and facilitate cross-jurisdictional information flows. Such projects should be encouraged.

Section 304(f) of BCRA also establishes new reporting requirements for persons sponsoring radio and TV ads that mention candidates 60 days before a general election or 30 days before a primary and are "targeted to the relevant electorate." Disclosure of detailed spending on such "electioneering communications" will be essential to fulfilling BCRA provisions and assessing whether banned soft money has found another outlet. However, the FEC has set no target date for including this and other detailed spending data in its searchable database.

**Lack of Flexibility:** Beyond informational constraints, the disclosure database lacks flexibility, only supporting a limited set of routine queries.<sup>22</sup> One FEC official outlined an alternative vision:

In a future system, freely interactive, you could ask a range of questions about any element of information. How much do House candidates spend on different kinds of activities at different times of the campaign? How do challengers that are successful spend, and when, compared to challengers that are not successful? You could look at institutional changes over time.<sup>23</sup>

**Understanding Parties:** The deficiencies in the disclosure database are particularly discouraging for those trying to understand the roles of political parties in elections. Among non-candidate groups filing reports with the FEC, parties are unique in that they spend and transfer large sums of money for a broad range of activities (e.g., voter registration, get-out-the-vote, issue ads) to elect their candidates. They are also unique in their dense network of relationships between and among federal, state and local branches. The absence of detailed information about the purposes of party spending -- outside of direct contributions to candidates -- creates a "black hole" in our knowledge about parties

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<sup>21</sup> Center for Public Integrity, "State Secrets: The Dispersion of Disclosure," at [www.publicintegrity.com](http://www.publicintegrity.com). See also Michael Scherer, "Campaign Reform School: How to Follow the Money Now," *Columbia Journalism Review* (September-October 2002), pp. 54-55.

<sup>22</sup> PricewaterhouseCoopers LLP, *Technology and Performance Audit...*, p. 4-37.

<sup>23</sup> Interview with FEC official, July 30, 2002.

and their relations to candidates. Meanwhile, the limited query system forces users to prowl through long lists of contributions and disbursements to find sketchy information about inter-party committee transfers. And all of this is compounded by the difficulty in even locating political parties. The FEC website has no alphabetical list of party committees, as it does for PACs, and the site's search engine is not a reliable aid.<sup>24</sup> For example, if you enter "New York State Democratic Party," no committee shows up; you have to type in "New York State Democratic Committee." The website's lack of recognition of the special role of political parties is particularly unfortunate in the post-BCRA world in which state and local parties are expected to play increasingly important roles in federal elections.

***The FEC's website does not rank high in user-friendliness.***

**Using the Website:** Once information is loaded into a well-designed database, the promise of disclosure requires that it be usable by, and useful to, a wide variety of people with varying levels of technical expertise. The FEC website does not rank high in user-friendliness. This is apparent from the beginning when you begin to look for something specific. Let's say you are interested in the FEC's controversial new soft money regulations under BCRA. You cannot find them through the site-wide search engine because it does not exist. If you go to the site map, you must look under "Campaign Finance Law Resources," and then click on "Legal Documents" before arriving at a difficult choice between "Commission Regulations" and "Recent and Ongoing Rulemakings/Regulations." You might get to the same crossroads by clicking on "Campaign Finance Law Resources" on the Home Page, which is mostly occupied by a list of recent press releases, many of which are minor.

The same navigational difficulties afflict the campaign finance reports and data section of the site. This inevitably reduces its attractiveness to those less knowledgeable about campaign finance issues. That is too bad, because many people interested in federal campaign finance information are likely to know about and approach an official governmental site first. If they are turned off, they may not even seek out more accessible sites. The major deficiencies can be illustrated by a comparison with the campaign finance websites operated by the Center for Responsive Politics (Opensecrets.org) and FECInfo (Political Moneyline), which rely largely on the FEC database.

***Finding the First Page*** -- First, the FEC's campaign finance database and search engine are not easily accessed. After clicking on "Campaign Finance Reports and Data" on the home page, [www.fec.gov](http://www.fec.gov) (Figure 1), the user arrives at a cluttered page

<sup>24</sup> Phone interviews with Prof. Robin Kolodny, Temple University, August 22, 2002, representative of FECInfo, August 22, 2002, and Prof. Anthony Corrado, Colby College, August 23, 2002.

with three main options on the left side: "View Financial Reports," "Electronic Filings," and "Search Campaign Finance Data" (Figure 2). These choices are not clearly delineated by subject or election cycle. (The "Data" option omits the fact that the current 2001-02 cycle is included!) Furthermore, key terms describing the options such as "imaging system" and "query system" are undefined, another potential turnoff. On the right side of the page, a set of "Previous Elections" options only compounds the confusion. If users can find their way to the "transaction query system", they may then choose among four major types of search (Figure 3). However, after each search is completed they must return to the "transaction query system" page to undertake a new search.

Figure 1:

**Federal Election Commission**  
UNITED STATES OF AMERICA

**Welcome to FEC.gov**

**Navigation Menu:**  
 About the FEC  
 FEC Services  
 Campaign Finance Reports and Data  
 Reporting Forms and Filing Information  
 Campaign Finance Law Resources  
 Elections and Voting  
 News Releases  
 Site Index  
 Site Map  
 En Espanol

**WHAT'S NEW**

- August 16, 2002 -- Campaign Cited for Failure To File Pre-Primary Report
- August 16, 2002 -- Report Notice for the Hawaii Primary Is Now Available
- August 15, 2002 -- Report Notice for the Virgin Islands Primary Is Now Available
- August 12, 2002 -- Report Notices Are Now Available for MA and WA Primaries
- August 5, 2002 -- Compliance Cases Made Public
- August 5, 2002 -- Report Notices Are Now Available for AZ, CT, DC, FL, MD, MN, NC, NH, NY, RI, VT, and WI Primaries
- August 2, 2002 -- FEC Issues Second Notice of Proposed Rulemaking on Campaign Finance Reform
- August 2, 2002 -- Report Notice for the Guam Primary Is Now Available
- August 2, 2002 -- Report Notice for the Delaware Primary Is Now Available
- July 30, 2002 -- Campaigns Fail To File July Quarterly Report
- July 29, 2002 -- Report Notice for the Nevada Primary Is Now Available
- July 26, 2002 -- FEC Issues Amendment 0001 to FE-2-AR-0008
- July 25, 2002 -- ADR Program Resolves Cases
- July 24, 2002 -- August 2002 Issue of the Record Is Now Available
- July 22, 2002 -- Report Notice for the Alaska Primary Is Now Available
- July 22, 2002 -- Report Notice for the Oklahoma Primary Is Now Available
- July 18, 2002 -- Committees Fined for Filing Reports Late
- July 18, 2002 -- Report Notice for the Louisiana Primary Is Now Available
- July 16, 2002 -- Explanation and Justification for Soft Money Rules
- July 16, 2002 -- FEC Issues Request for Proposals FE-2-AR-0008

**HIGHLIGHTS**

- Conferences
- ADMINISTRATIVE FINES LATE
- Using the Internet
- Electronic Filings
- Register to VOTE
- FIRSTGOV Your First Click to the U.S. Government

Source: [www.fec.gov](http://www.fec.gov)

Figure 2:



The screenshot shows the Federal Election Commission website. At the top left is the CFI logo. The main header is "Federal Election Commission" with a search bar below it. The main content area is titled "Campaign Finance Reports and Data" and includes a "NEW!" announcement about Late Activity Reports. Below this is the "Image / Query System" section with several links for viewing financial reports, electronic filings, and searching campaign finance data. To the right is a sidebar titled "IN THIS SECTION" with a list of links for previous elections, including 1996 and 1998 House and Senate campaigns, and political parties. At the bottom, there are sections for 2002 House and Senate Campaigns, 2002 Party Activity, 2000 Presidential Campaign, 2000 House and Senate Campaigns, Political Party Committees, and Political Action Committees.

**Federal Election Commission**

Select another section of this site

## Campaign Finance Reports and Data

**NEW!** Late Activity Reports (Large Contribution and Independent Expenditure Notices)

### Image / Query System

- ▶ View Financial Reports: View actual financial disclosure reports filed by House, Senate and Presidential campaigns, Parties and PACs from 1993 to the present.
- ▶ Electronic Filings: View financial disclosure reports filed electronically by House and Presidential campaigns, Parties and PACs.
- ▶ Search Campaign Finance Data: Search the Disclosure Data Base for Campaign/Committee Summaries and selected contributions to House, Senate and Presidential campaigns, Parties and PACs in the 1997-98 and 1999-2000 election cycles. Results of these queries are also linked to the imaging system so you can view the actual financial reports filed by campaigns and committees.

### 2002 House and Senate Campaigns

- ▶ Summary Information on House and Senate Campaigns Through March 31, 2002

### 2002 Party Activity

- ▶ Summary Information on Political Party Committee Financial Activity Through March 31, 2002

### 2000 Presidential Campaign

- ▶ Summary Financial Information for 2000 Presidential Campaigns Through July 31, 2000
- ▶ Presidential Financial Activity in Past Elections Through April of the election year
- ▶ Spending Limits by State for the 2000 Presidential Primaries
- ▶ Download Presidential Matching Fund Submission Files
- ▶ 2000 Presidential Candidates on the 11/7 General Election Ballots
- ▶ Selected 2000 Presidential Campaign Names and Addresses
- ▶ View Electronically Filed Presidential Campaign Disclosure Reports

### 2000 House and Senate Campaigns

- ▶ Summary Information on House and Senate Campaigns Through December 31, 2000
- ▶ State by State Listings of House Campaigns
- ▶ State by State Listings of Senate Campaigns

### Political Party Committees

- ▶ National Party Summaries Through December 31, 2000

### Political Action Committees

- ▶ PAC Financial Activity through December 31, 2000
- ▶ Graph of Number of PACs Since 1977
- ▶ PACRONYMS

#### IN THIS SECTION

**Previous Elections**

- ▶ **1996 Presidential Campaign**
  - Campaign Overview
  - Presidential Candidate Summary Report
  - FEC Audit Reports
- ▶ **1998 House and Senate Campaigns**
  - FEC Reports on 1997-98 Fundraising
  - House Campaign Summaries by State
  - Senate Campaign Summaries by State
- ▶ **1996 House and Senate Campaigns**
  - Year End Candidate Summary
  - House Campaign Summaries by State
  - Senate Campaign Summaries by State
- ▶ **Political Parties**
  - 1997-98 Party Fundraising
  - 1995-96 Party Fundraising
- ▶ **Political Action Committees**
  - 1997-98 PAC Activity
  - 1995-96 PAC Activity

**Download Data Files from <ftp.fec.gov>**

Source: [www.fec.gov/finance\\_reports.html](http://www.fec.gov/finance_reports.html)

---

Figure 3:

---



## TRANSACTION QUERY SYSTEM

### Candidate and PAC/Party Summaries

Find the most current summary information about one or more candidates or committees. Search by state, party, office, or name. Follow the links to names and other information to see more detailed financial data. Information covers from January 1, 1999 through December 31, 2000.

### Individual Search:

Search for contributions of \$200 or more made by individuals using contributor name, city, state, zip code, principal place of business, date and amount.

### Committee Search:

Search for contributions received or made by a specific committee using committee name, city, state, zip code, Treasurer's name, party designation and committee type.

### Candidate Search:

Search for contributions received by a specific campaign using candidate's name, state, or party affiliation.

Source: <http://herndon1.sdrdc.com/fecimg/query.html>


In contrast, Opensecrets.org and Political Moneyline employ "navigation bars" to present viewers immediately with their search choices. Opensecrets.org has a bar at the top of its home page with understandable "Who's giving" and Who's getting" options and drop down menus outlining specific search types (Figure 4). On the left side of its home page, Political Moneyline also offers a navigation bar with various "search database" choices listed under "Candidates," "Donors," and "PACs and Parties"(Figure 5). When a search is completed on these sites, one simply has to click the appropriate spot on the ever-present navigation bar to begin a new search.

Figure 4:

Source: www.opensecrets.org



Figure 5:



PoliticalMoneyLine™

The home of

FECInfo

and tray.com

---

Search  
Databases

ONLINE

- Home
- Candidates
- US House Sen and Pres Campaigns
- Presidential Races
- Politician PACs 527s
- Defense Funds Foundations
- Candidate \$ Leaders
- Donors
- Donor Name Lookup
- Donor ZIP Lookup
- Employer / Occupation Lookup
- Out of State Donors
- PACs & Parties
- PAC / Party Profiles
- Industry Total \$
- PAC \$ Leaders
- NEW
- Top Corporate PACs To Cands
- New Corp PACs
- Labor Union \$
- Illegal Corp \$
- 527 Filers
- 527 Database
- Foreign Agents
- FARA Database
- Help

Listing PAC, Party, Candidate Filers

Click Here To Subscribe Now!

08/19/02

UPDATE: Mon Aug 19, 2002

Sign Up For Email Notification Of Updates

Subscribers  
Only


- PAC \$ to Congressional Comm
- 107th Congress
- 106th Congress
- Soft Money
- 2001-2002
- 1999-2000
- 1997-98
- 1995-96
- 1993-94
- Lobby Databases
- Lobby \$\$ Summary (98-01)
- NEW
- 12% filed
- Mid Year 2002
- Year End 2001
- Mid Year 2001
- Year End 2000
- Mid Year 2000
- Year End 1999
- Mid Year 1999
- Year End 1998
- Lobby Registrations
- Updated Regularly
- Text Search
- Leadership PACs
- 2002 Rankings
- 2000 Rankings
- 2002 Top Cmte Donors
- 2000 Top Cmte Donors
- Subscriber's Login
- User:
- 
- Pass:
- 
- Login

---

Search  
Databases


ONLINE

- Home
- Candidates
- US House Sen and Pres Campaigns
- Presidential Races
- Politician PACs 527s
- Defense Funds Foundations
- Candidate \$ Leaders
- Donors
- Donor Name Lookup
- Donor ZIP Lookup
- Employer / Occupation Lookup
- Out of State Donors
- PACs & Parties
- PAC / Party Profiles
- Industry Total \$
- PAC \$ Leaders
- NEW
- Top Corporate PACs To Cands
- New Corp PACs
- Labor Union \$
- Illegal Corp \$
- 527 Filers
- 527 Database
- Foreign Agents
- FARA Database
- Help



### Bush Fans the Flames for 04 Race

President Bush held a casual barbeque at a ranch near his Friday for his key financial backers and fundraisers from the 2000 presidential race. This thank you event is also the roll call for the 2004 race.



(Marilyn Ware Lewis)

Major player **Marilyn Ware Lewis** is Chairwoman of the **Capitol Visitors Center**, **AEI Trustee**, and former Chairman of the Board of **American Water Works**, as was her father, former Congressman **John H. Ware III**. Marilyn was chairman of **Tom Ridge's** gubernatorial campaigns 93-98, and she gave \$210,000 to Ridge's 1994 race.

In Sept 2001 it was announced that **American Water Works** was being sold to **RWE AG** of Germany for \$7.6 billion. Marilyn Ware Lewis owned 10% of the company.

Her mother, **Marian**, was a major donor to Republicans, giving \$195,200 to the **RNC** in 99-00. Her brother, **John H Ware IV**, may have had a yearly contribution limitation problem in 1999-2000. Although there is no public **FEC** compliance file, his CY2000 federal donations tallied over \$50,000, after repeated solicitations from national party cmtes. He has since been given refunds of \$23,500, including \$10,000 from the **RNC**, \$4,000 from the **NRCC**, \$3,600 from the **NRSC**, and smaller ones from others.

### Soft Money

Soft Money totals now up to \$295 million and we are still counting money received through 6/30. **Rep Tom Delay's 527, Americans for a Republican Majority Non-Federal Account**, takes in \$301,760 in the second quarter of 2002: \$50,000 from **AT&T**, \$50,000 from **SBC**, \$45,000 from **Lawrence Kadish of First Fiscal Fund Co.**, \$30,000 from **Mortgage Insurance Companies of America**.

**Rep Richard Gephardt's** joint fundraising cmte, **Democratic Leader's Victory Fund 2002**, raises \$405,125 in July, including \$20,000 from **Enterprise Rent-a-Car**, over \$20,000 from **American Airlines** executives, over \$16,000 from **Bryan Cave LLP** employees, and **Boeing** gave in-kind air charter valued at \$13,056. Last December the cmte valued in-kind food from psychotherapist **Tondra Lynford**, Katonah, NY, at \$7,000. Her husband **Jeffrey** is Chairman and now also CEO of **Wellsford Real Properties**. His FY2000 pay was \$647,000. In June the cmte paid the **Pointer Sisters** \$5,000 for entertainment.

Source: www.politicalmoneyline.com

***Drilling Down*** -- A second way in which Opensecrets.org and Political Moneyline enable the viewer to move rapidly through the system is through "drill down" links to more detailed information. For example, both the FEC and Political Moneyline provide summary sheets for 2001-02 campaign finance information on candidates (Figures 6 and 7). The underlined items indicate links to more detailed information. Unlike the FEC page, which has two such links, Political Moneyline's page has almost a dozen including: contributions by PACs, the candidate, the party, coordinated expenditures, independent expenditures, contributions from other candidates/incumbents, total disbursements and contributions to others by this candidate. Moreover, unlike the FEC's site, this site also links to similar summary data from any of eight other election cycles. To obtain the same information from the FEC, the user would have to conduct numerous separate searches.

Figure 6: Federal Election Commission

**Presented by the Federal Election Commission - 2001-2002 Cycle**

H6IL14095	<u>HASTERT, J DENNIS</u>	House
<u>Illinois</u>	14	Republican Party
		Incumbent
Total Receipts:	\$2,036,695	
Transfers From Authorized Committees:	\$0	
<u>Individual Contributions:</u>	\$1,101,788	
<u>Non-Party (e.g. PACs) or Other Committees:</u>	\$854,039	
Contributions from Party Committees	\$0	
Candidate Contribution:	\$0	
Candidate Loans:	\$0	
Other Loans:	\$0	
Total Disbursements:	\$1,399,867	
Transfers to Authorized Committees:	\$0	
Individual Refunds:	\$4,600	
Non-Party (e.g. PACs) or Other Refunds:	\$4,481	
Candidate Loan Repayments:	\$0	
Other Loan Repayments:	\$0	
Beginning Cash:	\$287,382	
Latest Cash On Hand:	\$924,209	
Debts Owed By:	\$0	
Committees Included:		
	<u>HASTERT FOR CONGRESS COMMITTEE</u>	

Source: [http://herndon1.sdrdc.com/cgi-bin/cancomsrs/?\\_02+H6IL14095](http://herndon1.sdrdc.com/cgi-bin/cancomsrs/?_02+H6IL14095)

Figure 7: Political MoneyLine

The screenshot displays the Political MoneyLine website for HASTERT, J DENNIS. The page is organized into several sections:

- Navigation Menu (Left):** Includes links for Home, Candidates, US House Sen and Pres Campaigns, Presidential Races, Politician PACs 527s, Defense Funds Foundations, Candidate & Leaders, Donors, Donor Name Lookup, Donor ZIP Lookup, Employer / Occupation Lookup, Out of State Donors, PACs & Parties, PAC / Party Profiles, Industry Total \$, PAC \$ Leaders, NEW Top PACs To Cands, New Corp PACs, Labor Union \$, Illegal Corp \$, 527 Filers, Foreign Agents, FARA Database, and Help.
- Campaign Finance Info (Center):**

Campaign Finance Info	
HASTERT, J DENNIS REP	
Activity Through	06/30/2002
Total Receipts	\$1,869,544
Contributions From Individuals #	\$1,112,058
Contribs from PACs*	\$724,666
-- List All	
-- List By Standard Industry Code (SIC)	
Contribs/loans from the Candidate	\$0
Contribs from Party	\$0
-- List All	
Coordinated Expenditures	\$0
Independent Expenditures	\$0
Contribs from Politicians PACs	\$1,476
Contribs from Other Candidates/Incumbents	\$1,000
Total Disbursements <b>NEW</b> (View Detail)	\$1,600,329
Contribs To Others By This Candidate	\$71,500
Outstanding Debts	\$0
Cash Available as of 06/30/2002	\$924,209
- 2001-02 Election Cycle Info for: HASTERT, J DENNIS (H6IL14095 REP):** Includes a photo of the candidate and a list of other election cycle data links: '98 Cycle Data, '96 Cycle Data, '94 Cycle Data, '92 Cycle Data, '90 Cycle Data, '88 Cycle Data, '86 Cycle Data, '00 Cycle Data.
- Download Section:** A red button labeled "DOWNLOAD" and a link: "Download All Itemized Data In Comma-Delimited Format For A Fee". Below this is a note: "# FEC may still be keying in these transactions, especially from newly filed reports. View the file before downloading."
- Related Entities:** A list of entities including "Keep Our Majority PAC (Rep Dennis Hastert, R-IL)", "KOMPAK State Victory Fund (Sec 527 non-federal) (Rep Dennis Hastert, R-IL)", and "HASTERT, J DENNIS (data through 06/30/2002) Graph With Other Filers".
- Summary Bar (Bottom):**

HASTERT, J DENNIS (data through 06/30/2002) Graph With Other Filers	
Receipts	\$1,869,544
Expenditures	\$1,600,329

Source: [http://www.fecinfo.com/cgi-win/x\\_candpg.exe?DoFn=H6IL14095\\*2002](http://www.fecinfo.com/cgi-win/x_candpg.exe?DoFn=H6IL14095*2002)

**Sorting** -- Third, the two non-FEC sites allow the viewer some flexibility in how the results of a search are sorted. A variety of sorting choices can save viewers enormous amounts of time as well as highlight key patterns of campaign finance. Thus, a search for individual donors on Opensecrets.org will return a list, which may be ordered by name of donor, date of contribution or amount of contribution (Figure 8). Interestingly, New York City's campaign finance site permits a particularly wide set of sorting choices for contributions (Figure 9), including by name, date, employer, occupation and intermediary and also grouped by candidates or across candidates. In contrast, the FEC site allows little flexibility in ordering the data.

Figure 8: Open Secrets

opensecrets.org    The Basics   Who's Giving   Who's Getting   Get Local   News and Issues   HOME | SEARCH

**Center for Responsive Politics**

**Results: Individual Donors Search**

66 records found in .03 seconds.

**SEARCH CRITERIA:**  
Donor name: weissman  
Election cycle(s): 2002

[Start another search](#)

Sort by Name  
 Sort by Date  
 Sort by Amount

Records 1 - 49:

Contributor	Occupation	Date	Amount	Recipient
WEISSMAN DERVISHI BORGO NORDLU CORAL GABLES, FL 33146	INFO REQUESTED	1/9/2002	\$300	NRCC/Non-Federal Account
WEISSMAN, ANDREW J GREENSBORO, NC 27401	MARKET AMERICA	11/8/2001	\$1,000	Marshall, Elaine
WEISSMAN, BARBARA LAKE FOREST PARK, WA 98155	SELF/SMALL BUSINESS OWNER	5/11/2001	\$250	Inslee, Jay R
WEISSMAN, BARRY LEIGH LOS ANGELES, CA 90017	SQUIRE SANDERS & DEMPSEY/ATTORNEY	2/26/2002	\$750	Cardoza, Dennis
WEISSMAN, CHARLES I WASHINGTON, DC 20007	SWIDLER BERLIN SHEREFF FRIEDMAN LLP	3/7/2001	\$555	Swidler, Berlin et al
WEISSMAN, CHARLES I WASHINGTON, DC 20007	SWIDLER BERLIN SHEREFF FRIEDMAN LLP	5/21/2001	\$592	Swidler, Berlin et al
WEISSMAN, CHARLES I WASHINGTON, DC 20007	SWIDLER BERLIN SHEREFF FRIEDMAN LLP	9/17/2001	\$592	Swidler, Berlin et al
WEISSMAN, CHARLES I	SWIDLER BERLIN SHEREFF FRIEDMAN LLP	11/16/2001	\$592	Swidler, Berlin et al

Source: <http://www.opensecrets.org/indivs/index.asp>

**If no greater or less than amounts are entered, all amounts will be included.**

[Home](#) | [New Election Cycle](#) | [General Help](#) | [Help With This Screen](#) | *Please Scroll Down To The Next Step*

NYC Campaign Finance Board **Searchable Contribution/Donation Database**

**Step 6 - Please Select a Sort Order**

Contributor/Donor (Across Candidates)  
 Contributor/Donor (Grouped by Candidate)  
 Transaction Date (Grouped by Candidate)  
 Amount (Grouped by Candidate)  
 Occupation (Grouped by Candidate)  
 Employer (Grouped by Candidate)  
 Intermediary (Grouped by Candidate)  
 Intermediary (Across Candidates)

**If no sort order is selected, the report will be sorted by Contributor/Donor (Grouped by Candidate).**

[Home](#) | [New Election Cycle](#) | [General Help](#) | [Help With This Screen](#) |

*Figure 9: New York City Campaign Finance Board*

Source: <http://www.cfb.nyc.ny.us/money/index.htm>

There is also, in some respects an air of carelessness surrounding the FEC website. One member of the Task Force pointed out that the Presidential Campaign Candidate Summary Reports for 1996 and 2000 featured on the site's campaign finance data page have never been completed. No financial information is included after August 31, 1996 or July 31, 2000.

**Detailed Data Programming Problems** -- Finally, if someone wants to do an analysis of the FEC's detailed data files, by downloading the files or receiving them in some other way, the FEC in all but actively drives that person to unofficial sources by using archaic technical programming conventions (in the COBOL language) that no typical user can be expected to correct. Open Secrets and Political Money Line have already resolved those problems; their websites may therefore be sufficient for users who are satisfied with the questions these two organizations have asked of the data. But disclosure should let any sophisticated user, with a relatively normal level of modern computer skills, ask whatever questions of the data that user might want to ask. Until that is done, analysis can only be done by the privileged few.

We will use ourselves as an example. The FEC's detailed contribution files are freely available for downloading from the Internet. Knowing that, the Campaign Finance Institute -- which has a significant amount of in-house computer expertise -- decided to get copies of the files to analyze them. But the files were unworkable until CFI paid thousands of dollars to a computer programmer to convert the FEC's conventions into something a modern program could use directly. The FEC's failure to do this work cannot come from a lack of funds. A few thousand dollars for computer programming is not such a serious problem for a federal agency, or even for an organization such as ours. It is, however, a significant barrier for a journalist, scholar or less specialized organization. If disclosure is to meet its promise, it must put useful material into users' hands. Unfortunately, the FEC's most useful, detailed files erect hurdles that are too high for all but a very few users to overcome.

***Unfortunately, the FEC's most useful, detailed files erect hurdles that are too high for all but a very few users to overcome.***

## Remedies

**Input:** With regard to the input of data, the FEC should revise the current "validators" in its own software (and recommendations to private vendors) to force and prompt filers to make accurate entries. Congress should also require Senate committees to file reports electronically like everyone else.

**Organization:** Concerning the organization of data, a major explanation offered for the Commission's laggardness in both incorporating additional information into its database and

**The FEC needs a modern, fully searchable database.**

expanding the range of queries is its priority on constructing a new disclosure database. Rather than "patch up" the existing archaic system to incorporate spending details, the FEC says it is focusing available technical and human resources on developing a new architecture: "The design of the new disclosure database permits greater flexibility to search and retrieve information and to accommodate greater data capture and analysis capabilities."<sup>25</sup>

However, this remedy appears to be proceeding at a pace slower than expected. Despite a budget and FY 2003 deadline for completion of "the conversion of the disclosure database,"<sup>26</sup> even some proponents of the new system are not confident that the Commission has assigned it sufficient priority or accessed sufficient human skills to guarantee completion in the proximate future.<sup>27</sup> The Center for Responsive Politics and FECInfo note that past promises for database conversion have not been fulfilled and point out that they have been able to develop more modern web systems with less generous non-governmental funding.<sup>28</sup>

The FEC should mobilize the technical, human and financial resources required for rapid achievement of a modern, fully searchable database.

**Website design:** As for the delivery of useful data, the FEC also has an ongoing "Web Portal" design project. Yet in a September 2001 report to Congress, under "Enhance FEC Web site," it optimistically declared, "The redesigned FEC Web site was launched in December 1999 and has been widely regarded as a significant improvement in organization."<sup>29</sup> However, a September 2002 study of the delivery of government information and services online by Brown University researchers ranked the FEC 31st among 48 federal executive and legislative agencies.<sup>30</sup> Again, there appears to be no precise strategy, including time frames and resource requirements, for resolution of the various ease-of-use problems discussed above.

**Brown University researchers ranked the FEC's website 31st among 48 federal agencies.**

<sup>25</sup> FEC, "PricewaterhouseCoopers's Recommendations...September 2001...", p. 6.

<sup>26</sup> FEC, "FY 2003 FEC Budget Request Congressional Justification," February 25, 2002, p. 34, at [www.fec.gov/pages/budget/fy2003/20020225justification](http://www.fec.gov/pages/budget/fy2003/20020225justification).

<sup>27</sup> Interview with FEC official, July 30, 2002.

<sup>28</sup> Interviews with representatives of FECInfo, July 31, 2002 and Center for Responsive Politics, August 6, 2002.

<sup>29</sup> FEC, "PricewaterhouseCoopers's Recommendations. September 2001...", p. 15.

<sup>30</sup> Daryl M. West, *State and Federal E-Government in the United States 2002*, available at [www.insidepolitics.org/Egovt02us.html](http://www.insidepolitics.org/Egovt02us.html).

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**Programming Issues for Users of Detailed Data Files:** The FEC should immediately make the needed programming corrections to its data files to make them substantially more accessible to users and thus broaden the potential analyses available to the public.



DEPARTMENT OF THE TREASURY



## IRS Disclosure

There is a serious lack of meaningful web disclosure of campaign finance and campaign finance-related information collected by other federal agencies. Most notably, the IRS has not established a searchable web-based system for public disclosures by so-called "527" political organizations. The primary function of such groups is influencing elections and appointments at the federal, state or local level. Under the 527 disclosure law (PL-106-230) passed in July 2000, these groups are required to file organizational information statements and annual returns, and to report regularly on their contributions and expenditures. Those active at the federal level do not have to report to the FEC, because they do not directly subsidize federal candidates and parties, and their independent activities ("issue ads," voter registration, direct mail and get-out-the-vote activities, political activist training, etc.) avoid explicit appeals to "vote for" or "vote against."<sup>31</sup>

An August 27, 2002 federal district court in Southern Alabama held that portions of the law dealing with expenditure disclosure (but not contributions disclosure) and state and local electoral advocacy (but not federal advocacy) were unconstitutional. However, the ruling for now applies only to the specific plaintiffs, and the government is expected to appeal the decision.<sup>32</sup>

The political weight of federally-oriented 527s is substantial. A Public Citizen study of the top-25 non-politician groups concluded that those groups spent \$93 million from July 1, 2001, until December 31, 2001. The groups included organizations like Planned Parenthood, Republican Leadership Council, New Democratic Network, AFL-CIO, Sierra Club and Republican Majority Issues Committee.<sup>33</sup> With BCRA's ban on national party soft money, many observers expect the generally partisan 527s will attract increased support from former soft money donors.<sup>34</sup>

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<sup>31</sup> Testimony of Frances R. Hill, Subcommittee on Oversight of the U.S. House of Representatives Committee on Ways and Means, June 20, 2000, and "Probing the Limits of Section 527 to Design a New Campaign Finance Vehicle," *Tax Notes*, January 19, 2000.

<sup>32</sup> *National Federation of Republican Assemblies et. al v. United States*, Case No. 00-759-RV-C. See also "IRS Asks Judge to Limit Scope of Ruling that Struck Down Section 527 Requirements," *BNA Money and Politics Report*, September 16, 2002.

<sup>33</sup> Public Citizen Congress Watch, "Déjà Vu Soft Money," April 2002, [www.citizen.org/congress/reform](http://www.citizen.org/congress/reform).

<sup>34</sup> See, for example, Eliza Newlin Carney, "Even the IRS is a Campaign Finance Cop," *National Journal*, May 18, 2002, p. 1483, and Franklin Foer, "Will McCain-Feingold Breed Democratic Fratricide?" *New Republic*, June 13, 2002.

## Problems

**Impenetrable Website:** After the disclosure law passed, the IRS went further in disclosure than the law required by placing thousands of 527 organizational and financial reports on its website. Yet a July 2002 General Accounting Office (GAO) evaluation concluded that, “The Web site is difficult to use and most of the disclosed data are not electronically searchable and downloadable.”<sup>35</sup>

Our review of the website confirms this. It is extremely difficult for the viewer to locate 527 groups on the site. From the home page, you have to guess correctly that the information might be located under “Charities and Nonprofits.” If you get to that page, you must click on to pages for “political organizations” and “notices and reports” before you encounter a search engine (Figure 10). But that only allows you locate individual reports if you know the name or stumble upon it by alphabetically browsing. Due to a programming defect, even if you know a group’s name, you may not locate its reports if you make a slight “mistake,” such as calling “The Sierra Club” “Sierra Club.”<sup>36</sup> Unlike the FEC site, the IRS site does not permit viewers to search for individual reports by categories of interest, such as state, members of the board of directors, amount raised or spent, or date established.

***It is extremely difficult to locate 527 groups on the IRS site.***

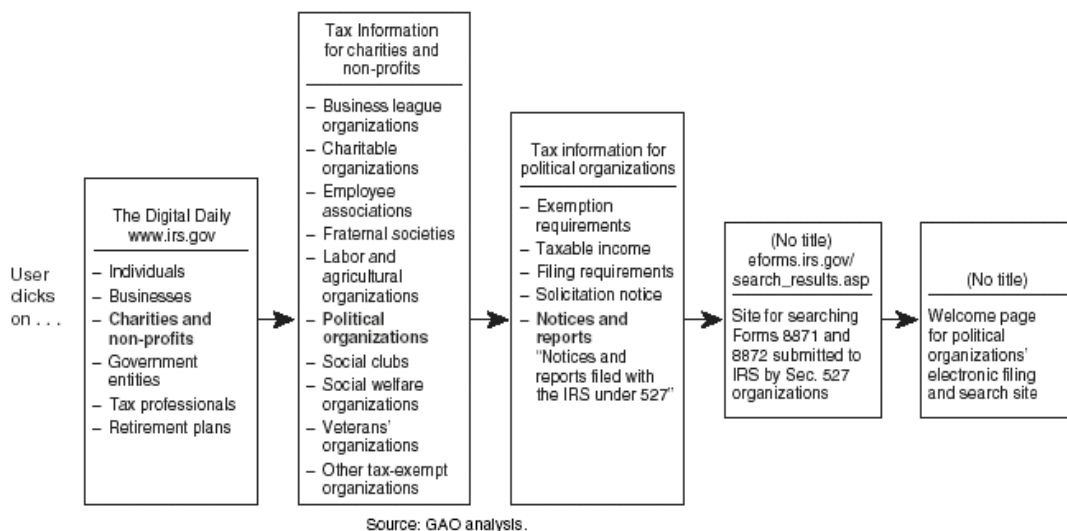
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<sup>35</sup> U.S. General Accounting Office, *Political Organizations: Data Disclosure and IRS’s Oversight of Organizations Should Be Improved* (GAO-02-444), July 2002, p. 2.

<sup>36</sup> Public Citizen Congress Watch, “Déjà vu Soft Money,” p. 16; see also Public Citizen Congress Watch, “Off to the Races,” June 5, 2002, available at [www.citizen.org/congress/reform](http://www.citizen.org/congress/reform).

Figure 10:

Finding 527 Group Reports on the IRS Website (Home page on left)



The reports are seriously deficient in accuracy and timeliness.

Source: [www.gao.gov/cgi-bin/getrpt?GAO-02-444](http://www.gao.gov/cgi-bin/getrpt?GAO-02-444)

Once you find a report, you can only go through it page by page. In this respect, the IRS site differs fundamentally from those described already. One is generally not able to search an information database to extract meaningful data. (The IRS has an "advanced search engine" for electronic filers. But given that there is no mandatory requirement for electronic filing of financial reports, the search engine cannot be used for 95% of reports, a fact the IRS fails to reveal to viewers.)<sup>37</sup>

**Poor Information:** Not only is it difficult to obtain important campaign finance information, but the reports themselves are seriously deficient in comprehensiveness, accuracy and timeliness. Due to weaknesses in the disclosure law, Form 8871 organizational statements do not have to be revised when groups change their addresses, directors or purposes. And Form 8872 financial reports -- in contrast with similar FEC forms -- do not require the dates of contributions and expenditures or the purposes of expenditures.

Furthermore, according to Public Citizen's studies of the leading federally-oriented non-politician 527s, 8872s were characterized by high rates of missing or vague information (e.g.,

<sup>37</sup> GAO, *Political Organizations...*, p. 10.

there was no information about employer or occupation given for two-thirds of individual contributors over \$200), frequent errors due to hand entry of data and numerous late filings (or postings).<sup>38</sup>

In its recent report, the GAO concluded, IRS “oversight of Section 527 organizations’ compliance with the law, filings and reporting requirements has been very limited.” Unlike the FEC, the IRS does not fully check whether all required data are included in its forms and whether the information is complete and accurate.” Moreover, there is “little proactive effort to determine whether all filings are timely and all organizations that should file have done so.”<sup>39</sup>

## Remedies

In responding to these criticisms, IRS officials emphasize that they have been responsible for 527 disclosure for barely two years, have focused their initial efforts on education of the filing community, and have begun to audit random samples of completed forms. Calling attention to “budget constraints,” they note that 527 political groups comprise only 1% of all tax exempt organizations under their purview. They also point out that their effort to expand voluntary electronic filing has been stymied by “lack of interest” in the software development industry in creating software for uploaded IRS 527 group financial filings.<sup>40</sup>

It is reasonably clear that the underlying reason for the IRS’s failings is the low political priority assigned by the agency to 527 disclosure. The FEC’s vast, mandatory electronic filing system (including its own software and that of cooperating private vendors) costs approximately \$1 million a year, a relatively modest sum. And this does not take into account the savings, current and future, from the elimination of manual entering and checking of data.<sup>41</sup> About half of the states and a number of large cities have found that they can bear the costs of mandatory electronic filing and a searchable database.<sup>42</sup> GAO calls upon the Commissioner of Internal Revenue to “develop results-oriented plans including techniques and resources needed, to improve website usability, oversee 527 organization filing compliance and increase availability of electronic data to the public.”<sup>43</sup>

***It seems clear that the underlying reason for the IRS’s failings is the low political priority assigned by the agency to 527 disclosure.***

<sup>38</sup> Public Citizen Congress Watch, “Déjà vu ....” pp. 20-25; and “Off to the Races.”

<sup>39</sup> GAO, *Political Organizations...*, pp. 14-20.

<sup>40</sup> *Ibid.*, pp. 20-21, 60-63.

<sup>41</sup> PricewaterhouseCoopers, *Technology and Performance Audit...*, pp. 4-30, 31.

<sup>42</sup> See *supra* n. 1

<sup>43</sup> GAO, *Political Organizations*, p. 3.

***Congress should mandate a fully searchable, downloadable 527 database.***

Congress should require electronic filing for all groups that receive contributions or spend over \$50,000 in a calendar year, or expect to do so, as it has done for FEC filers. Congress should also require the reporting of material changes in organizations, dates of contributions and expenditures, and purposes of expenditures. Further, it should mandate creation of a fully searchable, downloadable database. Finally, the IRS should develop a results-oriented plan, including time frames and required resources, for rapidly establishing an effective compliance program.

## FCC Disclosure

Federal Communications Commission regulations provide for “public inspection” of:

- a candidate for public office’s request for broadcast time and the station’s record of time and class of time purchased, when spots were aired, and charges,<sup>44</sup> and
- the chief executive officers or members of the executive committee or board of directors of a non-candidate purchasing broadcast time concerning a “political matter” or “discussion of a controversial issue of public importance.”<sup>45</sup>

Public inspection and copying (for a fee) of records normally occurs at the main studio of the local station, with files being retained for two years.<sup>46</sup>

**FCC ‘Disclosure’ -- Where No One Can Find It:** Section 504 of BCRA reaffirms the requirements for detailed reporting by candidates about their advertising and extends them to non-candidates who advertise about “political matters of national importance” (including candidates, federal elections and national legislative issues). However, BCRA maintains the current practice of requiring the records to be maintained for two years by the individual stations, on which the advertising appears. To look at the records, a user has to visit each station to see paper copies of the relevant files. For a comprehensive national look, that would mean visiting and reading files at about 2000 television stations, 12,000 radio stations and another 10,000 cable systems to make a complete review of a national campaign. Even if one limited one’s site visits to the five largest broadcast radio and television outlets in the 100 largest media markets, a person would have to visit two stations per day, in a different city each week. Obviously, this is not a system that is designed to inform.

For most important purposes, decentralized paper disclosure of this sort is as if there were no disclosure at all. This situation creates a major gap in the federal campaign finance disclosure system. Spending on mass media -- mainly for TV and radio broadcasts -- is the largest item in most federal campaign budgets, and increases in these costs have helped fuel discussion of reforms in the federal campaign finance system. Recent campaigns have also been strongly influenced by the growing role



***Obviously, [the FCC’s] is not a system that is designed to inform. . . . Decentralized paper disclosure of this sort is as if there were no disclosure at all.***

<sup>44</sup> 47CFR73.1943

<sup>45</sup> 47CFR73.1212

<sup>46</sup> 47CFR73.3526 & 3527.

of broadcast “issue ads” sponsored by independent groups. In particular, 527 organizations, which emphasize such ads, seem destined to play even larger roles under BCRA. Therefore, information about the sponsors, costs and placements of these communications is critical to the public’s understanding of the role of money in campaigns. Information that is ensconced in local radio and TV studios, and cannot be found on campaign finance websites, remains unavailable to the general public.

If decentralized paper records are the problem, the solution is simple: centralized access to electronic records. The FCC should require broadcasters to file their station logs in electronic formats, and then provide a searchable, downloadable database of this information on the FCC website.

***If decentralized paper records are the problem, the solution is centralized access to electronic records.***

Web disclosure and searchability of existing information would also aid FEC enforcement of BCRA’s requirement for disclosure regarding broadcast “electioneering communications.” Indeed, Section 201(b) of BCRA requires the FCC to compile and maintain “any information” the FEC may need to “carry out” the disclosure provision, and to make it publicly available on the FCC website! In a regulation, the FEC requires the FCC to create a searchable web database of media markets to help identify ads “targeted” to over 50,000 people, i.e., one of the disclosure standards.<sup>47</sup> Requiring the FCC to similarly post local station information about the purchase, sponsorship, time, candidate mentions and charges of spots by federal candidates or about political matters of national importance -- at least during the 30/60 day time period of “electioneering communications” -- would promote compliance with other disclosure triggers, including when the ads are run, how much they cost, and whether they mention federal candidates.<sup>48</sup>

Therefore, under BCRA the FEC should require the FCC to disclose local licensees publicly available political broadcast information regarding “electioneering communications.”

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<sup>47</sup> The *Draft Final Rule for Electioneering Communications* is available as an FEC agenda document at [www.fec.gov/agenda/mtgdoc02-68.pdf](http://www.fec.gov/agenda/mtgdoc02-68.pdf). The rule was not yet published in the Federal Register at the time this report went to press, but the citation is 11 CFR 100.29(b)(6) and (7).

<sup>48</sup> See “Comment” by Michael J. Malbin, CFI Executive Director, on the FEC’s proposed electioneering regulations, at [www.CFIinst.org](http://www.CFIinst.org).

## Other Federal Disclosure Agencies

**Labor Department** -- Other agencies, particularly the Department of Labor and the Municipal Securities Rulemaking Board (MSRB) also collect and disclose campaign finance information bearing on federal elections. While the Labor Department's information was referred to in the Senate debate over BCRA,<sup>49</sup> it adds little to what is available elsewhere concerning federal elections. (Whether or not additional information should be required is a separate policy issue.) On the other hand, the MSRB data is quite relevant.



Labor unions file annual financial reports with the Department of Labor on one of three forms. The LM-2, completed by unions with receipts of \$200,000 or more or in trusteeship, is the most detailed form. (It requires completion of 24 information items, 50 financial items and 15 supporting schedules.) Other unions may fill out the simplified LM-3, or they may select the even more abbreviated LM-4 if they have less than \$10,000 in receipts. The Labor Department posts the completed forms on its website;<sup>50</sup> however, there is no searchable database.

CFI examined the most recent LM-2s of the AFL-CIO, International Brotherhood of Teamsters, United Union of Roofers, Waterproofers and Allied Workers, American Federation of Teachers (AFT), Screen Actors AAAA and Utility Workers AFL-CIO. It also examined several excerpts from the Labor Department forms found on the Political Moneyline website.

Little relevant campaign finance information was required or reported on these forms. For example, Item 12 asks whether the union has a PAC, and Item 75 asks for "additional information" on this and many other items. The AFL-CIO, AFT and Teamsters responded by naming their federal PACs and noting that their activities were not included in the form because they had already been reported to the FEC. The AFL-CIO also listed three "non-federal" funds (without describing their activities), while the Teamsters were unusual in naming the 40 state and 6 county agencies to which their state PAC reports. The Roofers stated it had a Section 527 fund, which it had registered with the IRS and, therefore, was not included in the LM-2.

Schedule 12, which lists "contributions, gifts and grants," has the potential of revealing some labor union campaign spending. However, the categories employed by filers were not precise enough for this purpose. The Teamsters listed 10 items,

<sup>49</sup> *Congressional Record*, March 22, 2001, p. S2682.

<sup>50</sup> At [www.dol.gov/esa/regs/compliance/olms/rrolo/lmrda.htm](http://www.dol.gov/esa/regs/compliance/olms/rrolo/lmrda.htm).



including “Legislative and Political” and “AFL-CIO Labor Mobilization Fund.” The AFL-CIO categorized its contributions by broad recipients, such as “Civic and allied organizations” and “Labor support organizations and constituency groups.” Another Schedule (15), “Other disbursements,” lists two non-federal funds and the amounts transferred to them, but has no detailed information on their activities.



**Municipal Securities Rulemaking Board (MSRB):** On the other hand, the MSRB (which is overseen by the Securities and Exchanges Commission) collects substantial relevant campaign finance information in order to “allow public scrutiny of political contributions and the municipal securities business of a broker, dealer or municipal securities dealer.” (An MSRB rule specifically prohibits the latter from engaging in business with issuers of municipal securities if they have contributed to officials of the issuers within two years.) MSRB collects information about contributions to both officials of issuers and state and local parties for federal, state and local elections.<sup>51</sup>

Although MSRB deals with a relatively small group of contributors and focuses on donations to non-federal actors, state and local parties raise significant soft money contributions that impact on federal elections. And the donors of these funds are not reported to the FEC. Hence, web disclosure of MSRB data could provide useful new campaign finance information. However, the MSRB’s website however is not at all searchable or downloadable. Moreover, it only allows the viewer to locate individual forms of companies that are already known. In addition, electronic filing is not accepted. It should be required, as should a fully searchable, downloadable database.

**Congressional Disclosure Offices:** Under the Lobbying Disclosure Act of 1995 (P.L. 104-65), the offices of the Clerk of the House and the Secretary of the Senate collect and publicly disclose information about lobbying of federal officeholders and officials. Although lobbying expenditures, income and activities differ from campaign finance ones, they are strongly related. Those who donate to campaigns (including lobbyists and their clients) are frequently interested in specific legislative and policy changes. Lobbying information can clarify the purposes of campaign contributions and expenditures. Both Opensecrets.org and Political Moneyline incorporate lobbying reports into their campaign finance websites.

Until September 2001, lobbying information was available only in the Washington offices of the House Clerk and Senate

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<sup>51</sup>MSRB, “Political Contributions and Prohibitions on Municipal Securities Business,” available at [ww1.msrb.org/msrb1/rules/ruleg37.htm](http://ww1.msrb.org/msrb1/rules/ruleg37.htm). Forms can be viewed at [ww1.msrb.org/msrb1/pcocweb/search.CFM](http://ww1.msrb.org/msrb1/pcocweb/search.CFM).

Secretary. At that time, the Senate Secretary's Office of Public Records, acting under the existing legislative authority, began placing individual lobbying reports directly on its website as well as entering them into a searchable database. These searches, however, are limited to only five non-simultaneous categories of information (many more are available at the Senate Office of Public Records computers), and the database is not downloadable. Even worse, the web and office databases are not searchable by bill number and specific issue. Thus, the viewer cannot confidently chart all the entities lobbying for a bill or policy - the main rationale for lobbying disclosure -- without going through every single report in the system! Further, electronic filing is not mandatory, resulting in a typical three-month wait while data is hand-entered. Given that lobbying reports are filed every six months, information about lobbying may not be available to the public until up to nine months after the lobbying is done.<sup>52</sup>

Congress should mandate electronic filing with the House and Senate disclosure offices for organizations and individuals along FEC lines. The Secretary of the Senate should expand on recent efforts and establish a fully searchable, downloadable database. (Because the same information is required to be reported to each House of Congress, only one site for a database is necessary.)

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<sup>52</sup>See Public Citizen, "Problems with and Recommended Changes to the Lobbying Disclosure System-Detailed Analysis, September '01," [www.citizen.org/congress/reform](http://www.citizen.org/congress/reform).

## The Importance of Enforcement

Like other laws, campaign finance disclosure depends upon a credible threat of enforcement. For example, it is useful to insert prompts in electronic filing software to encourage full and accurate reporting, as suggested earlier. But that is not enough if someone is prepared to cheat in competing for a powerful federal office. Unfortunately, current federal enforcement policies do not adequately deter or punish failures to disclose.

For its January 1999 FEC audit, PricewaterhouseCoopers interviewed eight legal practitioners representing “the spectrum of respondents” in enforcement cases. “Most felt that the current FEC compliance practices did not create a strong deterrent effect.”<sup>53</sup> Nowhere is this more evident than in the FEC’s auditing policy.

**Current federal enforcement policies do not adequately deter or punish failures to disclose.**

Since 1979, the FEC has been forbidden by Congress to conduct random audits. Yet experts agree, “The case for random audits seems pretty unassailable.” The system of “for cause” audits “introduces enforcement bias: groups with the most resources and sophisticated professional advice are more likely to present completed filings that appear to be correct and help avoid an audit.”<sup>54</sup> Random audits would also enable the FEC to empirically test its own criteria for recommending “for cause” audits.<sup>55</sup> Random audits are utilized by such campaign finance agencies as California’s Fair Political Practices Commission as well as the U.S. Environmental Protection Agency, Occupational Safety and Health Administration and the Internal Revenue Service.<sup>56</sup>

Moreover, during the 1996 election cycle, the FEC approved just 15 non-presidential “for cause” audits (audits triggered by facial deficiencies in reports) among its 8,000 reporting committees, and only one of the audited committees belonged to an incumbent officeholder. Disregarded were 179 political committees that accumulated enough points to trigger the Commission’s four audit “threshold standards:” poor general report

<sup>53</sup> PricewaterhouseCoopers LLP, *Technology and Performance Audit...* pp. 3-6.

<sup>54</sup> Todd Lochner and Bruce E. Cain, “Equity and Efficacy in the Enforcement of Campaign Finance Laws,” *Texas Law Review* (June 1999), pp. 1929-30. See also Michael W. Carroll, “Note: When Congress Just Says No: Deterrence Theory and the Inadequate Enforcement of the Federal Election Campaign Act,” *Georgetown Law Journal* (February 1996), p. 584; and Project FEC, *No Bark, No Bite, No Point: The Case for Closing the Federal Election Commission and Establishing a New System for Enforcing the Nation’s Campaign Finance Laws*, 2002, available at [www.democracy21.org](http://www.democracy21.org), pp. 72-73.

<sup>55</sup> PricewaterhouseCoopers LLP, *Technology and Performance Audit...*, p. 447 n. 19.

<sup>56</sup> Lochner and Cain, “Equity and Efficacy...,” p. 1930.

preparation, omissions, lack of timely submission and transactions inconsistent with the law's prohibitions and limitations.<sup>57</sup> The FEC raised the number of audits from 15 to 40 during the 2000 cycle.<sup>58</sup> Assuming that the Commission's threshold standards are valid and continue to turn up about 200 audit-eligible committees, this would constitute a small minority of cases and could not be expected to have a deterrent effect throughout the large filing community. Moreover, none of the Commission's audits occur in a timely fashion before an election, when the deterrent impact is greatest.

If disclosure provisions are to be effective, serious consideration must be given to legislating a new authorization for random audits and increasing substantially the number of "for cause" audits. Moreover, at least some of these audits should occur during election campaigns. Currently, the FEC audits about 40 committees months after the election. Yet New York City's Campaign Finance Board is able to audit every one of the finances of more than 300 candidates participating in its public financing program, and does so in a preliminary way during the campaign.<sup>59</sup>

Congress has also saddled the FEC with a "cumbersome" 12-stage civil enforcement process that, according to a recent Chairman of the Commission, makes it "virtually impossible for the Commission to resolve a complaint during the same election cycle in which it is filed."<sup>60</sup> Lacking an adequate budget to pursue complaints, the FEC, in an average month, is able to "activate" only half of its pending cases. Moreover, since the Commission has no power to impose penalties (at the end of a lengthy process it can only bring a civil court case) and confronts a 5-year statute of limitations, respondents have strong incentives of their own to drag out the process.<sup>61</sup>

The result, in 1994-98, was that 59% of the 1179 cases the FEC closed were outright dismissals, and 40% of these dismissals were for "staleness," i.e., the evidence had become more difficult to gather as the case aged or resolution would exceed the statute

**Congress should  
seriously  
consider  
reauthorizing  
random audits.**

<sup>57</sup> *Ibid.*, pp. 4-3, 4-41-58.

<sup>58</sup> FEC, "PricewaterhouseCoopers's Recommendations...September 2001...", p. 9.

<sup>59</sup> Nicole A. Gordon, "Campaign Finance Reform: Life in the Trenches: The New York City Model: Essentials for Effective Campaign Finance Regulation," *Journal of Law and Policy* (1007), pp. 85-86; New York City Campaign Finance Board, *An Election Interrupted: The Campaign Finance Program and the 2001 New York City Elections, Part I: Report* (September 2002), pp. 11-18, 131-32.

<sup>60</sup> Scott E. Thomas and Jeffrey H. Bowman, "Obstacles to Effective Enforcement of the Federal Election Campaign Act," *Administrative Law Review* (Spring 2000), pp. 584-90. On the 12 stage process, see PricewaterhouseCoopers LLP, *Technology and Performance Audit...*, p. 462.

<sup>61</sup> *Ibid.*, pp. 4-68, 69; Federal Election Commission, *Annual Report 2001*, p. 12; FEC project, *No Bark, No Bite...*, pp. 50-57.

of limitations. Nearly all of the other dismissals were due to low enforcement priority. In 13% of all cases, the Commission progressed to finding “reason to believe” or “probable cause to believe” allegations, but decided not to proceed further. Only 2% of all cases (about five per year) ended in authorization of a lawsuit. The most common substantive result (22% of cases) was a Conciliation Agreement, including a median fine of several thousand dollars.<sup>62</sup>

In the last two years, the FEC has embarked upon two new programs (Administrative Fines and Alternative Dispute Resolution) to expedite less serious enforcement cases. Most notably, administrative fines for failure to file timely reports succeeded in cutting the overall dismissal rate from 59% in 1994-98 to below 30% in FY 2000 (and appears to have substantially reducing late or no filing).<sup>63</sup> However, this initiative affects only the most transparent type of disclosure violation: the failure to submit an entire report. It has nothing to do with failures to disclose specific contributions or expenditures in a report. In its Congressional budget justification submitted in February 2002, the FEC anticipates falling back to a 45% dismissal rate in FY 2003.<sup>64</sup> And there has been no significant change in the FEC’s inability to activate more than half its caseload, with the accompanying delays in enforcement.<sup>65</sup> In sum, there seems no reason to revise the prevailing expert consensus that FEC procedures and penalties are too weak to adequately enforce disclosure requirements. Proposals for executive and legislative reforms should be seriously considered.

***The IRS continues to lack a strategy for enforcement. Reform of the enforcement system -- by the IRS or Congress -- is required.***

As for the IRS, it has hardly bothered to enforce the Section 527 disclosure law at all. According to the recent GAO evaluation, the IRS lacks criteria for selecting 527 reports for audit and cannot identify any audits arising from its review of the forms. (It performed two audits of thousands of filers in the last two years in response to outside reports of noncompliance by Section 527 groups.) Unlike the FEC, the IRS has the legal power to impose substantial civil penalties for non-disclosure or incomplete or inaccurate disclosure, but it has not done so despite well-documented public reporting of serious violations of the law. Acknowledging that many groups have not been filing the required information, the IRS recently waived all penalties for organizations that filed or corrected earlier filings by July 15, 2002. It also

<sup>62</sup> PricewaterhouseCoopers LLP, *Technology and Performance Audit...*, p. 4-66; on Conciliation Agreement fines, see FEC, *Annual Report 2001*, pp. 11-12.

<sup>63</sup> *FY 2003 FEC Budget Request*, February 25, 2002, p. 3. [www.Fec.gov/pages/budget/fy2003/20020225justification](http://www.Fec.gov/pages/budget/fy2003/20020225justification); FEC News Release, “Administrative Fine Program Continues to Influence Filings,” November 19, 2001.

<sup>64</sup> *FY 2003 Budget Request...*, p. 27.

<sup>65</sup> FEC, *Annual Report 2001*, p. 12.

promised to convene a task force to begin to study noncompliance through a random sample of filed forms. However, the GAO concluded that the IRS continues to lack a strategy for enforcement.<sup>66</sup> Again, reform of the enforcement system -- by the IRS or if necessary Congress -- is required.

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<sup>66</sup> General Accounting Office, *Political Organizations*, pp. 18-22.

## The Disclosure Non-System

Ideally, an interested person should be able to access (or download) all related campaign finance information from a single website in a seamless series of clicks. One could, for example, start by searching FEC-reported information about the Planned Parenthood PAC's hard money contributions or spending relating to a federal candidate; move on to search for IRS-reported information about the group's (or its state affiliate's) 527 soft money spending on ads, grass roots efforts and donations to related state candidates and parties; search FCC data to detect if the group (or an affiliate) ran TV and radio ads in the candidate's broadcast area; and later check out Congressional lobbying disclosure information to learn the names and legislative objectives of Planned Parenthood's lobbyists.

In addition to its importance for informing citizens, getting a comprehensive view of an organization is important, because it can help detect attempts to evade the law via "pass throughs" of money to related groups. Particularly with the enactment of BCRA, many political observers anticipate that efforts will be made to solicit and rechannel large contributions through various combinations of non-profit groups.<sup>67</sup> A person or entity can give money to one kind of entity, which enables that organization to give to a second that in turn gives to a third. The groups are separate but coordinate their activities creating a functional web. Disclosure -- including new technologies of "data mining" to sort through the data to identify patterns -- is at the heart of tracing these relationships.

Of course there are formidable technical and political obstacles to such a unified campaign finance nirvana. A more practical objective would be sufficient coordination among agencies for a user to obtain comprehensive information with reasonable efforts. On this score, much work remains to be done.

**Problems:** At the most basic level, there are not even links between the campaign finance web pages of the two key federal executive agencies, FEC and IRS. (MSRB does link to the two main agencies.) Such linkages are frequently found on key non-governmental websites, including those of major campaign finance reform groups. Their absence indicates the general lack of coordination, including the lack of common standards or central management, in the federal disclosure system.

***A practical objective would be sufficient coordination among agencies for a user to obtain comprehensive information with reasonable efforts. Much work remains to be done.***

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<sup>67</sup> Frances R. Hill, "Softer Money: Exempt Organizations and Campaign Finance," *The Exempt Organization Tax Review* (April 2001), pp. 50-53; Peter H. Stone, "New Channels for Campaign Cash," *National Journal*, February 23, 2002, pp. 545-46.

**Remedies:** There has been some positive movement toward greater coordination of disclosure, partly as a result of the new campaign finance law. As discussed earlier, the FEC proposed that the FCC be required to create a “searchable database” regarding one aspect of electioneering communications disclosure. The FEC also suggested that the FCC website contain a link to its new electioneering communication forms, and anticipates an FEC link to the new FCC database. The FEC has also sought public comment on what additional features on the FEC or FCC websites should be made available to help carry out the electioneering communications disclosure provision.<sup>68</sup>

Earlier, following the enactment of the 527 disclosure law in July 2000, FEC and IRS technical officials held joint discussions about the planning of the new IRS campaign finance disclosure system. Among the subjects discussed were electronic filing and the creation of a searchable database. However, different agency disclosure systems and investment priorities appear to have impeded the success of those conversations.<sup>69</sup>

A potentially important spur to future inter-agency cooperation is the “Cochrane Amendment” to BCRA (Section 502). This requires the FEC to “maintain a central site on the Internet to make accessible to the public all publicly available election-related reports and information.” It also requires other agencies receiving publicly disclosable election-related information to “cooperate and coordinate” with the FEC to “make such report available through, or for posting on, the site of the Federal Election Commission in a timely manner.” Such coordination, led by the FEC, could run the gamut from improved links, to joint determination of federal standards for disclosure, to the FEC’s receiving data and managing its disclosure. Other things being equal, the best public disclosure policy would be one that involves the greatest commonality of standards and public presentation.

Under its new authority, the FEC should take the following steps, beginning with the main campaign finance disclosure agencies (FEC, IRS, FCC) and spreading later to other agencies:

- Require website links;
- Develop in consultation with the other agencies: joint disclosure standards (including common search categories, database querying capacities, downloading and data mining capacities); and

***The best public disclosure policy would be one that involves the greatest commonality of standards and public presentation.***

<sup>68</sup> *Federal Register*, August 7, 2002, p. 51134. For CFI’s comment see [www.fec.gov/pdf/nprm/electioneering\\_comm/comments/campaign\\_finance\\_institute.pdf](http://www.fec.gov/pdf/nprm/electioneering_comm/comments/campaign_finance_institute.pdf).

<sup>69</sup> Interview with FEC official, August 9, 2002.



- Inquire, in consultation with other agencies, into the possibility of FEC disclosure of all related campaign finance information received by them.

Congress should require regular progress reports about these system-wide disclosure developments under BCRA, with the first report due within two years.

## Summary of Problems and Recommendations

The new technologies of web-searching and electronic filing have begun to make useful campaign finance information more accessible, comprehensive, accurate and timely. However, as this report shows, web-based disclosure has a long way to go before public accountability of money in federal elections is assured.

The following table summarizes the discussion of problems and policy options, and highlights specific recommendations for policy change by the both executive branch agencies themselves and Congress.

Federal Agency	Problem	Policy Recommendation
<p><b>FEDERAL ELECTION COMMISSION</b></p>	<p>Mandatory electronic filing software does not require or prompt the filer to submit accurate data in many areas.</p>	<p>FEC should revise “validators” in its own and recommended software to force and prompt filers to make accurate entries.</p>
	<p>Senate candidates and party committees are exempt by law from mandatory electronic filing.</p>	<p>Congress should require Senate committees to file reports electronically.</p>
	<p>Searchable database does not contain significant items of reported data (such as detailed spending), and supports only a limited range of queries.</p>	<p>FEC should mobilize the technical, human and financial resources required for rapid achievement of a modern, fully searchable database.</p>
	<p>Downloading to perform detailed analysis of data is obstructed by archaic programming conventions.</p>	<p>Where programming problems interfere with open and widespread access to data, FEC should assign the personnel needed to correct them.</p>
	<p>Website makes it difficult for user to find relevant material, access search engine, move between searches, move to detailed information, and sort search results.</p>	<p>FEC should immediately make the needed corrections to make its website more accessible to users.</p>
	<p>Verification of data received is hindered by limited audits, and civil enforcement is slow and weak.</p>	<p>Congress should reauthorize random audits and, together with FEC, strengthen civil enforcement process.</p>

Federal Agency	Problem	Policy Recommendation
<p><b>INTERNAL REVENUE SERVICE</b></p> <p>(Section 527 political organizations)</p>	<p>Electronic filing is voluntary and little used.</p>	<p>Congress should mandate electronic filing for all groups that receive contributions or spend over \$50,000 in a calendar year, or expect to do so (similar to current law regarding FEC filers).</p>
	<p>Law lacks requirements to report on material changes in organization, contribution and expenditure dates and purposes of expenditures.</p>	<p>Congress should require reporting of material changes in organization, dates of contributions and expenditures, and purposes of expenditures.</p>
	<p>Website lacks a searchable, downloadable database.</p>	<p>Congress should mandate a fully searchable, downloadable database.</p>
	<p>Compliance program does not adequately check whether full, accurate and timely reports are made, and audit and civil penalty powers are not adequately utilized.</p>	<p>IRS should develop a results-oriented plan, including time frames and required resources, for rapidly establishing an effective compliance and enforcement program.</p>
<p><b>FEDERAL COMMUNICATIONS COMMISSION</b></p>	<p>Disclosure of information on sponsorship, time, cost and placement of political ads concerning federal campaigns and national issues occurs only at the local station level.</p>	<p>FCC should provide searchable, downloadable web disclosure of local station political broadcast information. FEC, under BCRA, should require FCC to provide similar disclosure regarding "electioneering" broadcasts 60 days before a federal general election and 30 days before a federal primary. (Electronic filing should be required.)</p>

Federal Agency	Problem	Policy Recommendation
<b>MUNICIPAL SECURITIES RULEMAKING BOARD</b>	Electronic filing is not accepted.	Electronic filing should be required.
	Website lacks a searchable, downloadable database.	MSRB should establish a fully searchable, downloadable database.
<b>CONGRESSIONAL DISCLOSURE OFFICES:</b>  <b>Clerk of the House and Secretary of the Senate (Lobbying organizations)</b>	Electronic filing (only in Senate office) is voluntary and little used.	Congress should mandate electronic filing with House and Senate for organizations and individuals receiving contributions or spending at least \$50,000 in a calendar year (similar to current law for FEC filers).
	Only Senate has website, but it is searchable by very limited categories of information (e.g., not by bill or specific issue lobbied on) and is not downloadable.	Secretary of the Senate should establish a fully searchable, downloadable database.

	Problem	Policy Recommendation
<b>SYSTEM-WIDE</b>	Related campaign finance data from different agencies is not brought together in a single place and common format so the web user can get a comprehensive view.	FEC should use its new authority under BCRA to lead in the development of website links, joint agency web disclosure standards (including common search categories, database querying and downloading capacities), and possibly FEC disclosure of all related information received by other agencies. Process should begin with main disclosure agencies (FEC, IRS, FCC) and spread outward to other agencies as problems are resolved. Congress should require a progress report under BCRA within two years.

## THE TASK FORCE ON DISCLOSURE

(Asterisk Denotes Members of CFI's Board of Trustees)

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