

**NOTICE OF RULEMAKING PROPOSED EXEMPT
TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION**

PREAMBLE

1. **Article, Part or Sections Affected (as applicable)** **Rulemaking Action**
R2-20-702 Amend
R2-20-703.01 New Section

2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 16-940, *et seq.*
Implementing statute: A.R.S. § 16-956(C).

3. **The effective date of the rules:**
Not applicable

4. **A list of all previous notices appearing in the Register addressing the exempt rule:**
Not applicable

5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Thomas M. Collins, Executive Director
Address: Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, AZ 85007

Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: thomas.collins@azcleelections.gov

6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**

At the January 2017 Commission meeting, several Commissioners raised concerns with the tightening of Commission rules regarding expenditures to political parties and /or consultants. On February 23, 2017, the Commission approved for publication three options for proposed amendments to Commission rule R2-20-702 and a proposed new rule. This publication contains the Option A version of the rule amendments to R2-20-702 and the proposed new rule R2-20-703.01. Options B and C of rule R2-20-702 will be published in subsequent issues of the Administrative Register. The following are the proposed amendments to the rules at issue:

R2-20-702. Use of Campaign Funds
Amends R2-20-702(B) to completely ban participating candidates from using Clean Elections funds to make expenditures from political parties.

R2-20-703.01 Consultants
This proposed new rule addresses the consultant issue regarding participating candidates, advance payments, itemization of expenditures, consultant mark-ups, and a shared consultant issue.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable

8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

9. **The summary of the economic, small business, and consumer impact:**

Not applicable

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Not applicable

11. **A summary of the comments made regarding the rule and the agency response to them:**

On February 23, 2017, the Commission approved for publication on the Commission's website and in the Administrative Register the proposed amendments and new rule. The Commission is soliciting public comment until May 12, 2017. No action has been taken on the proposed amendments or the proposed new rule.

12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

13. **Incorporations by reference and their location in the rules:**

Not applicable

14. **Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

Not applicable

15. **The full text of the rules follows:**

**TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION**

ARTICLE 7. USE OF FUNDS AND REPAYMENT

Section

R2-20-702. Use of Campaign Funds

R2-20-703.01. Use of Campaign Funds

ARTICLE 7. USE OF FUNDS AND REPAYMENT

R2-20-702. Use of Campaign Funds

A. No change

B. A participating candidate's payment from a campaign bank account to a political committee or civic organization including a person with tax exempt status under section 501(a) of the internal revenue code or an unincorporated association is not a contribution if the payment is reasonable in relation to the value received. Payment of customary charges for services rendered, such as for printing and obtaining voter or telephone lists, and payment of not more than \$200 per person to attend a political event open to the public or to party members shall be considered reasonable in relation to the value received. Clean elections funding shall not be used for an expenditure to any political party and such an expenditure shall be deemed an illegal contribution.

C. No change

1. No change

2. No change

3. No change

a. No change

- b. No change
- c. No change
- d. No change
 - i. No change
 - ii. No change
- e. No change
- f. No change
- g. No change
- h. No change
- 4. No change
- D.** No change
- E.** No change
 - 1. No change
 - 2. No change
- F.** No change
 - 1. No change
 - 2. No change
- G.** No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - 3. No change
 - a. No change
 - b. No change
 - 4. No change

TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

R2-20-703.01. Campaign Consultants

- A.** For purposes of this rule “Campaign Consultant” means any person paid by a participating candidate’s campaign or who provides services that are ordinarily charged to a person, except services provided for in A.R.S. 16-911(6)(b).
- B.** A participating candidate may engage campaign consultants.
- C.** A participating candidate may:
 - 1.** Not advance a campaign consultant for services such as consulting, communications, field employees, canvassers, mailers, auto-dialers, telephone town halls, electronic communications and other advertising purchases and other campaign services.
 - 2.** Only provide payment for such services as described in subsection (C)(1) of this rule upon receipt of an itemized, timely, invoice identifying the value of the services provided directly to that particular candidate. The invoice shall also identify the consultant’s mark up, percentage or other additional charge above the actual cost of the service provided.
 - 3.** Providing payment for such services as described in subsection (C)(1) of this rule in the absence of an itemized invoice or advance payment for such services shall be deemed not to be a direct campaign expenditure.
 - 4.** A participating candidate may advance payment for postage upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of postage.
 - 5.** A participating candidate may advance payment for advertising that customarily requires pre-payment upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of the advertisement.
- D.** The Commission shall be included in the mail batch for all mailers and invitations. The Commission shall also be provided with documentation from the mail house, printer or other original source showing the number of mailers printed and the number of households to which a mailer was sent. Failure to provide

this information within 7 days after the mailer has been mailed may be considered as evidence the mailer was not for direct campaign purposes.

E. Any consultant engaged by a participating candidate shall provide the participating candidate and the Commission with a sworn affidavit identifying all other clients who are: candidates for any office in the state of Arizona, political committees, a person with tax exempt status under section 501(a) of the internal revenue code, or an unincorporated association, or corporations engaged independent expenditures in the state of Arizona. This affidavit shall be updated monthly beginning the first of the month of every month of the remaining election cycle. In the event the relationship is terminated a sworn affidavit so stating shall be provided to the participating candidate and the commission within 5 days.