



**PRIMARY
ELECTION**

**FINANCIAL
MANAGEMENT
GUIDE FOR
COUNTY CHAIRS**



PRIMARY ELECTION FINANCIAL MANAGEMENT GUIDE FOR COUNTY CHAIRS

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INTRODUCTION OF THE PRIMARY FINANCE PROCESS

State primary funds are issued to county chairs overseeing the conduct of primary elections in accordance with Chapter 173 of the Texas Election Code. These funds, as well as funds collected from candidates for filing fees and other miscellaneous contributions, are used to defray the cost of the primary election expenses. State allocated funds are available to county chairs every two years. It is the responsibility of the county chair to recruit election day workers, set up polling places, obtain and transport voting equipment to polling locations, obtain election day supplies, recruit workers to tabulate election results, etc. for their party, although many county chairs choose to contract with the county election officer to perform all or some of these services. There are 254 counties in Texas with Democratic and Republican parties conducting separate primary elections. Beginning November, prior to a primary a chair may submit a cost estimate requesting funds to run their primary elections. **The deadline for submitting a primary cost estimate is 45 days prior to the primary. If the deadline falls on a weekend or holiday, the deadline is extended to the next business day. If a runoff is necessary, a runoff primary cost estimate must be received 10 days after the primary.** Thirty days following the primary or runoff, if one occurs, the county chairman must **file a final primary cost report** of their actual expenses. If additional funds are necessary, the Secretary of State will forward funds to the county chairman. **Any surplus funds must be remitted back to the Secretary of State by July 1st.**

Upon request of the county chair, this office will fund the estimated cost in compliance with Chapter 173 of the Texas Election Code and the Administrative Rules adopted by the Secretary of State. "1 T.A.C." throughout this manual refers to the Primary Finance Rules found in 1 Texas Administrative Code §§ 81.101-81.157.

Seventy-five (75%) of the approved estimated cost is advanced to the chair to cover election day and administrative expenses. The county chair will receive a pre-populated estimated cost report based on the final approved costs less financing sources for the most recent comparable elections(s) as determined by the Office of the Secretary of State. If a primary and/or runoff was not held in that county, the chair completes an estimated report for the primary and/or runoff.

After the primary and/or runoff, chairs submit a final cost report of actual expenses. This office then remits the balance or, if upon calculating the actual expenses a surplus is due, the excess funds are returned to the primary fund.

CHAPTER 1 - GETTING STARTED

The first step to managing a primary finance fund is to obtain a Federal Employer Identification Number "EIN" or use the existing EIN for the primary fund. An Employer Identification Number is also known as a federal tax identification number, and is used to identify a business entity. EINs are used by the IRS to identify taxpayers that are required to file various business tax forms. It is very likely an EIN has been obtained previously, and it is very important to use that number if it is available. Check the files for payroll tax returns or a copy of W-2's related to previous years' primary funds, which contain the EIN. Do not apply for another EIN if one was obtained previously. The new county chair is required to send in a change of officer letter to inform the IRS that there is a new officer for the Party.

If an EIN does not exist, it can be obtained by calling toll-free 1-800-829-4933 and or by mailing in Form SS-4 (Application for Employer Identification Number) available at most U.S. Post Offices and local IRS offices. You can also apply electronically at <http://www.irs.gov/>. If you need to acquire a verification letter of your EIN, you can request a copy of the letter from the same toll free number.

The next step to prepare for managing a primary finance fund is to set up a bank account exclusively for the primary fund (1 T.A.C. §81.103). The EIN is required to open a bank account. Do not use your personal social security number to open the primary fund account. This data will appear in bank records and the IRS could erroneously record it as your personal account. An account from the previous primary may have been left open with a nominal balance and may be used. To aid in the opening of a bank account, the county chair or any individual may provide an interest-free loan to the primary fund (1 T.A.C. §81.111).

The account should be styled "_____ County Democratic/Republican Party Primary Fund". The signatories on the account should be the chair and any appropriately bonded persons authorized by the chair, but the county chair must personally sign all checks in excess of \$1,000, all administrative payroll checks, and any checks to sole source vendors (1 T.A.C. §81.104(c)).

It is important for the county chair to obtain a sufficient number of deposit slips and checks. The deposits to the fund will consist of filing fees collected from local candidates, a check from the

state party executive committee for allocated filing fees from multi-county district candidates, state funds provided by the Secretary of State, and miscellaneous revenue such as contributions. Any unverified deposits to the primary fund will be treated as contributions. Checks will be issued from the county primary fund to pay all expenses necessary and directly related to the conduct of the primary elections. The approximate number of checks that will be necessary may be determined by referring to the financial records from previous primary elections. All primary fund checks must be printed or stamped with the statement on their face “Void After 180 Days” (1 T.A.C. §81.103(d)).

CHAPTER 2 - BOOKKEEPING OPTIONS

Opening the bank account is a good time to decide on a method for keeping the financial records of the receipts and disbursements from primary funds.

In those cases where the chair or primary administrator does not have or cannot gain access to a personal computer, a commercial type checkbook with stubs for noting the purpose of each disbursement and nature of each deposit may suffice. A cash receipts and disbursements journal with columns for grouping the receipts and disbursements by category to be reported on the final cost report may be prepared by hand. In order to receive approval of a final cost report, the county chair shall transmit copies of leases, receipts, bills, invoices, contracts, competitive bids, compensation sheets for election day workers, petty-cash receipts, monthly bank statements, electronic bookkeeping records (i.e. Quicken, QuickBooks, etc.), and any other related materials documenting primary-fund expenditures. Purchase requisitions are not considered receipts and may not be remitted as such.

It is highly recommended that a simple spreadsheet or checkbook management computer program such as Quicken, QuickBooks, or Money Counts be used. A checkbook management program will simplify the bookkeeping process, permit easy bank reconciliation, and facilitate the preparation of the final cost report. If the chair does not already have a personal computer available to use, one may be purchased with primary funds if the cost is \$1,500.00 or less. The computer becomes part of the primary fund and must be transferred to the next incoming chair (1 T.A.C. §81.127). Computer serial numbers must be reported to SOS to ensure the asset is traceable from one election to the next. Any computer purchased with primary funds is to be used for primary-related functions. It is not considered property of the party chair, rather the property of the county party, and must be transferred to the incoming party chair when a new chair takes office.

CHAPTER 3 - FUNDING THE PRIMARY ELECTIONS

The primary elections are paid for by a combination of county level candidate filing fees, allocated state level filing fees, state primary funds, and miscellaneous funds (1 T.A.C. §81.102). Your county’s portion of state level filing fees will be forwarded by your state party following the close of the filing period.

In an effort to quickly and efficiently advance funds to chairs prior to the primary and runoff election, if applicable, the Office of the Secretary of State prepares estimates based on 75% of the final approved costs less financing sources for the most recent comparable

elections(s) as determined by the SOS. Accordingly, each county chair will receive a pre-populated primary cost estimate, which is made available on an internet-based system prescribed by the SOS. It is the responsibility of the party chair to review the report in detail. Once the chair agrees to the amount, the primary cost estimate must be submitted to the Office of the Secretary of State. No documentation is required at the time of the estimate application submission. However, all appropriate supporting documentation is required when submitting the final cost report.

The county chair has the ability to modify the pre-populated expenses on the primary cost estimate. If your party did not conduct a primary in the year the estimate was calculated, the chair will be required to submit a completed primary cost estimate via the internet-based system prescribed by the SOS.

Upon receipt of your statement, it will be reviewed and approved for payment. A direct deposit will be transmitted, if a direct deposit form is completed by the chair, or a warrant will be mailed to the county chair's address on file for the approved primary cost estimated amount only. It is imperative we have your correct address information so that the warrant will be mailed to the address on file. If you do not receive your funds within three weeks of your submission, please call our office to see if we have received your information. The primary cost estimate will cover only those expenses you expect to incur during the period November 1 through March 31, or May 31 if a runoff is conducted. **Funds will not cover costs incurred prior to November 1 or after March 31 or May 31 if a runoff election is held.**

Please be advised, regardless of whether state primary funds are required, the primary cost estimate must be filed with the Election Funds Management section of the Secretary of State's Office 45 days prior to the general primary election (Section 173.081 of the Texas Election Code).

If a runoff is necessary, state funds may be obtained to cover those costs by following the same process as described for the primary cost estimate. The same electronic forms and procedures apply. Be advised the runoff estimate will cover only those expenses to be incurred during the month of May. Outstanding expenses from the primary election are not reported and paid until the final cost report is filed. The runoff estimate should be filed no later than 10 days after the general primary election (Section 173.081 of the Texas Election Code).

The final cost report is to be filed no later than thirty days after the primary or the runoff if the county has one. Section 173.084(d) of the Texas Election Code allows the forfeiture of the county chair's compensation for the failure to file a timely final cost report. All actual expenses of the primary and runoff elections are reported via the electronic primary finance system. The Secretary of State will process warrants for 100% of approved actual cost of the primary and runoff elections less the primary/runoff estimate amounts already received as well as filings fees and other applicable revenue credited to your primary account.

Final cost reports are a requirement and must be filed with our office regardless of whether funds are due to you or you have a surplus of funds (Section 173.084 of the Texas Election Code).

Your primary fund should be reconciled and surplus funds returned to the SOS by July 1 (Section 173.0851 of the Texas Election Code). If you do not file your final report with our office by July 1, it may be reported to the prosecuting authority.

DIRECT PAYMENT TO COUNTIES: If you contract with the county and the county population is 100,000 or more, the county may request direct payment from the SOS (Section 173.031 of the Texas Election Code). The contracted items shall be identified during the estimate and final cost reporting processes. The payment will be calculated based on those figures; however, the county will have the ability to adjust the direct payment amount up to the contracted amounts identified in the estimate and the final cost reports less filing fees.

CHAPTER 4 - FILING FEES & PETTY CASH

County level filing fees collected in currency as well as checks must be deposited into the county primary fund and must not be used to directly pay expenses (1 T.A.C. §81.106). Deposit slips should report each candidate's name alongside his or her filing fee deposit.

After the passage of Senate Bill 1073, 84th Legislature, candidate filing information must be collected by the county chair and are required to electronically submit the information pertaining to candidates with the Secretary of State. The following information must be collected from each applicant:

- candidate name
- office on the ballot
- address
- filing date
- phone number
- email
- whether the candidate paid a filing fee or filed a petition in lieu of the filing fee
- filing fee amount
- status of the candidate

Candidates for district offices file with the state chair and their filing fees are allocated among the county executive committees serving the counties that comprise the district. The filing fees are allocated pro-rata among the counties wholly or partly in each district. The state chair is required to mail each county chair a check for his portion of the filings no later than the 10th day after the date of the regular filing deadline. County chairs are required to deposit these funds directly into the primary fund account.

If a petty cash fund is established, it should be set up by writing a check for the amount of the fund (\$50 for example) payable to the petty cash custodian, and cashing the check. All petty cash purchase receipts must be kept with the primary finance records. Petty cash expenses should be reported as an office supply expense on the final cost report.

CHAPTER 5 - CONTRACTING WITH THE COUNTY

Many county parties contract with the county election officer to conduct some or all of the duties required for the primary and runoff elections. County chairs are strongly urged to contract with the county. The county election officer is the person designated by the commissioners court to

conduct county elections. Depending on the county, the election officer may be the Elections Administrator, County Clerk, or Tax Assessor-Collector. Contracting with the county election officer allows the county chair to delegate the responsibility of conducting many of the election duties to an experienced full-time election staff. The experienced county election staff can operate with a greater efficiency than a part-time primary staff, which deals with elections once every two years. The county is often afforded discounts for election supplies and services which may not be available to an individual county party. Only County Elections Administrators are required by statute to contract for election services. All other county election officers have the option of contracting with the county parties. The county benefits from an election services contract by earning a 10% administrative charge on the total value of the allowable direct costs, or a minimum of \$75 for the services and supplies furnished under the contract.

The following county election officer duties are required by statute and may not be included for compensation in an election services contract: the filing of Title 15 reports, custodian of election records, and the conduct of early voting. The county chair is specifically required by statute to perform the following duties: the acceptance of candidate filings, certification of the election ballot, and the canvassing of election returns. Election records are retained for 60 days in the original ballot boxes. Thereafter, the ballots may be transferred to separate containers for the remainder of the federally mandated 22 month storage period.

Examples of contractible duties include: preparing, programming, and transporting voting equipment; ordering election supplies; notification of election judges, arranging polling locations; and operating a central counting station. As a reminder, the county election officer must abide by the primary finance rules outlined in Title 1, Chapter 81, Subchapters F and G of the Texas Administrative Code, including the hourly rates for election workers. Section 31.100(e) of the Texas Election Code prohibits the compensation of regular county employees with election contract funds during normal county office hours. For example: a county employee shall not be compensated for preparing election kits during normal office hours, but could be compensated for working after office hours on the same project. The rate of pay must reflect the prevailing rate in the locale for the same or similar services.

A “model” copy of the primary election services contract is available from the Secretary of State’s Office. Both the county election officers and the county chair must sign this contract. Please review Sections 31.091 through 31.123 of the Texas Election Code before entering into an election services contract.

After the primaries, the county party must obtain from the county election official a detailed billing of actual contracted expenses. The SOS supplies a “model” invoice for counties to use. If the county chooses to use their own invoice, be sure to include the elements listed in the SOS Invoice. These expenses must be transferred to the final cost report along with the detailed billing of the costs incurred in the performance of the election services contract.

CHAPTER 6 - CONTRACTING FOR JOINT PRIMARIES

County parties conducting joint primaries and runoff elections automatically enter into a contract in accordance with Section 172.126 of the Texas Election Code. This statute authorizes joint primaries and delegates the county election officer to supervise the overall conduct of the election. A joint resolution must be issued by the commissioners court. The form is signed by a

majority of the full membership of the commissioners court and with the unanimous approval of the county election officer and the two county chairs.

A “model” copy of the joint primary election services contract is available from the Secretary of State’s Office. Both the county election officers and the county chair must sign this contract. Please review Sections 31.091 through 31.123 of the Texas Election Code before entering into an election services contract.

CHAPTER 7 - LEASING OFFICE SPACE

Office space during the primary election finance period, which runs from November 1 of the year preceding the election to the end of the month in which the last election is held (March if no runoff or May if there is a runoff), may be helpful in those counties where numerous local candidates are running and there are numerous polling places to arrange (if those services are not being contracted to the county). As a reminder, county chairs may not rent office space from themselves or a business or entity in which the chair or chair’s family has a financial interest (1 T.A.C. §81.129 (e)).

In the event the county chair determines office space is necessary, suitable space may be leased only for the primary election finance period. A copy of the signed lease and three competitive bids must be furnished to the agency. The Secretary of State will disallow any office rental funding requests which are submitted without a copy of the signed office lease and the bids. (Note: If the party maintains a lease, irrespective of the conduct of the primary, the cost of that lease will not be reimbursed by the state in excess of 30% of the rental cost.)

CHAPTER 8 - HIRING ADMINISTRATIVE HELP

The regulations governing the hiring of administrative personnel for the primary election are set out in 1 T.A.C. §81.123 of the Texas Administrative Code. Administrative personnel represent non-election-day office staff paid with primary funds. 1 T.A.C. §81.123 (c) prohibits the hiring of administrative personnel related to the chair. It is not a requirement that administrative personnel be hired. The necessity of such staff will depend on the magnitude of work involved and the chair's availability and desire to devote the necessary time to the tasks.

Administrative personnel are subject to all state and federal payroll taxes as employees. All administrative personnel hired are required to provide a properly completed and signed Form W-4 (IRS-Employee’s Withholding Allowance Certificate) and Form I-9 (Immigration and Naturalization Service-Employment Eligibility Verification). Failure to obtain and keep these forms on file can result in monetary penalties, which may not be paid with primary funds.

To avoid the extensive state and federal wage reporting and tax responsibility for administrative personnel, there is a great temptation to designate such personnel “contract labor” and avoid such responsibility. In some cases, personnel are asked to sign documents that specify that they are independent contractors. Both the Texas Workforce Commission (TWC) and the Internal Revenue Service (IRS) look past the form to the substance of these arrangements. Substantial penalties and interest may be assessed for disregard of the rules and regulations, and such penalties and interest may not be paid with primary funds.

Both the TWC and the IRS apply similar standards to test the relationship between the employer and the worker to determine whether a person is an independent contractor. Generally, anyone who provides services for the business (in this case, the primary elections) is PRESUMED to be an employee until it is proven otherwise by the employer or such workers are exempted specifically from the applicable statutory coverage.

Only in very rare cases would administrative personnel correctly be considered as independent contractors. One such case might be an independent CPA or bookkeeping service contracted to perform the bookkeeping services at their location. If the CPA or bookkeeping firm regularly did such business for other clients, had a place of business, merely picked up the checks and deposits, carried them to their office and did the bookkeeping without any direction or supervision, it would likely be determined that they were independent contractors.

If the person did the work at the primary offices and does not do such work regularly for other clients, it would likely be determined that an employer-employee relationship existed, regardless of any signed documents stating otherwise.

IRS's tests related to this determination may be found in Publication 937 (Employment Taxes and Information Returns) available from the IRS at one of their local offices or by phone at (800) 829-3676.

CHAPTER 9 - ARRANGING POLLING LOCATIONS

At the earliest time available, the county precinct map should be obtained from the commissioners court along with the list of designated county polling locations. Persons responsible for the locations to be used as polling locations should be contacted, preferably in writing, to arrange for the use of their facilities. Referring to previous uses of the locations should provide guidance on the poll rental expenses expected.

Section 43.033 of the Texas Election Code states “(a) No charge, including a charge for personnel, utilities, or other expenses incurred before or after regular business hours, may be made for the use of a public building for a polling place if the day of the election is a day on which the building is normally open for business. If the day of the election is a day on which the building is not normally open for business, a charge may be made only for reimbursement for the actual expenses resulting from use of the building in the election.”

A complete record of the locations used, the contact phone numbers, any particular problems encountered, and recommendations for potential arrangements should be kept for use by primary election staff in future elections.

CHAPTER 10 - HIRING AND PAYING ELECTION WORKERS

The county chair of a political party holding a primary election must appoint for each primary, with the approval of the county executive committee, the presiding election judges and alternate judges for each precinct in which the election will be held in the county (Section 32.006, Texas Election Code). The presiding election judges will appoint their respective election clerks.

(Section 32.031, Texas Election Code). Election judges and election clerks must be qualified as set forth in Section 32.051 of the Texas Election Code. The Secretary of State recommends the last day for appointing election judges for the primary election be no later than the 60th day before the election.

Before appointing someone to serve as an election judge, the county chair should verify that such person is willing to serve as an election judge. All election workers should be advised that they will need to provide their addresses and social security numbers on the compensation sheets that they will complete at the polling place on Election Day. (For the ease of administration, this information could also be requested ahead of time.) The Secretary of State has established several administrative rules concerning limitations on the number of election workers per polling place and election worker costs. Refer to 1 T.A.C. §§ 81.117, 81.120, 81.149.

The election judge is responsible for delivering to the county chair a properly completed and signed Statement of Compensation and Oaths immediately after the polls close on Election Day. These forms are used to calculate the amounts due to each election worker. A designated clerk or election judge from each polling location may receive \$15 as a delivery fee for picking up and delivering election supplies. A separate check does not need to be issued for the delivery fee, but a notation should be made on the check stub and bookkeeping records of the delivery payment. Checks for poll workers' compensation should be prepared, signed by the chair, and mailed to each worker as soon as possible after the election.

Election poll workers, including election judges, alternate election judges, deputy absentee voting clerks and other "temporary" personnel who are employed directly for the primary and runoff elections are not considered in employment for Texas Unemployment Compensation Act purposes. Please refer to Tax Letter 6-79 and Rule 13 decision (TD 89-123-0589), Account Number 99-990531-5. Other regular or administrative employees employed by the election authority (city, county, school district, state, etc.) holding the election are in employment.

Services performed as an election official or election worker are exempted from Federal unemployment tax, if the amount of remuneration received by the individual during the calendar year for such services is less than \$1,600 (H.R. 2015, PL 105-33, effective 8/5/97) and if state unemployment laws also exempt those earnings. The Texas Workforce Commission has ruled (see Tax Letter 6-79 referenced above) that these workers are not in covered employment.

Election workers (poll workers) are specifically exempted from Federal income tax withholding (Internal Revenue Code of 1986 Section 3401 and relevant regulations) on amounts paid to them for services performed at election booths in state, county, and municipal elections.

US IRS TAX CODE SUMMARY:

Information Reporting for Election Workers: See IRC section 3401(a). If an election worker's compensation is less than a statutorily established amount (\$1,600 for the calendar year), it is not subject to social security and Medicare tax. See IRC section 3121(b)(7)(F)(iv) and 3121(u)(2)(B)(ii)(V). Compensation of election workers is not subject to income tax withholding. If an election worker's compensation is subject to withholding of social security and Medicare tax, Form W-2 reporting is required for all compensation, regardless of the amount. If an election worker's compensation is not subject to withholding of social security and Medicare tax, Form W-2 reporting is required for payments that aggregate \$600 or more in a

calendar year. See [Revenue Ruling 2000-6](#) for a discussion of information reporting with respect to election workers.

CHAPTER 11 - PREPARING ADMINISTRATIVE PAYROLL

Administrative personnel should be paid monthly or semi-monthly on a salary basis for full-time workers and on an hourly basis for part-time workers. Administrative personnel are subject to Federal income tax, Social Security, and Medicare tax withholding and to unemployment taxes paid entirely by the employer. In addition to the unemployment taxes, the employer pays Social Security and Medicare taxes equal to the amount withheld from employees.

Amounts to be withheld from wages for Federal income tax, Social Security, and Medicare may be determined by reference to the tables in IRS Publication 15 (Employers Tax Guide--Circular E), available from the IRS online at <http://www.irs.gov/publications/p15/index.html>, at one of their local offices, or by phone at (800) 829-3676. If a computerized payroll program is used, the withholding amounts are built in an automatically determined by the number of withholding allowances and gross pay amounts.

Individual earnings records must be kept for each employee showing gross wages, amounts of each type of withholding, and the net pay amounts to permit preparation of the payroll tax reports. These records are provided by computerized payroll programs.

The employer's matching payment of Social Security and Medicare taxes along with amounts withheld should be promptly deposited with an authorized depository. Refer to Circular E for specific requirements for depositing taxes.

All administrative personnel must be provided with W-2's after the primary funding period is over, but no later than January 31 of the following year.

To avoid the need for a W-2 to be issued to an administrative employee for work in November or December, the paycheck for that work may be dated and issued on or after January 1. For taxpayers utilizing a cash basis, the earnings are reportable in the period they are received rather than in the period earned. If for some reason the employee is unable to wait until January 1 to receive his November or December wages, funds (not exceeding the net pay earned) may be advanced to him in November or December and deducted from his paycheck when it is issued in January.

CHAPTER 12 - PREPARING QUARTERLY/ANNUAL PAYROLL TAX RETURNS

At the end of each calendar quarter, the employer is required to file the following payroll tax reports:

1. Forms C-3 and C-4 with Texas Workforce Commission, reporting all wages paid during the previous quarter to each employee and the total "taxable" wages (first \$9,000 paid each employee in the calendar year) paid during the quarter. (Applicable to administrative personnel only.)

2. Form 941 (Employers Quarterly Federal Tax Return) with the IRS to report all wages paid during the quarter, Federal income tax withheld, Social Security and Medicare tax withheld, and the employer's portion of Social Security and Medicare tax. (Applicable to all administrative personnel and to election workers who earn \$1,600 or more.)

The employer is required to furnish each employee with a Form W-2 (Wage and Tax Statement) for the previous year's wages. (Applicable to all administrative personnel and to those election workers who earned at least \$1,600.)

By the last day of February, the employer must send Copy A of all Forms W-2 with Form W-3 (Transmittal of Income and Tax Statements) to the Social Security Administration.

Refer to the instructions accompanying each form for detailed information on how to complete each form.

CHAPTER 13 - UNEMPLOYMENT COMPENSATION CLAIMS

Primary fund administrative employees should be well aware that their employment period may not begin prior to November 1 of the year prior to the primary and is required by 1 T.A.C. §81.123 to end on the last day of the month in which the last primary election is held (general or runoff primary election). Election workers perform services only on the day of the election. Nevertheless, it is not uncommon for "chargeback notices" to be issued by the Texas Workforce Commission several months after the primary elections are over and the staffs disbanded because some workers may be receiving unemployment compensation and report their earnings as required. Many times these notices go unheeded. Section 7(c)(2)(B) of the Texas Unemployment Compensation Act states "an employer who does not protest his potential chargebacks within fourteen (14) days after notice was mailed to him shall be deemed to have waived his right to protest such chargebacks." This results in benefits paid to a claimant being charged back to the primary fund's account with TWC, which translates to higher unemployment tax rates and higher primary election costs.

In the event a notice of potential chargeback is received from TWC indicating that a previous administrative employee has filed for unemployment benefits, the notice should be promptly responded to with the following language:

"Section 7(c)(2)(A) of the Texas Unemployment Compensation Act provides that the chargebacks of an employer shall not include benefit payments which are based on wage credits of an employee or former employee if the Commission finds that the employee's last separation from such employer's employment, prior to the benefit year in conjunction with which such base period was established, was a separation required by a Federal or a Texas statute or a Texas municipal ordinance... We hereby advise you that (claimant)'s separation from employment by the _____ county's primary fund on (date) was required by Texas statute and, accordingly any benefits paid to claimant should not be charged back to this account."

In the event a notice of potential chargeback is received from TWC indicating that an election worker (poll worker, early voting ballot board worker, or central count worker) has filed for

unemployment benefits or reported his earnings, the notice should be promptly responded to with the following language:

"Election poll workers, including election judges, associate election judges, deputy absentee voting clerks and other "temporary" personnel who are employed directly with the primary and runoff elections are not considered in employment for Texas Unemployment Act purposes. Please refer to 2.6.15 of the Texas Law Manual, Chapter 2, Section 23, Texas Workforce Commission."

Protests worded in this manner have been accepted by TWC and "benefits are not chargeable" decisions have been rendered as a result. THIS DOES NOT AFFECT A CLAIMANT'S ELIGIBILITY TO RECEIVE BENEFITS. A CLAIMANT MAY STILL RECEIVE BENEFITS IF THEY QUALIFY UNDER THE ACT. THIS MERELY MEANS THAT THE EMPLOYER WILL NOT BE PENALIZED FOR SUCH BENEFITS BY HAVING THEIR UNEMPLOYMENT TAX RATES INCREASED.

CHAPTER 14 - PAYING THE BILLS

1 T.A.C. §§81.104 and 81.105 set forth the basic rules governing which costs may be paid with primary funds and rules on payees of checks. Generally, the primary funds may be used to pay "only expenses necessary and directly related to the conduct of primary elections." Checks issued payable to cash or to bearer are prohibited for internal control reasons.

The chair is required by 1 T.A.C. §81.104 to authorize all expenditures of primary funds. That authorization should be evidenced by his signature and "ok" on the invoice. In those counties where the chair handles all the financial matters and prepares and signs checks, occasionally the evidence of approval will not be present on the invoices. The Secretary of State recommends that approval be indicated on the invoices in all circumstances.

As checks are written on the primary fund, the Secretary of State recommends that the bookkeeping records be posted to maintain a current balance of the fund. The inconvenience and additional cost of returned checks can be avoided by keeping accurate up-to-date records on the fund.

If Quicken, QuickBooks or MoneyCounts is used for this purpose, the chair/primary administrator can be kept current of the status of the primary fund and the final cost report can be produced in a matter of minutes after the last check is written. To facilitate review of the reports, a copy of the cash receipts/disbursements journal (if kept manually) or electronic means with all the electronic data files (if kept using a computerized checkbook management program) should be forwarded to the Secretary of State with your final cost report. By doing so, the need for an auditor to contact you may be avoided.

The purchase and rental of election supplies and equipment are free of sales tax. A copy of the Texas Sales and Use Tax Exemption Certificate can be found at <http://www.window.state.tx.us/taxinfo/taxforms/01-339.pdf> and must be reproduced for all election related purchases. Complete all areas of the certificate and present to the vendor. The "purchaser claims this exemption for the following reason" portion of the form should state that items are to used to conduct the _____ county _____ party primary election.

CHAPTER 15 - PREPARING THE FINAL PRIMARY ELECTION COST REPORT

The final cost report is to be submitted via the internet-based system prescribed by the SOS (if internet access is not available, the SOS will make the necessary accommodations). The report is due to the Secretary of State no later than 30 days after the primary election or runoff, if applicable. The Secretary of State will work with county parties that are not able to meet the deadline. However, section 173.084(d) of the Texas Election Code allows the forfeiture of the county chair's compensation for failure to file a timely final cost report.

The final cost report should be prepared using the cash receipts and disbursements journal (for a manually kept system) or from the computer files (for a computerized system). If transactions have been posted currently and the records kept up-to-date, the preparation of the final cost report can be accomplished very quickly. The chair's certification states that actual costs are reported, and the only estimates that are acceptable are for the last month's utility bills.

CHAPTER 16 - PAYING THE COUNTY CHAIR'S COMPENSATION

Section 173.004 of the Texas Election Code provides that county chairs may receive compensation for administering primary elections. The compensation may not be less than \$300 nor greater than \$8,000 or 5% of the total cost of the primary elections (excluding the chair's compensation), whichever is less. In addition, cost associated with legal fees and county contracted services will not be included in calculating the county chair's compensation. Section 173.084(d) of the Texas Election Code allows for the forfeiture of the county chair's compensation for the failure to file a timely final cost report. 1 T.A.C. §81.107 prohibits the payment of the chair's compensation until the Secretary of State has approved the final cost report and so notified the chair of the approval.

A separate payment will not be issued for the chair's compensation but will be included in the final payment of the final cost report. If a surplus is indicated, then approved county chair compensation should be withheld from any refund of money to the Secretary of State. The county chair is not required to request or accept any compensation. If a county chair leaves the county chair compensation payment in the primary fund, it will be considered a contribution for the next primary election.

Checks for the chair's compensation must be made payable to the chair. Chair compensation is considered to be a fee paid to a public official rather than "wages" and as such is exempted from Federal income tax withholding and FICA taxes (IRC of 1986, Sect. 3401, and accompanying regulations) as well as from state and Federal unemployment taxes.

For amounts of \$600 or more, a Form 1099-MISC should be provided to the chair reflecting the compensation as "non-employee compensation." Failure to provide the form to the chair by January 31 of the following year and to the IRS by February 28 of that year can result in monetary penalties not payable with primary funds as well as directing attention to tax returns.

CHAPTER 17 - CLOSING OUT THE PRIMARY FUND

All remaining unexpended and uncommitted primary funds are required to be returned to the Secretary of State by July 1 following the primary elections (1 T.A.C. §81.107). After all primary expenditures have been paid, the primary bank account may be retained with a minimum balance (if required to keep the account open) assuming sufficient funds are available in the primary account. All other funds must be returned to the Secretary of State's Office. All bank account information must be transferred to the incoming chairperson.

CHAPTER 18 – TRANSFERRING RECORDS TO NEW COUNTY CHAIRS

The chair shall transfer in an orderly manner to his or her successor or the appropriate county committee all primary-election records, including financial records listed under 1 TAC §81.107 (relating to Primary-Fund Records), required by law to be maintained or within the 30th day after the date the term of office of a new county chair begins, whichever comes first (in accordance with Texas Election Code §171.028). Texas Election Code §171.028 provides a criminal penalty for failure to transfer records to the new county chair.

If the final cost report has not been finalized at the time the records are transferred or a vacancy occurs, it is up to the incoming chair or the appointed custodian and outgoing chair to determine how best to complete the primary finance process, including the disbursement of the county chair compensation.

Payments issued by the Comptroller of Public Accounts will be payable to the county party chair, not the individual's name, as described in §81.103(b) of this Chapter. Therefore, it is incumbent on the individual with access to the primary fund established pursuant to 1 TAC §§81.102-103 to ensure final payment(s) from the primary fund are issued properly to close-out the financing of the primary and runoff election(s).

CALL (800) 252-2216 (OPTION 3) OR EMAIL EFMADMIN@SOS.TEXAS.GOV FOR THE ELECTIONS FUNDS MANAGEMENT STAFF FOR ASSISTANCE OR CLARIFICATION OF ANY PRIMARY FUND MANAGEMENT MATTER.

APPENDIX A – APPLICABLE PAYROLL TAXES

All tax information provided in this document is advisory. Contact a tax advisor for additional consultation.

For Administrative (Office) Workers

Description of Tax	Rate	Form Reported On	Authority
Withheld from worker's pay-			
Federal income tax	Table (Pub 15)	Quarterly Form 941	Section 3402 IRC
Social Security	.062	Quarterly Form 941	Section 3101 IRC
Medicare	.0145	Quarterly Form 941	Section 3101 IRC
Paid by employer-			
Social Security	.062	Quarterly Form 941	Section 3101 IRC
Medicare	.0145	Quarterly Form 941	Section 3101 IRC
State unemployment tax	Varies	Quarterly TWC Form C-3	Texas Unemploy. Tax Act
Federal unemployment tax	.062 less credit for state unemp taxes paid	Annual Form 940	Federal Unemployment Tax Act (see IRS Pub 15)
W-2's required to be furnished to all administrative workers regardless of amounts paid			
W-4's and I-9's required to be kept on file for each worker			

For Election Poll Workers, Including Early Voting Ballot Board

Description of Tax	Rate	Form Reported On	Authority
Withheld from worker's Pay-			
Social Security, if paid \$1,600 or more in calendar year	.062	Quarterly Form 941	Section 3121(b)(7)(F)(iv) IRC
Medicare, if paid \$1,600 or more in calendar year	.0145	Quarterly Form 941	Section 3121(b)(7)(F)(iv) IRC
Note: Election poll workers are specifically exempted from Federal income tax withholding requirements by Section 31.3401(a)2(b)(2), IRC Regs.			
Paid by employer-			
Social Security, for each worker paid \$1,600 or more in calendar year	.062	Quarterly Form 941	Section 3121(b)(7)(F)(vi) IRC
Medicare, for each worker paid \$1,600 or more in calendar year	.0145	Quarterly Form 941	Section 3121(b)(7)(F)(vi) IRC
W-2's required to be furnished to election poll workers by employers who pay the worker more than \$600 in a calendar year, per IRS Revenue Ruling 2000-6. No W-2 requirement for those workers paid less than \$600 in a calendar year.			

Note: Compensation paid to county chair under Section 173.004 of the Texas Election Code is considered to be a fee paid to a public official rather than "wages" and as such is exempted from Federal income tax withholding and FICA taxes (Social Security and Medicare) by Section 3401 IRC and accompanying regulations as well as from state and Federal unemployment taxes. Amounts paid of \$600 or more should be reported on a Form 1099-MISC as "nonemployee compensation".