

# Public Funding of Presidential Elections

Federal Election Commission

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## Introduction

This brochure gives a brief history of Presidential election public funding and an overview of how the process works. The brochure also explains the ways individuals may support publicly funded Presidential candidates and the various materials on Presidential campaign finance available from the Federal Election Commission.

The brochure was written to help students, reporters and other members of the general public understand the basics of public funding. It was not written for Presidential candidates and committees that wish to apply for public funds. They should consult the federal public funding laws and Commission regulations.



## What is Public Funding?

Public funding of Presidential elections means that qualified Presidential candidates receive federal government funds to pay for the valid expenses of their political campaigns in both the primary and general elections. National political parties also receive federal money for their national nominating conventions.

## When and How Did it Begin?

The Federal Election Commission administered the first public funding program in 1976. Eligible Presidential candidates used federal funds in their primary and general election campaigns, and the major parties used public funds to pay for their nominating conventions. Legislation for public financing of Presidential candidates was first proposed, however, in 1907. In his State of the Union message that year, President Theodore Roosevelt recommended public financing of federal elections and a ban on private contributions.

In 1966, Congress enacted the first public funding legislation, but suspended it a year later. That law would have made U.S. Treasury funds available to eligible nominees in the Presidential general election through payments to their political parties. Funds would have come from a Presidential Election Campaign Fund in the U.S. Treasury consisting of dollars voluntarily checked off by taxpayers on their federal income tax returns. A subsidy formula would have determined the amount of public funds available to eligible candidates.

In 1971, Congress adopted similar provisions, which formed the basis of the public funding system in effect today. Under the 1971 Revenue Act,<sup>1</sup> the nominee, rather than the party, receives the public funds accumulated through the dollar checkoff. The

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<sup>1</sup> See the Presidential Election Campaign Fund Act, 26 U.S.C. §9001 et seq. (Public Law 92-178).

Revenue Act also placed limits on campaign spending by Presidential nominees who receive public money and a ban on all private contributions to them.

In a parallel development, Congress passed the 1971 Federal Election Campaign Act,<sup>2</sup> which required full, detailed reporting of campaign contributions and expenditures by all federal candidates, including Presidential candidates. The 1974 Amendments<sup>3</sup> to the Federal Election Campaign Act completed the system we now have for public financing of Presidential elections. Those Amendments extended the public funding provisions of the Revenue Act to Presidential primary elections<sup>4</sup> and the Presidential nominating conventions of national parties. Court challenges to the expenditure limits followed soon after Congress passed the 1974 Amendments. However, the Supreme Court, in two separate suits, first implied and later affirmed that expenditure limits for publicly funded Presidential candidates are constitutional. (See *Buckley v. Valeo* (1976) and *Republican National Committee v. FEC* (1980).) In 1976, Congress made minor changes to the public funding provisions and in 1979 and 1984 increased the public funding entitlement and spending limit for national nominating conventions.<sup>5</sup>

## How Does Public Funding Work?

To qualify for public funding, Presidential candidates and party convention committees must first meet various eligibility requirements, such as agreeing to limit campaign spending to a specified amount. Once the Federal Election Commission determines that eligibility requirements have been met, it certifies the amount of public funds to which the candidate or convention committee is entitled. The U.S. Treasury then makes the actual payments from the Presidential Election Campaign Fund. This fund consists of dollars voluntarily checked off by taxpayers on their federal income tax returns. (In 1993, the taxpayer checkoff was increased from \$1 to \$3. Public Law 103-66.) The checkoff neither increases the amount of taxes owed nor decreases any refund due for the tax year in which the checkoff is made.



## Primary Matching Funds

Partial public funding is available to Presidential primary candidates in the form of matching payments. The federal government will match up to \$250 of an individual's total contributions to an eligible candidate.

Only candidates seeking nomination by a political party to the office of President are eligible to receive primary matching funds. In addition, a candidate must establish eligibility by showing broad-based public support. He or she must raise in excess of \$5,000 in each of at least 20 states (i.e., over \$100,000). Although an individual may contribute up to \$2,400 to a primary candidate, only a maximum of \$250 per individual applies toward the \$5,000 threshold in each state.

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<sup>2</sup> See 2 U.S.C. §431 et seq. (Public Law 92-225).

<sup>3</sup> Public Law 93-443.

<sup>4</sup> See the Presidential Primary Matching Payment Account Act, 2 U.S.C. §9031 et seq.

<sup>5</sup> Public Laws 94-283 (1976 Amendments), 96-187 (1979 Amendments) and 98-355 (1984).

Candidates also must agree to:

- Limit campaign spending for all primary elections to \$10 million plus a cost-of-living adjustment (COLA).<sup>6</sup> This is called the national spending limit.
- Limit campaign spending in each state to \$200,000 plus COLA, or to a specified amount based on the number of voting age individuals in the state (plus COLA), whichever is greater.
- Limit spending from personal funds to \$50,000.

The campaign finance law exempts the payment of some expenses from the spending limits. Certain fundraising expenses (up to 20 percent of the expenditure limit) and legal and accounting expenses incurred solely to ensure the campaign's compliance with the law do not count against the expenditure limits.

Once they have established eligibility for matching payments, Presidential candidates may receive public funds to match contributions from individual contributors, up to \$250 per individual. The contributions must be in the form of a check or money order. (Purchases of tickets to fundraisers and contributions collected through joint fundraising are matchable contributions, but loans, cash contributions, goods or services, contributions from political committees and contributions which are illegal under the campaign finance law are **not** matchable.)



Even if they no longer campaign actively in primary elections, candidates may continue to request public funds to pay off campaign debts until late February or early March of the year following an election. (However, to qualify for matching funds, contributions must be deposited in the campaign account by December 31 of the election year.) Eligible candidates may receive public funds equaling up to half of the national spending limit for the primary campaign. Because candidates receive many nonmatchable contributions, such as those from political committees, they generally raise more money than they receive in matching funds.

## General Election Funding

The Presidential nominee of each major party may become eligible for a public grant of \$20 million (plus a cost-of-living adjustment) for campaigning in the general election.<sup>7</sup> To be eligible to receive the public funds, the candidate must limit spending to the amount of the grant and may not accept private contributions for the campaign. Private contributions may, however, be accepted for a special account maintained exclusively to pay for legal and accounting expenses associated with complying with the campaign finance law. These legal and accounting expenses are not subject to the expenditure limit.

In addition, candidates may spend up to \$50,000 from their own personal funds. Such spending does not count against the expenditure limit.

Minor party candidates and new party candidates may become eligible for partial public funding of their general election campaigns. (A minor party candidate is the nominee of a party whose candidate received between 5 and 25 percent of the total popular vote in the preceding Presidential election. A new party candidate is the nominee

<sup>6</sup> The cost-of-living adjustment (COLA) is calculated annually by the Labor Department, using 1974 as the base year. In 2008, the COLA brought the national spending limit to \$42.05 million.

<sup>7</sup> In 2008, COLA brought the public funding entitlement for a major party nominee to \$84.1 million.

of a party that is neither a major party nor a minor party.) The amount of public funding to which a **minor** party candidate is entitled is based on the ratio of the party's popular vote in the **preceding** Presidential election to the average popular vote of the two major party candidates in that election. A **new** party candidate receives partial public funding **after** the election if he/she receives 5 percent or more of the vote. The entitlement is based on the ratio of the new party candidate's popular vote in the **current** election to the average popular vote of the two major party candidates in the election.

Although minor and new party candidates may supplement public funds with private contributions and may exempt some fundraising costs from their expenditure limit, they are otherwise subject to the same spending limit and other requirements that apply to major party candidates.

### Expenditure Limits for Publicly Funded Candidates\*

	Primary Candidates	General Election	
		Major Party Nominees	Minor/New Party Nominees
<b>National Spending Limit</b>	\$10 mil. + COLA**	\$20 mil. + COLA	\$20 mil. + COLA
<b>State Spending Limit</b>	The greater of \$200,000 + COLA or \$0.16 x state VAP***	None	None
<b>Exempt Fundraising Limit</b>	20% of national limit	Not applicable	20% of national limit
<b>Maximum Public Funds Candidate May Receive</b>	50% of national limit	Same as national limit	% of national limit based on candidate's popular vote.
<b>National Party Spending Limit for Candidate****</b>	Not applicable	\$0.02 x VAP of U.S. + COLA	\$0.02 x VAP of U.S. + COLA
<b>Limit on Spending from Candidate's Personal Funds</b>	\$50,000	\$50,000	\$50,000

\*Legal and accounting expenses incurred solely to ensure the campaign's compliance with the law are exempt from all expenditure limits.

\*\*Spending limits are increased by the cost-of-living adjustment (COLA), which the Department of Labor calculates annually using 1974 as the base year.

\*\*\*VAP is the Voting Age Population, which the Department of Commerce calculates annually.

\*\*\*\*The national committee of a political party may make special, limited expenditures, called coordinated party expenditures or 441a(d) expenditures, on behalf of its Presidential nominee, even if the nominee does not accept public funds. Coordinated party expenditures are not considered contributions and do not count against a publicly funded campaign's candidate expenditure limit.

## Presidential Spending Limits for 2008

As one of the conditions for receiving public funding, Presidential candidates must agree to abide by certain spending limitations. The limits applicable to publicly funded candidates who ran in 2008 are listed below.

- General Election Limit: **\$84.1 million**
- Overall Primary Limit: **\$42.05 million**
- State-by State Primary Limits:

State	Voting Age Population (in thousands)	Expenditure Limitation
Alabama	3,504	\$2,357,500
Alaska	501	\$841,000
Arizona	4,669	\$3,141,300
Arkansas	2,134	\$1,435,800
California	27,169	\$18,279,300
Colorado	3,669	\$2,468,500
Connecticut	2,682	\$1,804,400
Delaware	659	\$841,000
DC	475	\$841,000
Florida	14,208	\$9,559,100
Georgia	7,013	\$4,718,300
Hawaii	998	\$841,000
Idaho	1,092	\$841,000
Illinois	9,653	\$6,494,500
Indiana	4,759	\$3,201,900
Iowa	2,277	\$1,532,000
Kansas	2,080	\$1,399,400
Kentucky	3,238	\$2,178,500
Louisiana	3,214	\$2,162,400
Maine	1,038	\$841,000
Maryland	4,260	\$2,866,100
Massachusetts	5,017	\$3,375,400

State	Voting Age Population (in thousands)	Expenditure Limitation
Michigan	5,017	\$5,130,100
Minnesota	3,937	\$2,648,800
Mississippi	2,150	\$1,446,500
Missouri	4,454	\$2,996,700
Montana	738	\$841,000
Nebraska	1,328	\$893,500
Nevada	1,905	\$1,281,700
New Hampshire	1,018	\$841,000
New Jersey	6,622	\$4,455,300
New Mexico	1,470	\$989,000
New York	14,884	\$10,014,000
North Carolina	6,843	\$4,604,000
North Dakota	497	\$841,000
Ohio	8,715	\$5,863,500
Oklahoma	2,718	\$1,828,700
Oregon	2,885	\$1,941,000
Pennsylvania	9,646	\$6,489,800
Rhode Island	825	\$841,000
South Carolina	3,348	\$2,252,500
South Dakota	599	\$841,000
Tennessee	4,685	\$3,152,100
Texas	17,281	\$11,626,700
Utah	1,829	\$1,230,600
Vermont	490	\$841,000
Virginia	5,886	\$3,960,100
Washington	4,932	\$3,318,200

State	Voting Age Population (in thousands)	Expenditure Limitation
West Virginia	1,425	\$958,700
Wisconsin	4,280	\$2,879,600
Wyoming	397	\$841,000
US Territories:		
American Samoa	n/a	\$841,000
Guam	n/a	\$841,000
Puerto Rico	n/a	\$841,000
Virgin Islands	n/a	\$841,000

## Convention Funding

Each major political party is entitled to \$4 million (plus cost-of-living adjustments)<sup>8</sup> to finance its national Presidential nominating convention. A qualified minor party may become eligible for partial convention funding based on its Presidential candidate's share of the popular vote in the preceding Presidential election.

A party convention committee may not spend more than the amount to which the major party is entitled. Contributions may be accepted, however, for a special account maintained exclusively to pay for legal and accounting expenses associated with complying with the campaign finance law. Contributions to this account count against the donor's annual limit for the Party. Certain supplemental services may also be provided by the host state and city governments and by local groups such as businesses and labor unions. The host city may, for example, provide additional public transportation to and from the convention site. Or a business may sell or rent chairs, podiums, tables or other equipment to the convention committee at discount rates.

## What is the FEC's Role?

The Federal Election Commission ensures that candidates and convention committees requesting public funds have satisfied the eligibility requirements. The FEC then certifies payments of federal funds, which are actually made by the U.S. Treasury. Before certifying matching payments to primary candidates, the FEC first reviews submitted contributions to make sure they meet the requirements for matchability. Additionally, the FEC audits all public funding recipients to ensure that the funds were spent in compliance with the law. Under certain circumstances, the FEC may require the repayment of public funds.

<sup>8</sup> In 2008, COLA brought the convention committee entitlement to a total of \$16.82 million.

## **Eligibility for Public Funds**

To be eligible for public funds, a Presidential candidate or a party convention committee must first submit a letter of agreement and a written certification in which the candidate or committee agrees to:

- Spend public funds only for campaign-related expenses or, in the case of a party convention, for convention-related expenses;
- Limit spending to amounts specified by the campaign finance law;
- Keep records and, if requested, supply evidence of qualified expenses;
- Cooperate with an audit of campaign or convention expenses;
- Repay public funds, if necessary; and
- Pay any civil penalties imposed by the FEC.

Primary candidates must additionally certify that they have met the "threshold requirement" for eligibility by raising in excess of \$5,000 in each of 20 states (see "Primary Matching Funds," on page 2 above). A candidate may satisfy eligibility requirements and submit private contributions for matching payments any time after January 1 of the year before a Presidential general election. Actual payments are not made, however, until after January 1 of the Presidential election year.

## **Repayments of Public Funds**

The Commission requires candidates and convention committees to repay public funds to the U.S. Treasury when the FEC audit determines that:

- The amount of public funds received exceeds the amount to which the candidate or convention committee is entitled;
- Spending limits are exceeded;
- Public funds are used for purposes other than qualified campaign expenses;
- Surplus funds remain after debts and obligations have been paid;
- Interest is earned on invested public funds; or
- The spending of public funds is not sufficiently documented.

Presidential candidates and convention committees may challenge any FEC repayment determination by following the procedures spelled out in FEC regulations.

## **How Can I Support My Candidate?**

The following paragraphs have been written exclusively for individuals, to explain how they may support Presidential candidates. (Political committees and other organizations should call the Commission in Washington, D.C., toll free 800/424-9530 or 202/694-1100.)

### **Contributions to Primary Candidates<sup>9</sup>**

You may contribute up to \$2,400 to a Presidential candidate in the primary election campaign, whether or not the candidate accepts matching funds. (The \$2,400 limit applies to the entire primary process, rather than to a single primary held in a particular state.)

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<sup>9</sup> Contributions may not be made by foreign nationals or by individuals who are federal government contractors.



### **Contributions to Major Party Nominees in the General Election**

A major party nominee who has accepted public funding for the general election may not accept any contributions to further his election. You may, however, help a publicly funded nominee by contributing to the candidate's compliance fund. A compliance fund is a special account maintained by publicly funded nominees solely for paying legal and accounting expenses incurred in complying with the campaign finance law. You may contribute up to \$2,400 to the compliance fund of a major party nominee.

In the case of a major party nominee who is not publicly funded, you may contribute up to \$2,400 to his/her general election campaign.

### **Contributions to Minor and New Party Nominees in the General Election**

You may contribute up to \$2,400 to the general election campaign of a minor or new party candidate, whether or not the candidate accepts public funds.

### **Independent Expenditures**

In both the primary and general elections, you may make your own "independent expenditures" to support or oppose a Presidential candidate, whether or not the candidate receives public funds. An independent expenditure is an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate. An independent expenditure is not considered a contribution and therefore does not count against contribution limits as long as the expenditure is completely independent of the candidate's campaign. This means you may not make the expenditure at the request or suggestion of the candidate or his/her aides or with their consent. Nor may you consult or cooperate in any way with the candidate or campaign aides. Additionally, you may not use any material prepared by the candidate or campaign in the communication.

Within these restrictions, you may, for example, place an ad on a billboard or in a newspaper urging the public to vote for your candidate. However, you must place a notice on the communication stating that you have paid for it and that it has not been authorized by any candidate (e.g., "Paid for by John Doe and not authorized by any candidate").

You must file a report with the Commission when the total amount of your independent expenditures aggregates over \$250 during the calendar year. For more information, consult the Commission's Independent Expenditures brochure.

### **Volunteer Services**

You may volunteer your services to a Presidential candidate's primary and general election campaigns (whether or not the candidate receives public funding) and to the candidate's political party. However, you must volunteer the services on your own time, not on your employer's time.

You may also pay for certain expenses as a volunteer. As long as you do not exceed certain limits, the money does not count as a contribution to the candidate. However, if you exceed the limits placed on these expenses, the amount over the limit counts as a contribution. Therefore, when spending money on volunteer activity for major party nominees receiving public funds, you must not exceed the limits.

You may travel on behalf of the candidate, spending up to \$1,000 both in the primary and general election campaigns. In addition, you may spend up to \$2,000 annually for travel on behalf of the candidate's party. You may spend any amount in normal living expenses incurred while traveling or engaging in other volunteer activity.

You may hold a reception in your home or in a church or community room for the candidate or the candidate's party. You may spend up to \$1,000, both in the primary and general elections, for food, beverage and invitations associated with the candidate's reception. For a reception held to benefit the candidate's party, you may spend up to \$2,000 annually for the same items.

### **Contributions to Party Committees**

You may contribute up to \$30,400 a year<sup>10</sup> to a national party committee and up to \$5,000 a year to a state or local party committee. (A state party committee and the local party committees within that state usually share one \$5,000 annual limit on contributions from a person.) Although major party committees are not permitted to contribute to their nominee in the general election if he or she accepts public funds, the national committee of a political party may support the nominee by making special, limited expenditures on his or her behalf, as indicated in the Chart on Expenditure Limits. The party's national committee may designate a state or local party committee to make these expenditures. In addition, state and local party committees may conduct voter drives on behalf of the Presidential nominee and distribute pins, bumper stickers and other campaign materials benefiting the nominee.

### **How Can I Obtain Copies of Reports?**

All campaign finance reports filed by Presidential committees and political committees supporting Presidential candidates are available for review and copying at the FEC's Public Records Office.<sup>11</sup> The office puts reports on the public record within 48 hours after their receipt. They contain detailed campaign finance information, including itemized accounts of contributions and expenditures in excess of \$200 and debts and obligations owed to or by the candidate or committee. Additionally, the Public Records Office makes available computer indexes, statistical studies summarizing data taken from reports and lists of individuals whose contributions enabled Presidential candidates to qualify for matching funds.

The office also receives and makes public the reports on personal finances filed by Presidential and Vice Presidential candidates (except incumbent officeholders, who file with the Office of Government Ethics). These reports are required under the Ethics in Government Act of 1978, over which the FEC has no enforcement jurisdiction.

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<sup>10</sup> Total contributions by individuals in connection with federal elections may not exceed \$115,500 during the period of January 1, 2009, through December 31, 2010. For more information see the FEC brochure, *The Biennial Contribution Limit*.

<sup>11</sup> Reports related to U.S. House and Senate candidates are also available. The Public Records Office maintains a complete set of reports from 1972 to the present.

Those outside the Washington area may request documents by phone or mail. When identifying the documents you want, please try to include as much information as possible, such as the full name of the political committee reporting, the date or type of report or document desired, and your address and telephone number. The FEC charges 5 cents per photocopied page, and 15 cents per page for paper copies made from microfilm, payable in advance.

Sometimes a preliminary phone call can help you pinpoint your request and thereby expedite the FEC's response. Call toll free 800/424-9530 and ask for the Public Records Office or call 202/694-1120.

## **How Can I Get More Information?**

This brochure is not exhaustive in its descriptions. Should you have any questions or wish to order other FEC publications, contact the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Call toll free 800/424-9530 or 202/694-1100.

*This publication provides guidance on certain aspects of federal campaign finance law. This publication is not intended to replace the law or to change its meaning, nor does this publication create or confer any rights for or on any person or bind the Federal Election Commission (Commission) or the public. The reader is encouraged also to consult the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 *et seq.*), Commission regulations (Title 11 of the Code of Federal Regulations), Commission advisory opinions, and applicable court decisions. For further information, please contact:*

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