

PARTIAL PUBLIC FUNDING GUIDEBOOK

FOR CANDIDATE COMMITTEES



*State of Hawaii
Campaign Spending Commission
October 2013*

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PARTIAL PUBLIC FUNDING PROGRAM

Introduction

The Hawaii Campaign Spending Commission (“Commission”) has prepared this Guidebook to assist candidates in complying with the requirements to qualify for and receive public funds. As long as the funds in the Hawaii Election Campaign Fund are not nearing depletion, the Commission will match dollar for dollar up to a maximum amount, the qualifying contributions raised by a candidate who has first collected the minimum amount of these contributions for his/her office during a prescribed period called a matching payment period. Candidates who qualify for this program are subject to strict statutory provisions because the funds they receive are from a trust fund within the state treasury called the Hawaii Election Campaign Fund. It is the duty of the Commission to administer and monitor the distribution of public funds. Partial public funding is an alternative source of campaign funding; consequently, candidates who volunteer to participate are not prohibited from receiving other sources of funding such as contributions and campaign loans.

All campaign finance activities must comply with the requirements of the campaign finance laws. We strongly recommend that candidates and treasurers review the “Candidate Committee Guidebook,” and the “Treasurer’s Guidebook for Candidates and Noncandidate Committees” to assist you in developing and maintaining an organized recordkeeping system for contributions and expenditures as well as the “Candidate Electronic Filing System Manual” to assist you in using the Commission’s electronic filing system to properly file periodic disclosure reports. This Guidebook and other publications are intended to provide general guidance only. All candidates, chairpersons, treasurers, and other persons assisting the candidates should review the campaign finance laws and rules.¹ All of the Commission’s resources including information to login to the candidate electronic filing system to file your reports are available on our website at www.hawaii.gov/campaign.

For Assistance

Oahu Candidates

The Commission’s office is open from 7:45 a.m. to 4:30 p.m. Monday through Friday. The office is closed on regular State holidays.

If there are any questions regarding the law or the Candidate Filing System (“CFS”), please visit our website or contact our office:

Website: www.hawaii.gov/campaign

Campaign Spending Commission
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 300
Honolulu, Hawaii 96813

¹ The laws and rules take precedence over any provisions in this Guidebook. Moreover, each campaign is different; the candidate and the candidate committee may be faced with issues and factual circumstances that differ from or are not addressed in this Guidebook.

Telephone: (808) 586-0285
Fax: (808) 586-0288

Neighbor Island Candidates

Call the applicable number below and enter extension 60285:

Hawaii	974-4000
Kauai	274-3141
Lanai	1-800-468-4644
Maui	984-2400
Molokai	1-800-468-4644

I. 3-PART CONSIDERATION

There are three (3) things you should consider to determine whether you should seek public funding. They are:

1. Can you run your campaign within the expenditure limits for your office? This means you agree to spend no more than the amount set by law for the office you are seeking election in the primary and general elections.
2. Can you raise the minimum amount of qualifying contributions necessary to become eligible to receive public funding? This means you agree to collect an amount set by law from Hawaii residents during a specified period of time to be eligible to receive public funds.
3. Is the maximum amount of public funds for your office sufficient to supplement your campaign? This means you agree to a cap on how much public funds you can receive.

If you can agree to these three (3) things, then you should consider seeking partial public funding.

II. EXPENDITURE LIMITS

What is an Expenditure Limit?

An expenditure limit is the total amount of money you voluntarily agree to limit your expenditures and those of your candidate committee, as well as noncandidate committees or any other entity making expenditures on your behalf, to seek election to office in the primary and general election.

Your expenditure limit depends on the office you seek election. The limit is calculated based on a formula provided in Hawaii Revised Statutes ("HRS") §11-423. It is determined by multiplying a statutory amount by the number of voters registered to vote in each respective voting district in the last preceding general election.

The expenditure limits for each office are listed on the back of the "Affidavit to Voluntarily Agree with Campaign Expenditure Limits" ("Affidavit") form and are also posted on our website if you click on "Candidate Committees," then "Public Funding Programs," and "Partial Public Funding." The amount listed for each office on the backside of the

Affidavit represents the expenditure limit for the primary election as well as the expenditure limit for the general election (rather than the total amount for the primary and general elections).

How do you agree to an Expenditure Limit?

If you agree to the expenditure limit for the office you seek election, you must file the “Affidavit to Voluntarily Agree with Campaign Expenditure Limits” (“Affidavit”) with the Commission or the County Clerk’s Office. This document must also be notarized. Notaries are available at the Commission.

Once the Affidavit is filed with the Commission or County Clerk’s Office, it shall remain effective until the termination of the candidate committee or the opening of filing of nomination papers for the next succeeding election, whichever occurs first.

The Affidavit may not be rescinded or withdrawn once it is filed.

The deadline to file the Affidavit is the time of filing nomination papers with the Office of Elections or County Clerk’s Office.

Candidates who file the Affidavit will receive a discounted fee when filing their nomination papers with the Office of Elections or the County Clerks’ Office (e.g., \$25 vs. \$250). Candidates not interested in public funding can still file the Affidavit to take advantage of the discounted fee, but they must adhere to the expenditure limit.

When does campaign expenditures start counting towards your Expenditure Limit?

Campaign expenditures start counting towards your expenditure limits during the following periods:

1. For the primary election, from January 1 of the year of a general election through the day of the primary election;
2. For the general election, from the day after the primary election through the day of the general election; and
3. For candidates running only in the general election, from January 1 of the year of a general election through the day of the primary election.

What happens if you go over the Expenditure Limit?

Pursuant to HRS §11-426, on the day that you exceed your expenditure limit, you must:

1. Notify all opponents, the Chief Election Officer, and the Commission by telephone and in writing on the day the expenditure limit is exceeded;
2. Pay the Chief Election Officer the balance of the full filing fee for nomination papers; and
3. Return all public funds (if received) within **fourteen (14) days**.

At this point in time, you are no longer eligible to receive public funds.

What are the next steps once you agree to run your campaign within the Expenditure Limits?

The following must also occur for you to be eligible to receive public funds:

1. Your name must be on the ballot;
2. You must have an opponent on the ballot in the same election for which funds are sought (the primary and/or general election);
3. You must agree to an audit of all public funds received; and
4. You must keep expense records that the Commission may request.

If any one of these conditions does not occur, then you are ineligible to receive public funds for that election. But, you still will have paid a lower filing fee with the Office of Elections or County Clerk's Office.

III. MINIMUM QUALIFYING CONTRIBUTIONS

Filing the "Statement of Intent to Seek Public Funds" Form

The next step to qualify for public funds is to raise the minimum amount of qualifying contributions required by law from individual Hawaii residents during a specified period of time or matching payment period. Before you can begin collecting your minimum qualifying campaign contributions, you must file the "Statement of Intent to Seek Public Funds" ("Statement") form with the Commission or County Clerk's Office.

Contributions received before the filing of the Statement and received outside of the matching payment period shall not be considered qualifying contributions. However, you can use those contributions towards your campaign.

The Statement serves as notification to the Commission that you intend to seek public funds and as an agreement that you will comply with the public funding conditions including obtaining the required minimum amount of qualifying contributions for your respective office. **You must enter the date when you filed the Statement with the Commission or the County Clerk's Office in the Candidate Filing System ("CFS").** Please refer to the "Candidate Filing System Manual" for instructions.

There is no deadline for filing the Statement and you may change your mind about seeking public funds after filing the Statement.

What is the Minimum Amount of Qualifying Contributions?

First, a qualifying contribution is an aggregate monetary contribution of \$100 or less by an individual Hawaii resident during a matching payment period that is received after the candidate files the Statement.

Qualifying contributions do not include loans, non-monetary contributions, the candidate's own funds, and contributions from individuals who are not residents of Hawaii. It also does not include contributions received prior to filing the Statement or outside of the primary or general matching payment period.

The minimum amount of qualifying contributions is the amount you need to raise for the office you seek election with contributions of \$100 or less from individual Hawaii residents to receive public funding. This amount is set by statute and differs depending on the office you seek election. The minimum qualifying contribution amount for each office is listed on the back of the Statement and is also posted on our website if you click on "Candidate Committees," then "Public Funding Programs," and "Partial Public Funding."

You need only raise the minimum amount of qualifying contributions once. If the minimum is not reached before the primary, you will not be eligible to receive public funds for the primary election. However, if you win in the primary election, you can continue to raise the minimum amount of qualifying contributions to be eligible to receive public funds in the general election, but only up to the maximum available amount for the office you are running in.

You must raise the minimum qualifying contribution during a matching payment period.

What is a Matching Payment Period?

This is the time period when qualifying contributions can be received. There are two matching payment periods:

1. For the primary election, from January 1 of the year of a general election through the day of the primary election, or 9 months prior to a special election through the day of a special election; and
2. For the general election, from January 1 of the year of a general election through the day of the general election.

Because of the overlapping matching payment period (January 1 through the primary election), you can raise qualifying contributions up to your maximum public fund amount for the primary election, and then designate contributions for matching funds for the general election, even before the primary takes place.

Example: An individual may contribute \$100 for a candidate in the primary matching payment period, and may contribute to the same candidate in the general matching payment period. However, two separate monetary checks must be received for each matching payment period. One check cannot be written with some funds designated for the primary matching payment period, and the remaining funds for the general matching payment period.

How do you report Qualifying Contributions?

Every qualifying contribution you receive must be entered into the CFS with the following information:

- The date the qualifying contribution was received;
- The total amount of each qualifying contribution; and
- The name and address of each person who contributed an aggregate of \$100 or less.

This information must be entered in the CFS and reported on a special report in the CFS called the “Statement of Qualifying Campaign Contributions” which you will need to file electronically then print a hard copy which you will attach to your “Application for Public Funds.”

Please refer to the “Candidate Filing System Manual” for instructions on how to report your qualifying contributions and regular contributions. The manual provides guidance on how to electronically file disclosure and special reports.

IV. MAXIMUM AMOUNT OF PUBLIC FUNDS

The maximum amount of public funds available to a candidate is the maximum amount of public funds the Commission will match your qualifying contributions dollar for dollar once you have obtained the minimum amount of qualifying contributions for the office you seek election. These amounts are set by a formula under HRS §11-425 and differ depending on the office you seek election. The maximum amount for each office is listed on the back of the Statement and is also posted on our website if you click on “Candidate Committees,” then “Public Funding Programs,” and “Partial Public Funding.”

Pursuant to HRS §11-425, the maximum amounts are listed below:

1. For the primary and general election for Governor, Lieutenant Governor, and Mayor → 10% of the Expenditure Limit for each respective office.
2. For the primary and general election for Prosecuting Attorney, County Council, State Senate, and State House of Representatives → 15% of the Expenditure Limit for each respective office.
3. For the election year for an OHA candidate → \$1,500.

In understanding the maximum amount of public funds available to you as a publicly funded candidate, be mindful that you have also agreed to an expenditure limit (see Part II). This is important because the spending of your public funds (regardless of whether or not you receive the maximum amount of public funds) will be counted towards your expenditure limit.

V. EXAMPLES

To illustrate the aforementioned areas, here are some examples or applications of the program.

Example #1: For the 2014 election, a candidate interested in public funding for the office of Governor must agree to an expenditure limit of \$1,597,208. A minimum amount of qualifying contributions of \$100,000 must be raised by the candidate during the primary matching payment period to be eligible to receive

\$100,000 in public funds for the primary election. Because the maximum amount of public funds available for this office is \$159,721 (which is 10% of the expenditure limit set for the office of Governor), the candidate can raise qualifying contributions up to this amount to receive the equivalent amount in public funds for each election (i.e., primary and general).

So, if the candidate for governor raised the minimum amount of qualifying contributions of \$100,000 before the primary, he/she will receive \$100,000 in public funds for the primary election. If the candidate moves on to the general election, he/she does not need to raise the minimum qualifying amount again; however, additional qualifying contributions can be raised, which will be matched dollar for dollar up to the maximum available amount of \$159,721 for the general election. Because the minimum amount of qualifying contributions only needs to be raised once (which it was during the primary), any additional qualifying contributions raised for the general election will be matched dollar for dollar up to the maximum available amount.

Example #2: OHA candidates must raise \$1,500 in qualifying contributions during a matching payment period to be eligible for public funds in a primary or general election. This is the maximum amount an OHA candidate can receive in any election year.

VI. APPLICATION FOR PUBLIC FUNDS

Once you have collected your qualifying contributions and properly recorded it on the “Statement of Qualifying Campaign Contributions” report in the CFS, you must print a hard copy of this special report and attach it to the “Application for Public Funds” (“Application”). The Application is a required document to certify to the Commission that you have complied with all the steps set forth by law to qualify for public funds.

The Application must be signed, notarized, and filed by delivering or mailing the original to the Commission for review. This form is available on our website under “Candidate Committees,” click on “Public Funding Programs,” and then on “Partial Public Funding.”

Applications must be received by the Commission no later than **thirty (30) days** after the general election. Any Application received beyond thirty (30) days after the general election will not be considered valid.

VII. PAYMENT TO CANDIDATE

The Commission has **twenty (20) days** from the date the Application and Statement of Qualifying Campaign Contributions is approved to disburse the funds. The Commission will direct the DAGS Comptroller to distribute matching public funds that you have been approved for.

An Application for additional funds with an attached supplemental “Statement of Qualifying Campaign Contributions” can be filed with the Commission **fourteen (14) calendar days** after the last filed Application.

VIII. USE OF PUBLIC FUNDS

Public funds received during a primary or general election must be used only for expenses during the election for which the funds were received. Public funds received for the primary election may not be carried over and used for the general election or transferred to another candidate for any election.

Public funds shall be deposited in a depository institution duly authorized to do business in the State, such as a bank, savings bank, savings and loan association, depository financial services loan company, credit union, intra-Pacific bank, or similar financial institution, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

The public funds you receive must also be reported in the CFS under “Schedule C – Other Receipts.” Please refer to the “Candidate Filing System Manual” for instructions.

No expenditures of any public funds shall be made except by checks drawn on the checking account. Candidates are required to maintain complete records of all public funds received and payments for authorized campaign expenses.

Public funds shall only be used for:

1. Filing fees;
2. Television or radio broadcast costs (includes on-air time and production costs);
3. Newspaper advertising;
4. Mail-outs;
5. Bumper stickers;
6. Sundry items such as pens, pencils, magnets, and stickers;
7. Banners and signs;
8. Printing;
9. Postage;
10. T-shirts;
11. Loan repayment if the proceeds of the loan were used to pay for authorized campaign expenses listed in #1 - #10 above; and
12. Airfare and ground transportation costs for candidates with multi-island constituencies.

Notably, the use of public funds is more restrictive than the expenditure provisions set forth by law for candidates who do not to receive public funds and rely solely on private or personal contributions.

IX. EXPENDITURES OF PUBLIC FUNDS REPORT

The treasurer shall electronically file the “Expenditures of Public Funds Report” on the CFS no later than **twenty (20) days** after a primary election, and no later than **thirty (30) days** after a general election, certifying that all public funds paid to the candidate have been used.

Additionally, within **ten (10) days** of filing this report, you must mail or deliver documentation (e.g., receipts, invoices, itemized credit card statements) to the Commission verifying that only authorized expenditures were made.

If the Commission determines that any portion of the public funds have been used for noncampaign or other improper expenses, it shall report such findings to the State Attorney General, and order the candidate to return all or part of the funds paid to that candidate for a primary or general election.

Unspent public funds for either the primary election or general election must be returned to the Hawaii Election Campaign Fund within **twenty (20) days** after the primary election and within **thirty (30) days** after a general election.

X. AUDIT OF PUBLIC FUNDS

The Commission will conduct an audit of all public funds received by candidates within **sixty (60) days** after the general election.

If the Commission determines that any payment of public funds to a candidate exceeds the aggregate amount to which the candidate was entitled, the Commission shall:

- Notify the candidate within two (2) years of the payment of public funds; and
- The candidate shall repay the excess amount to the Hawaii Election Campaign Fund.

If the Commission determines that any public funds were used for an improper purpose or noncampaign purposes, the Commission shall:

- Notify the candidate; and
- The candidate shall pay to the Hawaii Election Campaign Fund an amount equal to three-hundred percent (300%) of such amount in addition to any administrative fines.

The Commission also has enforcement authority. The Commission may issue an order affecting any person violating any laws in the Hawaii Revised Statutes, Part XIII, Campaign Finance, and may assess an administrative fine up to \$1,000 for each violation of the campaign finance law, in addition to more specific fines for late filing of disclosure reports. The Commission's authority to assess administrative fines is set forth in HRS §§11-314, 11-340, 11-409, and 11-410.

Any person who recklessly, knowingly, or intentionally violates any provision of the campaign finance laws shall be guilty of a misdemeanor.

Any person who knowingly or intentionally falsifies any report required by the campaign finance laws with the intent to circumvent the law or deceive the Commission or who violates the anonymous contribution prohibition or false name contribution prohibition

shall be guilty of a class C felony and is not eligible for a deferred acceptance of guilty or nolo contendere plea.

A person who is convicted shall be disqualified from holding elective public office for a period of four (4) years from the date of conviction.

It is therefore strongly advised to familiarize yourself with the campaign finance laws and rules, file your reports, be aware of all areas in this Guidebook that have a time sensitive deadline (see generally bolded items), respond to requests or communication from the Commission, and contact the Commission if you have any questions to avoid penalties, fines, complaints, referrals to prosecuting attorney offices, and/or court orders.

XI. CHECKLIST SUMMARY

After having reviewed this Guidebook and you are now certain that you will seek public funding, the following checklist will assist you in ensuring compliance with public funding laws and rules. This checklist does not however supercede the campaign finance laws and rules which should take precedence.

1. You must file a notarized “Affidavit to Voluntarily Agree with Campaign Expenditure Limits” (“Affidavit”) form with the Commission or the County Clerk’s Office.
2. You must file a “Statement of Intent to Seek Public Funds” (“Statement”) form with the Commission or the County Clerk’s Office.
3. Your name must be on the ballot.
4. You must have an opponent on the ballot in the same election for which funds are sought (the primary and/or general election).
5. You must collect the minimum amount of qualifying contributions for the office you seek election.
6. You must electronically file a “Statement of Qualifying Campaign Contributions” in the Candidate Filing System (“CFS”) to report all qualifying contributions.
7. You must submit a notarized “Application for Public Funds” (“Application”) with the Commission along with a hard copy of your “Statement of Qualifying Campaign Contributions.”
8. You must electronically file an “Expenditure of Public Funds Report” in the CFS and keep expense records that the Commission may request.
9. You must agree to an audit and examination by the Commission pursuant to HRS §11-434 and pay any amounts required to be paid pursuant to that section.
10. All disclosure reports must be filed with the Commission and there must not be any fines owed to the Hawaii Election Campaign Fund.