

***PARTIAL PUBLIC FUNDING GUIDEBOOK
FOR CANDIDATE COMMITTEES***



*State of Hawaii
Campaign Spending Commission
December 2021*

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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 “Guidebook for Candidate Committees,” and the “Treasurer’s Guidebook for Candidate and Noncandidate Committees” to assist you in developing and maintaining an organized recordkeeping system for contributions and expenditures as well as the “Candidate 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 <http://www.hawaii.gov/campaign>.

For Assistance

The Commission’s office is open from 7:45 a.m. to 4:30 p.m. Monday through Friday. The office is closed on 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: <http://www.hawaii.gov/campaign>

Campaign Spending Commission
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 300
Honolulu, Hawaii 96813
Telephone: (808) 586-0285
Fax: (808) 586-0288

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.

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 coordinated expenditures, including nonmonetary contributions,² on your behalf, to seek election to office in the primary and general elections.

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), unless your name just appears on the general election ballot then the expenditure limit is for that election only.

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 with the Commission or the County Clerk’s Office. This document must also be notarized. Notaries are available at the Commission’s Office.

² Nonmonetary contributions must be off-set by an expenditure to avoid inflating the amount of your cash on hand.

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.

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.

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 general election.

A candidate who files the Affidavit and who receives contributions that in aggregate exceed the expenditure limit for an election shall reserve use of any contributions that exceed the limit until after the applicable election.

Also, campaign expenditures for purposes of the voluntary expenditure limit do not include amounts paid to repay or forgive a loan, and campaign expenditures between candidates for governor and lieutenant governor of the same political party.

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 Office of Elections, and the Commission by telephone and in writing on the day the expenditure limit is exceeded;
2. Pay the balance of the full filing fee for nomination papers to the Office of Elections or your respective County Clerk's Office;
3. Provide reasonable notice to all contributors within thirty (30) days of exceeding the limit that the expenditure limit was exceeded; and
4. Return all public funds (if received) within **fourteen (14) days**.

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

Failure to comply with these steps may result in an administrative fine up to \$1,000 as set forth in the Commission's Schedule of Fines which is available for viewing on the Commission's website at <http://ags.hawaii.gov/campaign/legal-resources/schedule-of-fines/>.

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 a qualified opponent on the ballot in the same election for which funds are sought (the primary and/or general elections). The death, withdrawal, or disqualification of an opponent in an election does not disqualify the remaining candidate from receiving public funds;
3. You must agree to obtain and furnish any evidence relating to expenditures that the Commission may request;
4. You must agree to keep and furnish records, books, and other information that the Commission may request; and
5. You must agree to an audit and examination pursuant to HRS §11-434, and to pay any amounts required to be paid pursuant to that section.

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 contributions, you must file the "Statement of Intent to Seek Public Funds" ("Statement") form with the Commission or County Clerk's Office. The Statement can also be submitted by eSign. An eSign form is submitted by email. The candidate will complete the eSign form and confirm their identity through an email authentication process which will send the completed eSign form to the Commission.

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.

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

You must enter the date when you submitted an eSigned Statement or enter the date when you filed the Statement with the Commission or the County Clerk’s Office in the CFS by logging in and clicking on “Administration” then “Partial Public Funding.”

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

What is a Matching Payment Period?

This is the time period when qualifying contributions can be received. There are two (2) matching payment periods:

1. For the primary election, from January 1st of the year of a general election through the day of the primary election; and
2. For the general election, from January 1st of the year of a general election through the day of the general election.

Because of the overlapping matching payment period (January 1st 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, but you will not be eligible for public funds in the general unless you qualify to appear on the general ballot.

Example: An individual may contribute \$100 to a candidate in the primary matching payment period, and may contribute to the same candidate in the general matching payment period. However, two (2) 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.

Example: A \$100 qualifying contribution is received during the primary matching payment period from a contributor, and a candidate receives public funds for the primary election, can the candidate receive more than \$100 in contributions from the same contributor during the general matching payment period?

Answer: No. If an individual contributes a qualifying contribution during the primary matching payment period and the candidate receives public funds for the primary election and then moves on to the general, that contributor is limited to contributing a maximum amount of \$100 in qualifying contributions during the general matching payment period.

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 periods.

The minimum amount of qualifying contributions is the amount you need to raise for the office you seek election with aggregate monetary contributions of \$100 or less from individual Hawaii residents to receive public funding. The 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 and advance to the general election, you can continue to raise the minimum amount of qualifying contributions to be eligible to receive public funds in the general, but only up to the maximum available amount in the general for the office you are seeking.

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

How do you report Qualifying Contributions?

Every qualifying contribution you receive must be entered into the CFS in "Schedule A - Contributions" with the following information:

- The date the qualifying contribution was deposited;
- The total amount of each qualifying contribution; and
- The name and address of each individual Hawaii resident who contributed an aggregate of \$100 or less during a matching payment period.

This information must be entered in the CFS and electronically filed as part of the "Statement of Qualifying Campaign Contributions." A hard copy needs to be attached to your "Application for Public Funds."

Please refer to the "Candidate Filing System Manual" for instructions on how to report and electronically file your qualifying contributions.

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 2022 election, a candidate interested in public funding for the office of State Senate, District 1 must agree to an expenditure limit of \$43,540 for each election. A minimum amount of qualifying contributions of \$2,500 must be raised by the candidate during the primary matching payment period to be eligible to receive \$2,500 in public funds for the primary election. Because the maximum amount of public funds available for this office is \$6,531 (which is 15% of the expenditure limit set for the office of State Senate, District 1), the candidate can continue to 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 State Senate, District 1 raised the minimum amount of qualifying contributions of \$2,500 before the primary, they will receive \$2,500 in public funds for the primary election. If the candidate moves on to the general election, they do 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 \$6,531 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

The Application for Public Funds (“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 completed, signed, notarized, and filed by mailing or delivering the original to the Commission. In addition, you must print a hard copy of your electronically filed Statement of Qualifying Campaign Contributions and attach it to the Application. The Application 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 be considered late and not 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.

Public funds shall be promptly 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.

Public funds received must be reported in the CFS under “Schedule C - Other Receipts.” Report the date(s) of deposit, and the amount of each public fund check(s) received by the Commission under “Hawaii Election Campaign Fund” at “235 S. Beretania Street, Room 300, Honolulu, Hawaii 96813.” Please refer to the “Candidate Filing System Manual” for instructions on entering activity in Schedule C - Other Receipts.

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.

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;
3. Newspaper advertising, other print, and internet 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.

"Broadcast costs" means the costs for on-air time and costs for production of a radio spot, video, or television advertising. "Printing" includes the costs for shirts, hats, other articles of clothing, and paper.

Notably, the expenditure of public funds by qualifying candidates is highly scrutinized and is restricted to the aforementioned list of eligible public fund expenditures.

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., paid vendor invoices, receipts, cancelled checks, and/or bank statements) to the Commission verifying that only eligible public fund expenditures were made.

If the Commission determines that any portion of the public funds were 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 examine and audit the public funds received by all candidates, qualifying contributions, and the expenditures made by all 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 or noncampaign purpose, 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 reports. The Commission’s authority to assess administrative fines is set forth in HRS §§11-314, 11-340, 11-391, 11-409, and 11-410. The fine schedule is available for viewing on the Commission’s website at <http://ags.hawaii.gov/campaign/legal-resources/schedule-of-fines/>.

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 and law that have a time sensitive deadline, 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 shall take precedence.

1. You must file a notarized “Affidavit to Voluntarily Agree with Campaign Expenditure Limits” form with the Commission or the County Clerk’s Office.
2. You must file a “Statement of Intent to Seek Public Funds” form with the Commission or the County Clerk’s Office.

3. Your name must be on the ballot.
4. You must have a qualified opponent on the ballot in the same election for which funds are sought (the primary and/or general elections). The death, withdrawal, or disqualification of an opponent in an election does not disqualify the remaining candidate from receiving public funds.
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 CFS to report all qualifying contributions.
7. You must file a notarized "Application for Public Funds" with the Commission along with a hard copy of your "Statement of Qualifying Campaign Contributions."
8. You must electronically file an "Expenditures of Public Funds Report" in the CFS to report all public fund expenses. Additionally, within **ten (10) days** of filing this report, you must mail or deliver documentation (e.g., paid vendor invoices, receipts, cancelled checks, and/or bank statements) to the Commission verifying that only eligible public fund expenditures were made.
9. You must agree to an audit and examination by the Commission pursuant to HRS §11-434, and to pay any amounts required to be paid pursuant to that section.
10. You must file all disclosure reports with the Commission and there must not be any fines owed to the Hawaii Election Campaign Fund.