



PUBLIC FUNDING FOR GUBERNATORIAL CANDIDATES

MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS

Topics

- Introduction & History
- Contribution Limits/Immediate Family Limits
- \$2 Million Expenditure Limit
- Primary Election
 - Qualifying Contributions/ Non-Qualifying Contributions
 - Public Funding Applications
 - Resubmission Applications
- General Election
- Return of State Campaign Funds
- Public Funds Status Report
- Post Election Audit
- Record Keeping
 - Private Funds/Public Funds & Bank Accounts
 - Receipt Types (Direct, In-kind, Other Receipts)
 - Public Fund Expenditures
 - Exemptions from the Limitation (Private Funds/ In-Kind Contributions)
 - Inventory of Assets/In-Kind Expenditures
 - Debts and Obligations (Owed to/Owed by committee)



Introduction & History

- The Michigan Campaign Finance Act allows Gubernatorial candidates to apply for public funds from the State Campaign Fund to make qualified campaign expenditures.
 - The State Campaign Fund was established in 1976 after the U.S. Supreme court ruled that campaign spending limits could not be imposed *unless* public funds are used.
- To receive Public Funds, a Gubernatorial Candidate MUST:
 - Indicate intent to seek public funds on the Statement of Organization;
 - Must raise at least \$75,000 in qualified contributions;
 - Limit candidate and the candidate's immediate family contributions to \$50,000 for the entire election cycle; and
 - Agree to limit campaign spending to \$2 Million per election.

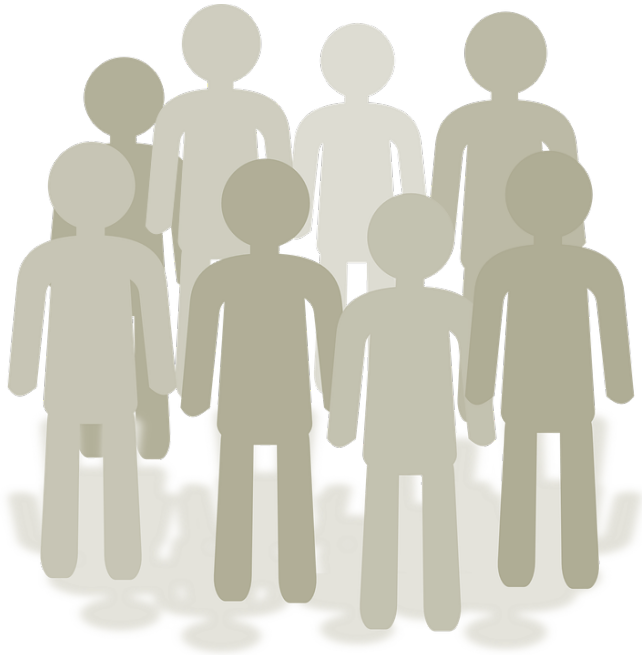
Contribution Limits

CONTRIBUTOR → OFFICE ↓	<u>Individual</u>	<u>Political Committee</u>	<u>Independent Committee</u>	<u>Caucus Committee</u>	<u>Political Party (District/County)</u>	<u>Political Party (State)</u>
Governor/Lt. Governor (w/Public Funding)*	\$6,800.00	\$6,800.00	\$68,000.00	\$68,000.00	\$30,000.00	\$750,000.00
Governor/Lt. Governor (w/out Public Funding)	\$6,800.00	\$6,800.00	\$68,000.00	\$68,000.00	\$68,000.00	\$136,000.00

Immediate Family

List & Limit

- Gubernatorial candidates seeking public funds must limit their own and their immediate family contributions to \$50,000 in total for the entire election cycle.



- Immediate family for public funding purposes is defined as:
 - Spouse
 - Parents
 - Siblings
 - Children
- Prior to submitting the first public funding application, the candidate must submit a list of their immediate family.

\$2 Million Expenditure Limit

- Candidates seeking public funds must limit their expenditures to \$2 million for each election for which they receive public funds.
- Separate expenditure records for EACH ELECTION must be kept.
- The expenditure limit is suspended if in the:
 - Primary Election: a candidate **seeking the same nomination** that is *not seeking* public funds contributes to their own committee or receives from their immediate family \$340,000.00 or more during the election cycle ; or
 - General Election: a candidate **seeking the same office** that is *not seeking* public funds contributes to their own committee or receives from their immediate family \$340,000.00 or more during the election cycle

Primary Election

- The Gubernatorial Candidate Committee of a candidate on the primary ballot may receive up to \$990,000 in public funds for the Primary Election if:
 - The first public funding application contains at least \$75,000 in qualifying contributions certified by our office.
 - Applications are submitted, along with adequate documentation for \$495,000 in qualifying contributions.
 - Sufficient funds are available in the State Campaign Fund.
 - Available funds are determined by the State Treasurer.
 - If insufficient funds exist for full funding to all eligible candidates, the campaign funds are distributed to public funding candidates on a pro rata basis (i.e. proportional) and not on a first come first serve basis.



Qualifying Contributions

- A Qualifying Contribution is a direct contribution by an individual of \$100.00 or less in a calendar year.
 - Contributor must be a Michigan resident.
 - The contributions must be received after April 1, 2017 to qualify.
- Qualifying Contributions are matched on a 2 for 1 basis:
 - Receive \$2 in public funds for every \$1 qualifying contribution
- An individual's contributions may only be matched for up to \$100 *per calendar year*.
 - Example 1: Contributor gives the maximum contribution of \$6,800.00 to the Gubernatorial Candidate Committee in Year 1, \$100 of the contribution can be matched for Year 1 and \$200.00 in public funds is receivable for that contributor.
 - Example 2: Contributor gives \$6,700.00 in Year 1, and \$100.00 in Year 2; \$100.00 can be matched for Year 1 and \$100.00 can be matched for Year 2, resulting in \$400.00 of public funds receivable for that contributor.

Non-Qualifying Contributions

- Loans to the committee
- In-Kind Contributions
- Funds transferred from previous committee
- Contributions received before the Statement of Organization requesting public funding is received by the Bureau of Elections
- Contributions received before April 1, 2017
- Contributions from Political/Independent Committees (PACs), Political Parties, unincorporated businesses, partnerships or limited liability companies



Public Funding Application

- The committee must submit an application for public funding listing the contributions that can be matched.
 - The application has a cover page that has identifying information for the candidate and the committee, as well as the original signatures of the candidate and the treasurer. The subsequent pages consist of the alphabetized listing of the qualifying contributions.
 - Each contribution is assigned a unique sequence number (first contribution would be sequence number 1).
 - Each application will continue the sequence; example: if the first application has 1925 contributions, then application two will pick up with sequence number 1926.
 - The MERTS software assures this format is met.
- Original Public Funding Applications must be filed using MERTS.
 - There are currently no vendors approved to provide Gubernatorial software to committees.
 - The application is submitted both hard copy and electronically.

Public Funding Application

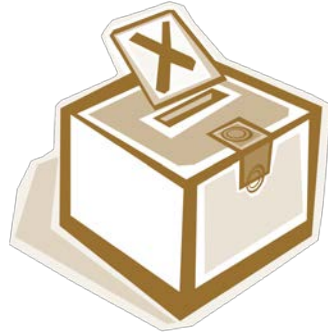
Continued

- Applications can be filed after January 1, 2018.
- Applications may not be submitted after December 15, 2018.
- Before the application can be processed the committee must provide supporting documentation of contributions, including:
 - Photocopies of written instruments (credit/debit card, check, cashier check, money order);
 - Deposit slips; and
 - Solicitation forms:
 - General Information for All Contributors/Cash Contribution
 - Joint Contribution Allocation
 - Partnership/LLC Contribution Allocation
 - Supporting documentation MUST have the sequence number from the application clearly written and MUST be in the same order as the application.
- The first application must contain at least \$75,000 in Qualifying Contributions .
 - It is suggested to submit at least \$100,000.00 in qualifying contributions on the first application in case of errors.

Resubmission Application

- After review of each application the committee will receive a certification letter from the Bureau of Elections with a coded list of ineligible contributions.
- Contributions that were not matched but are correctable may be submitted again on a Resubmission Application with corrections made or with additional documentation provided to the Bureau of Elections.
 - The contributions must never appear on subsequent original applications.
- A Resubmission consists only of contributions for which corrections have been made or additional documentation is being provided
- A separate Resubmission Application must be submitted for each application that needs correcting.
- A resubmission is created using MERTS, but must be printed and filed on paper (not electronically) along with any supporting documentation.
 - Supporting documentation would be the same as required for the original application.

General Election



- The major party Primary Election winners who have indicated their intent to seek public funds may receive a flat grant of \$1,125,000.00 each for the General Election
 - This money is set aside prior to and not used in the disbursement of public funds for the Primary Election.
- For Public Funding purposes, the candidates for the office of governor and lieutenant governor of the same political party in a general election shall be considered as 1 candidate.

Return of State Campaign Funds

- Public funds must be returned to the State Campaign Fund if:
 - The candidate does not file nominating petitions or files an insufficient petition for the office of governor.
 - Any funds remain after all qualified debt has been paid; or
 - The qualifying contribution was returned to contributor, or the bank determined the contributor's check or other written instrument to be invalid due to insufficient funds.
 - Unexpended funds MUST be returned within 60 days after the election for which they were received.
 - October 6, 2018 for funds received for the Primary Election.
 - January 5, 2019 for funds received for the General Election.
- A check from the public funds account, payable to the State of Michigan, should be remitted to the Bureau of Elections.
 - Written explanation of the reason for return should also be included with the check.
 - If the refund is due to return or invalidation of a qualifying contribution, the name and address of the contributor, date of the original receipt, sequence and application number on which the contributions was submitted must also be included.

Public Funds Status Report

- The committee is required to file a Public Funds Status Report if funds have not been returned to the State within 60 days after the election for which they were received.
 - Funds are considered expended and may be retained past that date if the committee documents that it owes debts that qualify to be repaid with Public Funds.
 - Prior approval by the Bureau of Elections must be obtained to retain funds after the 60-day limit.
- Public Funds Status Reports must be filed as long as public funds are retained by the committee.
- Status reports do not replace campaign statements.
 - Information shown on the status report must also be reported on a subsequent campaign statement.
- Coverage periods of the status reports begins one day after the closing date of the last campaign statement filed or one day after the most recent status report.

Public Funds Status Report

Types & Due Dates

- **Post Primary Application Report**
 - Public Funds Status Report must be submitted with any Post-Primary Application for public funds.
- **60-Day Public Funds Status Report**
 - The closing date is 60 days after the election.
 - Must be filed 10 days after the close.
 - October 16, 2018 for funds received for the Primary Election.
 - January 15, 2019 for funds received for the General Election.
- **Monthly Public Funds Status Report**
 - After the 60 day limit, the closing date is the last day of the month.
 - Must be filed by the 10th day of the following month.
- **Termination of Public Funds Account Report**
 - The termination of Public Funds Account Report must be filed when the committee closes its public funds account.
 - The closing date of the Report will be the date the account is closed.

Post Election Audit

- The Department of State's Internal Security Division will perform a complete audit of the committee records.
- The committee must supply all records documenting the committee's campaign financing activity.
- Required documents include (but are not limited to):
 - Bank statements
 - Checkbook Registers
 - Canceled checks
 - Deposit Slips
 - Wire transfers
 - Internet/electronic contributions
 - Contracts
 - Payroll records
 - Vendor invoices
 - Expense vouchers
 - Mileage logs
 - Receipts
- Detailed documentation must be provided for both private and public fund accounts when requested by the Department.



Post Election Audit

Continued

- The objective of the audit is to:
 - Review the Candidate Committee's Campaign Finance Statements for accuracy
 - Verify the receipt/propriety of Public Funds paid to the Committee.
 - Verify the receipt/propriety of all Private Funds reported by the Committee.
 - Review and verify the propriety of expenditures made by the Committee (including the applicable limit on spending of \$2 million) and determine the accuracy of all disbursements reported as exempt expenditures.
- Findings of the Audit will be reported to the committee.
 - The committee will be required to respond to any questions and findings of the auditor.

Post Election Audit Process

What You Should Know

- The audit process can be lengthy and time consuming.
- The committee must have access to all committee records, including electronic records.
- Public funds may not be used to make expenditures incurred on or after January 1, 2019.
 - It is suggested to set aside private funds for the audit process to fund the audit process.



BREAK TIME!





Record Keeping

- The treasurer is responsible for keeping records of all committee bank accounts and financial activity.
- All committee records are to be preserved for 5 years
 - This includes:
 - Contributions
 - Expenditures
 - Invoices
 - Contracts
- Accurate record keeping is imperative for:
 - Substantiating information on Campaign Statements;
 - Preparing Public Funding Applications; and
 - Completing the Post Election Audit.
- The Bureau of Elections recommends the following:
 - Reconcile bank statements to campaign statement records monthly.
 - Make sure ALL staff is aware of the MCFA rules for tracking, recording, and reporting all financial activity of the committee.

Public Funds vs. Private Funds

- Public Funds are funds the committee receives from the State Campaign Fund after Public Funding Applications have been submitted and approved.
 - Public Funds received for the Primary may only be used to make expenditures for the Primary.
 - Public Funds received for the General may only be used to make expenditures for the General.
- Private Funds are contributions received from:
 - Individuals
 - Other committees
 - Unincorporated businesses
- Public and Private Funds can NOT be commingled and MUST be kept in separate bank accounts.
 - Primary Public Funds and General Public Funds must also be kept in separate bank accounts.

Bank Accounts



- Public Fund Candidate Committees must establish the following bank accounts:
 - If receiving Public Funds for the Primary Election **ONLY**:
 - 1 private funds bank account
 - 1 public funds bank account
 - If receiving Public Funds for the General Election **ONLY**:
 - 1 private funds bank account
 - 1 public funds bank account
 - If receiving Public Funds for **BOTH** the Primary and General Election:
 - 1 private funds bank account
 - 2 public funds bank accounts (primary and general)

Direct Contributions

Documentation Requirements

- Direct Contributions are contributions of money.
 - Contributions of more than \$20.00 must be made by written instrument.
- Obtain from contributor and record:
 - Date of receipt/issue
 - Amount
 - Cumulative amount
 - Name/home address
 - Employer, occupation and employer's address
- Solicitation forms may be used for efficiency:
 - Form #1: All Contributors/Cash Contributions
 - Form #2: Joint Contribution Allocations
 - Form #3: Partnership/LLC contribution Allocations

Direct Contributions

Record Keeping Procedures

- Before depositing contributions, the contributions MUST be carefully reviewed for compliance.
- Sort Contributions
 - Attach solicitation form to the written instrument
 - Review contributions for prohibited or questionable (missing required information)
 - Divide into three groups
 - Prohibited
 - Questionable (for further review)
 - Acceptable (Qualifying and Non-Qualifying)



Direct Contributions

Processing Acceptable Contributions

- Batch the acceptable contributions into two groups:
 - Qualifying Contributions and Non-Qualifying Contributions
- Process each batch separately:
 - Make sure all pertinent information has been recorded;
 - List contributor's names and amounts on deposit slip and make photocopy;
 - Make photocopies of checks or written instruments (be sure to black out account numbers and routing numbers for contributor privacy) and solicitation forms; and
 - Make one photocopy to retain for your records
 - Make a second photocopy of the Qualifying Contribution batch for submission with the Public Funding Application.
 - Deposit the contributions

In-Kind Contributions

- In-kind contributions are donations of goods or services.
 - The value of an in-kind contribution is subject to the \$2 million expenditure limitation if, the expenditure would have been subject to the limit if it had been paid for with committee funds.
- An endorsement or guarantee of a loan from a financial institution is an in-kind contribution from the endorser.
 - An endorsement or guarantee is:
 - Exempt from the expenditure limitation;
 - Subject to an individual's contribution limit;
 - Reported with the debt on the debts and obligations schedule.

Other Receipts

- Other Receipts are monies received by the committee that are not Direct Contributions, such as:
 - Funds received from the State Campaign Fund;
 - Bank loans;
 - Interest earned;
 - Refunds/Rebates;
 - Payments received on debts owed to the committee;
 - Any proceeds from the sale of committee assets
- Note: Money refunded from an expenditure made that was subject to the expenditure limitation will count as a credit back to the limitation.

Public Fund Expenditures

Qualified Campaign Expenditures

- Public funds must only be used for qualified campaign expenditures.
- Qualified campaign expenditures must be made during the year in which the election is held.
 - No expenditures incurred after January 1, 2019 may be paid for with Public Funds
- Qualified campaign expenditures include the purchase of:
 - Services;
 - Materials;
 - Facilities; or
 - Other things of value to further the nomination or election of the candidate.
- All expenditures made with Public Funds are subject to the \$2 Million Expenditure limit except:
 - A transfer between accounts due to the committee making an expenditure from the wrong account.
 - The committee **MUST** obtain prior written approval from the Bureau of Elections before funds can be transferred.
 - Return of unexpended funds to the State Campaign Fund

Public Fund Expenditures

Prohibited Expenditures

- Debt incurred prior to the year of the election
- Any expenditure in violation of State or Federal law.
- A payment made to the candidate or a relative within the third degree of consanguinity of the candidate, or to a business with which the candidate or the relative is associated.
- A payment in excess of fair market value of services.
- An individual's wage or salary in excess of \$5,000.00 per month.
 - "Wage or salary" means gross pay (amount before deductions).
 - Anything beyond \$5,000.00 must be paid using private funds.
- Payment from petty cash.
- Gifts.
- Payment to a defense fund.
- Incidental office expenses of incumbents.

Exempt from Limitation

Private Funds & In-Kind Contributions - Rule 39a

- Based on Rule 39a, the following expenditures made with private funds, or given to the committee as an in-kind contribution, are not subject to the \$2 million expenditure limitation:
 - Expenditure necessitated by security requirements;
 - Legal and accounting expenditures solely to ensure compliance with the MCFA;
 - Expenses incurred by the committee in response to a written complaint (pursuant to act or promulgated rules) or in response to a notice of Error or Omission or Late Filing Fee notice;
 - Post Election “winding down” costs:
 - Record Storage required by section 22;
 - Post election communication (thank you cards) if sent within 60 days after the election.
 - Allowed after Primary Election for candidate NOT moving on to General
 - Allowed after General Elections for participating committee
 - Late filing fees as assessed under the MCFA.

Exempt from Limitation

Private Funds- Miscellaneous

- Response to unfavorable media editorial (one response per editorial).
- Return of prohibited contributions.
- Expenditure to “zero out” account in an effort to dissolve.
- Repayment of a loan of money from a financial institution in its ordinary course of business.
 - Interest paid on the loan ***IS*** subject to the limitation.
- An accounting transfer of funds from primary election private funds to general election private funds.
- A transfer between accounts due to the committee making an expenditure from the wrong account.
 - The committee ***MUST*** obtain prior written approval from the Bureau of Elections before funds can be transferred.
- Cost of photocopies of written instruments and other required documentation for application processing
- Any additional cost incurred for electronically filing applications and Campaign Statements

Inventory of Assets

- A record must be kept of all assets purchased. Information to record:
 - The original purchase price
 - The item description
 - What account (public/private) the purchase was made from
- The Inventory of Assets Form was designed to keep track of permanent assets (example: furniture, office equipment)
- Committees that participate in both the General and the Primary election must purchase the assets from the previous election account.
 - The committee may use money from either their General Election Public or General Election Private funds account.
- Three types of assets may be transferred from the Primary Election to the General Election
 - Permanent assets: Committee should depreciate the original value of asset from time of purchase to the General Election
 - Consumable supplies: The Bureau of Elections recommends using just one account for purchase for ease of reporting
 - Film and tape production cost: Cost of production of radio and television tapes and film that will also be used in the General Election

In-kind Expenditures

Credit to the Expenditure Limit

- Expenditure of goods/services purchased by the committee may be credited to the expenditure limitation for their fair market value.
 - These include the fair market value of assets donated to:
 - Political Party Committee
 - Ballot Question Committee
 - Tax-exempt charitable organization
 - Return of goods to contributors upon dissolution
- If an asset was purchased with private funds and transferred from the Primary to the General, it will be reported as in-kind expenditure from the Primary Election and an in-kind contribution to the General Election.
 - The in-kind expenditure will then be credited to the Primary Election expenditure limitation and the in-kind contributions will be counted towards the General Election expenditure limitation.



Debt Limitation

- The committee, or any person, may not incur a debt for goods, services, facilities or anything of value which, when paid would cause the committee to exceed the expenditure limitations.





Debts and Obligations

Owed to the Committee

- Debts owed to the committee are:
 - Security Deposits;
 - Overpayment for service; or
 - Money owed to the committee from the sale of committee assets.
- Payments on debts owed to the committee are reported as other receipts.
- Money applied for but not received from the State Campaign Fund does not qualify as debt owed to the committee.
- Private Funds: Repayment of debt to the private funds account will be a credit to the expenditure limit or the exempt 39a category, depending upon the purpose of the original expenditure.

Debts and Obligations

Owed by the Committee

- Debts/Obligations owed by the committee are classified as exempt from or subject to the limitation based on the category the expenditure fell into when the debt was incurred.
- Accrued wages and unpaid tax withholdings (FICA, FUTA, income taxes) are debts owed by the committee and must be reported.
- Loans from a person or financial institution.
 - Loans from individuals are subject to the contribution limit.
 - Payments back to the individual credits their contribution limit.
 - Debt forgiven or repaid by someone other than the committee becomes an in-kind contribution from that person.

QUESTIONS?



THANK YOU



MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS

(517) 335-3234

www.Michigan.gov/CampaignFinance

Email: Disclosure@Michigan.gov

Follow us on Twitter @MICHCFR