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FEDERAL CAMPAIGN FINANCE LAW

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INTRODUCTION

In the United States, there are separate systems for financing elections to federal office (House of Representatives, Senate, and President) and elections to city, county, state, or other non-federal offices. The Federal Election Commission (FEC) is the independent regulatory agency charged with administering and enforcing the federal campaign finance law. The FEC has jurisdiction over the financing of campaigns for the U.S. House, the U.S. Senate, the Presidency and the Vice Presidency. The FEC has no jurisdiction regarding state or local elections, outside of enforcing the prohibition on contributions from foreign nationals and national banks. State and local governmental bodies separately regulate contributions to candidates for non-federal office. Accordingly, this presentation will focus on the funding system for federal candidates.

Federal campaign finance law covers three broad subjects, which are described in this material:

- Public disclosure of funds raised and spent to influence federal elections;
- Restrictions and prohibitions on contributions and expenditures made to influence federal elections; and
- The public financing of Presidential campaigns.

HISTORICAL BACKGROUND

As early as 1905, President Theodore Roosevelt recognized the need for campaign finance reform and called for legislation to ban corporate contributions for political purposes. In response, Congress enacted a number of statutes between 1907 and the late 1960s which, taken together, sought to:

- Limit the disproportionate influence of corporate or labor union money and special interest groups on the outcome of federal elections;
- Limit spending in campaigns for federal office; and
- Mandate public disclosure of campaign finances.

In 1971, Congress consolidated its earlier efforts in the Federal Election Campaign Act (effective in 1972), instituting more stringent disclosure requirements for federal candidates, political parties and political action committees (PACs).

Following reports of serious financial abuses in the conduct of the 1972 Presidential campaign, Congress amended the election laws in 1974 to set limits on contributions by individuals, political parties and PACs. The 1974 amendments also established an independent agency -- the Federal Election Commission (FEC) to enforce the law, facilitate disclosure and administer the public funding program. Congress made further amendments to the FECA in 1976 following a constitutional challenge in the Supreme Court case Buckley v. Valeo; major amendments were also made in 1979 to streamline the disclosure process and expand the role of political parties.

The FEC opened its doors in 1975 and administered the first publicly funded Presidential election in 1976.

THE COMMISSION

Commissioners

The FEC has six voting members who serve staggered six-year terms. The Commissioners are appointed by the President with the advice and consent of the U.S. Senate. No more than three Commissioners may belong to the same political party. The Commissioners elect two members each year to act as Chairman and Vice Chairman.

Public Meetings

The Commission normally holds a public meeting each week. At this meeting, the Commissioners adopt new regulations, issue advisory opinions, approve audit reports concerning Presidential campaign committees, and take other actions to administer the campaign finance law.

In addition, the Commissioners meet regularly in closed sessions to discuss pending enforcement actions, litigation and personnel matters.

THE CAMPAIGN FINANCE LAW

The basic provisions of the Federal Election Campaign Act (FECA) are described below.

Disclosure

The FECA requires candidate committees, party committees and PACs to file periodic reports disclosing the money they raise and spend. Candidates must identify, for example, all PACs and party committees that give them contributions, and they must identify individuals who give them more than \$200 in a year. Additionally, they must disclose expenditures exceeding \$200 per year to any individual or vendor.

Contribution Limits and Prohibitions

There is currently no direct or indirect public financing for candidates for the U.S. Senate or House of Representatives.

Contribution Limits

The election law places limits on contributions by individuals and groups to candidates, party committees and PACs. The chart below shows how the limits apply to the various participants in federal elections.

Contribution Limits

	To a candidate or candidate committee per election	To a national party committee per calendar year	To any other political committee per calendar year*	Total per calendar year
Individual may give:	\$1,000	\$20,000	\$5,000	\$25,000
Multicandidate committee† may give:	\$5,000	\$15,000	\$5,000	No limit
Other political committee may give:	\$1,000	\$20,000	\$5,000	No limit

Prohibited Contributions and Expenditures

The federal election laws place prohibitions on contributions and expenditures by certain individuals and organizations. The following are prohibited from making contributions or expenditures to federal candidates:

- Corporations;
- Labor organizations;
- Federal government contractors; and
- Foreign nationals.

Furthermore, with respect to federal elections:

- No one may make a contribution using another persons name.
- No one may make a contribution in cash of more than \$100.

In addition to the above prohibitions on contributions and expenditures in federal election campaigns, the law also prohibits foreign nationals, national banks and other federally chartered corporations from making contributions or expenditures in connection with state and local elections.

Independent Expenditures

Under federal election law, an individual or group may make unlimited "independent expenditures" in connection with federal elections.

An independent expenditure is an expenditure for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is made independently from the candidates campaign. To be considered independent, the communication may not be made with the cooperation or consent of the candidate or his or her campaign; nor may it be made upon a request or suggestion of either the candidate or the campaign. While there is no limit on how much anyone may spend on an independent expenditure, the law does require persons making independent expenditures to report them and to disclose the sources of the funds they used. The public can review these reports at the FEC's Public Records Office.

Corporate and Union Activity

Although corporations and labor organizations may not make contributions or expenditures in connection with federal elections, they may establish voluntary groups of officers or members. These groups, known as political action committees, or PACs, raise voluntary contributions from individuals and

use those funds to support federal candidates and political committees. No corporate or union money is given to candidates through this process. Only the personal funds of individuals may be used for these contributions.

Apart from supporting PACs, corporations and labor organizations may conduct other activities related to federal elections, within certain limits.

Political Party Activity

Political parties are active in federal elections at the local, state and national levels. Most party committees organized at the state and national levels -- as well as some committees organized at the local level -- are required to register with the FEC and file reports disclosing their federal campaign activities.

Party committees may contribute funds directly to federal candidates, subject to the limits described above. National and state party committees may make additional "coordinated expenditures," subject to limits, to help their nominees in general elections. Finally, state and local party committees may spend unlimited amounts on certain grassroots activities specified in the law without affecting their other contribution and expenditure limits (for example, voter drives by volunteers in support of the party's Presidential nominees and the production of campaign materials for volunteer distribution). These party expenses without limit are not candidate-specific.

Party committees must register and file disclosure reports with the FEC once their federal election activities exceed certain dollar thresholds specified in the law.

Concurrent Federal/Local Elections and Non-Federal Spending

Because U.S. election schedules are standardized, with a single day across the country for general election voting, most elections are mixed; federal, state and local candidates all appear on the same ballot in locally administered elections. Campaigning by and for candidates at all levels of government generally occurs simultaneously. States regulate, with varying degrees of strictness, the financing of non-federal campaigns while the federal campaigns are exclusively regulated by the FEC. In practical terms, however, particularly in regards to the activity by party committees, keeping the money and the beneficiaries of political advertising segregated is problematic.

Money raised and spent outside the limitations and prohibitions of the federal election law is commonly called "non-federal" dollars, or sometimes "soft money." It may include donations from individuals, corporations and labor unions. These funds, which are usually given to state and national party committees, cannot legally be raised or spent to influence federal elections, but are acceptable under some state election laws. In recent years, however, critics have argued that non-federal money is being raised and spent in ways that may affect federal candidates, including those running for President. Congress and the FEC are both examining ways to ensure that this non-federal money is not used for federal election activity.

PUBLIC FUNDING OF PRESIDENTIAL CAMPAIGNS

Under the Internal Revenue Code, qualified Presidential candidates receive money from the Presidential Election Campaign Fund, which is an account on the books of the U.S. Treasury.

The Fund is financed exclusively by a voluntary tax checkoff. By checking a box on their income tax returns, individual taxpayers may direct \$3 of their tax to the Fund (up to \$6 for joint filers). Checking the box does not increase the amount a taxpayer owes or reduce his or her refund; it merely directs that one dollar from the U.S. Treasury be used in Presidential elections. Checkoff funds may not be spent for other federal programs.

The funds are distributed under three programs: Primary Matching Payments; General Election Grants; and Party Convention Grants.

Primary Matching Payments

Eligible candidates in the Presidential primaries may receive public funds to match the private contributions they raise. While a candidate may raise money from many different sources, only contributions from individuals are matchable; contributions from PACs and party committees are not. Furthermore, while an individual may give up to \$1,000 to a primary candidate, only the first \$250 of that contribution is matchable.

To participate in the matching fund program, a candidate must demonstrate broad-based support by raising more than \$5,000 in matchable contributions in each of 20 different states. Candidates must agree to use public funds only for campaign expenses, and they must comply with spending limits. Moreover, candidates must agree not to spend more than

\$50,000 of their personal funds in connection with the campaign. The candidates must also facilitate a mandatory audit of their campaigns and make any necessary repayments. Matchable contributions must be in the form of a check or other negotiable written instrument made payable to the candidate or his or her campaign committee. Once the Commission is satisfied that the submissions comply with the law, it certifies to the U.S. Treasury an amount due the candidate.

After the campaign, the Commission audits each candidate's committee to ensure that funds were not misused and that the committee maintained proper records and filed accurate reports.

General Election Grants

The Republican and Democratic candidates who win their parties nominations for President are each eligible to receive a grant to cover all the expenses of their general election campaigns. The basic \$20 million grant is adjusted for inflation each Presidential election year. In 1992, the grant was \$55.24 million.

Nominees who accept the funds must agree not to raise private contributions (from individuals, PACs or party committees) and to limit their campaign expenditures to the amount of public funds they receive. They may use the funds only for campaign expenses.

Private contributions may, however, be accepted for a special account maintained exclusively to pay for legal and accounting expenses related to complying with campaign finance law. These legal and accounting expenses are not subject to the expenditure limit.

Minor party candidates and new party candidates may qualify for partial general election funding following the election, based on their party's electoral performance. Minor party candidates (nominees of parties whose Presidential candidates received between 5 and 25 percent of the vote in the preceding election) may receive public funds based on the ratio of their party's vote in the preceding Presidential election to the average of the two major party candidates in that election. New party candidates (nominees of parties that are neither major parties nor minor parties) may receive public funds after the election if they receive 5 percent or more of the vote. The amount is based on the ratio of the new party candidate's vote to the average vote of the two major party candidates in that election.

After the campaign, the Commission audits each candidate's committee to ensure that the funds were not misused and that the committee maintained proper records and filed accurate reports.

Party Convention Grants

Each major political party may receive public funds to pay for its national Presidential nominating convention. The statute sets the base amount of the grant at \$4 million for each party, and that amount is adjusted for inflation each Presidential election year. In 1992, the major parties each received \$11.05 million.

Other parties may also be eligible for partial public financing of their nominating conventions, provided that their nominees received at least five percent of the vote in the previous Presidential election.

FACILITATING DISCLOSURE

One of the most important aspects of our election laws is the disclosure requirements. The Federal Election Commission spends significant resources ensuring that reports of all federal campaign financial activity are available to the public quickly and completely. The Commission maintains a large public records office -- open to anyone -- at which all reports may be consulted.

Campaign Finance Materials

Reports filed by registered political committees (such as candidates campaigns, party committees, and political action committees) are available for inspection and copying in the FEC's Public Records Office. The Commission makes the reports public within 48 hours after their receipt.

Visitors may access the FEC's computer database, which contains helpful indexes on several types of campaign finance activities (large contributions, political action committee contributions, etc.). The agency's computer is also accessible from the Secretary of States office in many state capitals.

Members of the public who are equipped with a computer modem may reach the FEC's database by subscribing to the on-line Direct Access Program (DAP).

Other Documents

In addition to campaign finance reports (dating back to 1972), the Public Records Office makes available:

- Statistical summaries of reported campaign activities;
- FEC advisory opinions and advisory opinion requests;
- Files on closed enforcement actions;
- Personal financial statements filed by Presidential candidates;
- Audit reports;
- Rulemaking proposals and related documents;
- Commission meeting agenda items and other public documents.

Copies of reports filed by federal candidates are also available in the Secretary of States' office in each candidate's home state and in the public records office of the Clerk of the House or the Secretary of the Senate, as appropriate.