

Dark Money in United States Politics

Compiled and Edited by

Michael Erbschloe

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About the Editor

Michael Erbschloe has worked for over 30 years performing analysis of the economics of information technology, public policy relating to technology, and utilizing technology in reengineering organization processes. He has authored several books on social and management issues of information technology that were published by McGraw Hill and other major publishers. He has also taught at several universities and developed technology-related curriculum. His career has focused on several interrelated areas:

- Technology strategy, analysis, and forecasting
- Teaching and curriculum development
- Writing books and articles
- Publishing and editing
- Public policy analysis and program evaluation

Books by Michael Erbschloe

Threat Level Red: Cybersecurity Research Programs of the
U.S. Government (CRC Press)
Social Media Warfare: Equal Weapons for All (Auerbach Publications)
Walling Out the Insiders: Controlling Access to Improve Organizational
Security (Auerbach Publications)
Physical Security for IT (Elsevier Science)
Trojans, Worms, and Spyware (Butterworth-Heinemann)
Implementing Homeland Security in Enterprise IT (Digital Press)
Guide to Disaster Recovery (Course Technology)
Socially Responsible IT Management (Digital Press)
Information Warfare: How to Survive Cyber Attacks (McGraw Hill)
The Executive's Guide to Privacy Management (McGraw Hill)
Net Privacy: A Guide to Developing & Implementing an e-business
Privacy Plan (McGraw Hill)

Introduction

In 1975, Congress created the Federal Election Commission (FEC) to administer and enforce the Federal Election Campaign Act (FECA) - the statute that governs the financing of federal elections. The duties of the FEC, which is an independent regulatory agency, are to disclose campaign finance information, to enforce the provisions of the law such as the limits and prohibitions on contributions, and to oversee the public funding of Presidential elections.

The Commission is made up of six members, who are appointed by the President and confirmed by the Senate. Each member serves a six-year term, and two seats are subject to appointment every two years. By law, no more than three Commissioners can be members of the same political party, and at least four votes are required for any official Commission action. This structure was created to encourage nonpartisan decisions. The Chairmanship of the Commission rotates among the members each year, with no member serving as Chairman more than once during his or her term.

The FEC and the Federal Campaign Finance Law
Published in February 2004 (updated February 2017)

Note: Portions of this publication may be affected by the Supreme Court's decision in [Citizens United v. FEC](#). Essentially, the Court's ruling permits corporations and labor organizations to use treasury funds to make independent expenditures in connection with federal elections and to fund electioneering communications. The ruling did not affect the ban on corporate or union contributions or the reporting requirements for independent expenditures and electioneering communications. The Commission is studying the Court's opinion and will provide additional guidance as soon as possible.

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Introduction

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.

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

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

This brochure provides general information only. The descriptions of the law and the Commission are not intended to be exhaustive.

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 several statutes between 1907 and 1966 which, taken together, sought to:

- Limit the disproportionate influence of wealthy individuals and special interest groups on the outcome of federal elections;
- Regulate spending in campaigns for federal office; and
- Deter abuses by mandating public disclosure of campaign finances.

In 1971, Congress consolidated its earlier reform efforts in the [Federal Election Campaign Act \(FECA\)](#), instituting more stringent disclosure requirements for federal candidates, political parties and political action committees (PACs). Still, without a central administrative authority, the campaign finance laws were difficult to enforce.

Following reports of serious financial abuses in the 1972 Presidential campaign, Congress amended the FECA 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 next set of major amendments came in the form of the [Bipartisan Campaign Reform Act of 2002 \(BCRA\)](#). Among other things, the BCRA banned national parties from raising or spending nonfederal funds (often called "soft money"), restricted so-called issue ads, increased the contribution limits and indexed certain limits for inflation.

Public funding of federal elections originally proposed by President Roosevelt in 1907 began to take shape in 1971 when Congress set up the income tax checkoff to provide for the financing of Presidential general election campaigns and national party conventions. Amendments to the Internal Revenue Code in 1974 established the matching fund program for Presidential primary campaigns.

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 Federal Election Campaign Act

The basic provisions of the 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 an election cycle. Additionally, they must disclose expenditures exceeding \$200 per election cycle to any individual or vendor.

Contribution Limits

The FECA 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. The chart below shows the specific contribution limits for 2017-2018. The chart is also available as a stand-alone [HTML table](#) or as a [PDF table](#), suitable for printing.

CONTRIBUTION LIMITS FOR 2017-2018 FEDERAL ELECTIONS

DONORS	RECIPIENTS				
	Candidate Committee	PAC¹ (SSF and Nonconnected)	State/District/Local Party Committee	National Party Committee	Additional National Party Committee Accounts²
Individual	\$2,700* per election	\$5,000 per year	\$10,000 per year (combined)	\$33,900* per year	\$101,700* per account, per year
Candidate Committee	\$2,000 per election	\$5,000 per year	Unlimited Transfers	Unlimited Transfers	
PAC - Multicandidate	\$5,000 per election	\$5,000 per year	\$5,000 per year (combined)	\$15,000 per year	\$45,000 per account, per year
PAC - Nonmulticandidate	\$2,700* per election	\$5,000 per year	\$10,000 per year (combined)	\$33,900* per year	\$101,700* per account, per year
State, District & Local Party Committee	\$5,000 per election (combined)	\$5,000 per year (combined)	Unlimited Transfers		
National Party Committee	\$5,000 per election ³	\$5,000 per year			

* Indexed for inflation in odd-numbered years.

1. “PAC” here refers to a committee that makes contributions to other federal political committees. Independent-expenditure-only political committees (sometimes called “super PACs”) may accept unlimited contributions, including from corporations and labor organizations.

2. The limits in this column apply to a national party committee’s accounts for: (i) the

presidential nominating convention; (ii) election recounts and contests and other legal proceedings; and (iii) national party headquarters buildings. A party's national committee, Senate campaign committee and House campaign committee are each considered separate national party committees with separate limits. Only a national party committee, not the parties' national congressional campaign committees, may have an account for the presidential nominating convention.

3. Additionally, a national party committee and its Senatorial campaign committee may contribute up to \$47,400 combined per campaign to each Senate candidate.

Prohibited Contributions and Expenditures

The FECA places prohibitions on contributions and expenditures by certain individuals and organizations. The following are prohibited from making contributions or expenditures to influence federal elections:

- Corporations;
- Labor organizations;
- Federal government contractors; and
- [Foreign nationals](#).

Furthermore, with respect to federal elections:

- No one may make a contribution in another person's 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 FECA 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 (such as a PAC) 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 candidate's campaign. To be considered independent, the communication may not be made with the cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his/her authorized committees or a political party, or any of their agents. 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 PACs. Corporate and labor PACs raise voluntary contributions from a restricted class of individuals and use those funds to support federal candidates and political committees. [Click here to download the Campaign Guide for Corporations and Labor Organizations](#) [PDF].

Apart from supporting PACs, corporations and labor organizations may conduct other activities related to federal elections, within certain guidelines. For more information, call the FEC or consult [11 CFR Part 114](#).

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 contribution limits. National and state party committees may make additional "coordinated expenditures," subject to limits, to help their nominees in general elections. Party committees may also make unlimited "independent expenditures" to support or oppose federal candidates, as described in the section above. National party committees, however, may not solicit, receive, direct, transfer, or spend nonfederal funds. Finally, while 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), they must use only federal funds or "Levin funds" when they finance certain "Federal election activity."

Party committees must register and file disclosure reports with the FEC once their federal

election activities exceed certain dollar thresholds specified in the law.

The Presidential Election Campaign Fund Act

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 three (or six) dollars 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

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 \$2,700 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. Beginning with a \$10 million base figure, the overall primary spending limit is adjusted each Presidential election year to reflect inflation. In 2012, the limit was \$45.6 million.

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 2012, the grant was \$91.2 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.

A third party Presidential candidate may qualify for some public funds after the general election if he or she receives at least five percent of the popular vote.

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 2012, the major parties each received \$18.25 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.

The FEC's Role

Administering the Public Funding Program

The FEC administers the [public funding program](#) by determining which candidates are eligible to receive the funds. The Secretary of the Treasury makes the payments.

Committees receiving public funds must keep detailed records of their financial activities. After the elections, the FEC audits each publicly funded committee. If an audit reveals that a committee has exceeded the spending limits or used public funds for impermissible purposes, the committee must pay back an appropriate amount to the U.S. Treasury.

Facilitating Disclosure

[Public Records Office](#)

1. Campaign Finance Materials

[Reports filed by registered political committees](#) (such as candidates' campaigns, party committees and PACs) 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, PAC contributions, etc.). The agency's database is also accessible from the Secretary of State's office in many state

capitals.

2. 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.

3. How to Get Copies of Documents

The Public Records Office is open from 9 to 5 on weekdays (with extended hours during filing periods). The Office operates as a library facility, and staff members are on hand to assist visitors in locating documents and using the computer. Most document requests may also be made by telephone or mail or e-mail (pubrec@fec.gov). For the address and phone numbers [click here](#). Some documents are also available by fax via the FEC's automated [Faxline](#) system. To access the system, phone 202/501-3413.

Press Assistance

The FEC's Press Office also promotes disclosure by issuing [press releases](#) covering statistical information and the agency's activities.

Reporters inquiring about disclosure, enforcement actions and other aspects of the law should ask for the Press Office when calling or visiting the agency.

Clarifying the Law

Outreach

The FEC places a high priority on helping candidates and committees understand and voluntarily comply with the law. To achieve this goal, the Commission produces videotapes and free publications, and hosts [conferences](#) in major cities to educate campaign workers, PACs and party committees about the law. In addition, anyone may obtain personal assistance by calling the FEC's toll free number (800/424-9530), sending an e-mail to info@fec.gov or by visiting the agency's Information Division.

Regulations

The Commission clarifies the FECA and the public funding statutes through regulations, codified in [Title 11 of the Code of Federal Regulations](#). Copies of Title 11 are available from the Commission free of charge.

Advisory Opinions

The Commission issues written [advisory opinions](#) (AOs) to persons seeking guidance on the application of the campaign finance law to their own specific activities.

Individuals and organizations involved in an activity approved in an AO may rely on the AO without risk of enforcement action by the FEC, provided that they act in accordance with the AO's provisions.

Click here to [search and view AOs](#).

Enforcing the Law

Review of Reports

FEC staff review each report filed by federal candidates and committees to ensure that they have complied with the disclosure requirements and the limits and prohibitions on contributions.

In some cases, FEC staff refer apparent violations or deficiencies in reporting to the Commission for enforcement action (see below), but reporting problems are often resolved by asking filers to voluntarily correct or clarify something in their reports. These communications are always [on file in the FEC's Public Records Office](#).

Enforcement Actions

The Commission has exclusive jurisdiction over the civil enforcement of the federal campaign finance law.

FEC staff may generate enforcement actions (called [Matters Under Review](#), or MURs) in the course of reviewing the reports filed by committees. In addition, individuals and groups outside the agency may initiate MURs by filing complaints (see below). Other government agencies may also refer enforcement matters to the FEC.

If four of the six Commissioners vote to find reason to believe that a violation of the law has occurred, the Commission may investigate the matter. If the Commission decides that the investigation by the FEC's Office of General Counsel confirms that the law has been violated, the Commission tries to resolve the matter by reaching a conciliation agreement with the respondents. The agreement may require them to pay a civil penalty and take other remedial steps. If an agreement cannot be reached, however, the Commission may file suit against the appropriate persons in a U.S. District Court.

As required by law, the Commission keeps enforcement matters strictly confidential until they are concluded. Once the Commission has closed a MUR, the [pertinent documents are placed on the public record](#).

Filing a Complaint

Anyone who believes that a violation of the law has occurred may file a complaint with the FEC. The complaint should contain a statement of facts related to the alleged violation and any supporting evidence available.

The complaint must be signed and contain the complainant's name and address. It must also be sworn to and notarized. A step-by-step description of the enforcement process is available in the brochure [Filing a Complaint](#).

Administrative Fine Program

The [Administrative Fine Program](#) streamlines the enforcement process for violations involving the failure to file disclosure reports on time or at all. Under the program, civil money penalties are assessed based on published schedules of penalties that take into account the number of days a report is late, the election sensitivity of the report, the amount of activity disclosed on the report and the number of past violations (if any) by the filer.

Alternative Dispute Resolution

The FEC's Alternative Dispute Resolution (ADR) Office promotes compliance with the federal election law by encouraging settlements outside the traditional enforcement or litigation processes. Additional information about this program is available in the brochure [Alternative Dispute Resolution Program](#).

How to Get More Information

Free Publications

- The FEC [Record](#) (monthly newsletter - automatic subscription for registered committees)
- [Federal Election Campaign Laws](#) [PDF]
- [FEC Regulations \(11 CFR\)](#)
- *Campaign Guide* series (click to download: *Congressional Candidates* [PDF]; *Political Party Committees* [PDF]; *Corporations and Labor Organizations* [PDF]; *Nonconnected Committees* [PDF])

Click here to access [electronic versions of these and other FEC publications](#).

Election Administration

The FEC's Office of Election Administration (OEA) serves as a central exchange for information and research on issues related to the administration of federal elections on the state and local level.

The Help America Vote Act of 2002 created the [Election Assistance Commission \(EAC\)](#) and required the transfer of the OEA and all of its assets to the new EAC.

Election Law Library

The FEC's depository library, administered by the Office of the General Counsel, is open to the public. The collection includes basic legal research sources and materials emphasizing campaign finance law.

Help from Other Agencies

Many election-related topics are not under the jurisdiction of the FEC. Some of these topics are listed below, for your convenience, along with the appropriate agency or officer to contact for more information. (Consult the FEC's [Combined Federal/State Disclosure Directory](#) for a more exhaustive list of topics and agencies.)

Ballot Access

Contact the Secretary of State in your state capital for information on how to get your name or party listed on the ballot.

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