

*GUIDEBOOK FOR  
CANDIDATE COMMITTEES*

*2010 Elections*



*State of Hawaii  
Campaign Spending Commission*

*August, 2009*

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*This guidebook is provided as a reference and informational source. It should not be construed to constitute legal advice or authority. Readers should consult the Hawaii Revised Statutes and other sources for a complete and legal basis of the law or seek assistance from the Commission or a Hawaii licensed attorney.*

# THE CANDIDATE COMMITTEE

## Introduction

The Hawaii Campaign Spending Commission (“Commission”) has prepared this guidebook to assist candidates in complying with the requirements of the campaign spending laws.<sup>1</sup> Also available is the “Treasurer’s Manual” to assist campaign treasurers with developing and maintaining an organized recordkeeping system for contributions and expenditures. This Guidebook, the Manual, and other publications are intended to provide general guidance only; all candidates and persons assisting the candidates should review the campaign finance laws and rules.<sup>2</sup>

## Getting Help

### Oahu Candidates:

The office of the Commission is open from 7:45 a.m. to 4:30 p.m., from Monday through Friday (subject to the furlough program for State employees). The office is closed on regular state holidays. If there are “furlough” days in which the office is closed, a link to a calendar will be posted on our website homepage.

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

Website: [www.hawaii.gov/campaign](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

### Neighbor Island Candidates:

Call the applicable toll-free number below and enter extension **60285**:

Kauai	274-3141
Maui	984-2400
Hawaii	974-4000
Molokai	1-800-GOV-INHI (486-4644)
Lanai	1-800-GOV-INHI

## **Comprehensive Public Funding for Elections to the Hawaii County Council**

(Voluntary pilot project for three election cycles beginning with the 2010 election)

Candidates for the Hawaii County Council should refer to the “Guidebook for Hawaii County Council Comprehensive Public Funding Project” for information regarding this program.

## **Public Inspection and Copies of Reports**

All reports filed with the Commission are available for public inspection on the Candidate Filing System website at <http://nc.csc.hawaii.gov/CFSpublic> or the Commission’s website at [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign), under “View Reports,” click on “Candidate Committees,” then click “Candidate Contribution and Expenditure Reports,” and

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<sup>1</sup> The Commission (five volunteer citizens appointed by the Governor) and its five staff members administer the law.

<sup>2</sup> The laws and rules take precedence over any provisions in this guidebook. Moreover, each campaign is different; a candidate and the candidate committee may be faced with issues and factual circumstances that differ from or are not addressed in this guidebook.

click "Standard Report." These reports will be available on-line for ten years. Copies of reports may be downloaded from the Candidate Filing System at no charge. Alternatively, copies may be purchased for five cents per page by visiting the Commission's office or making a request via telephone, fax, or mail. Call the Commission at (808) 586-0285 for inquiries regarding reports filed prior to 2006.

## **Restrictions**

The law prohibits anyone from selling or using information in reports for the purpose of soliciting contributions or for any commercial purpose.

# **I. REGISTRATION**

## **Individual qualifies as a candidate**

An individual qualifies as a candidate when the individual does any of the following:

- Files nomination papers for an office with the county clerk's office or with the office of elections, whichever is applicable;
- Receives contributions in an aggregate amount of more than \$100 or makes or incurs any expenditures of more than \$100 to bring about the individual's nomination for election, or to bring about the individual's election to office;
- Gives consent for any other person to receive contributions or make expenditures to aid the individual's nomination for election, or the individual's election to office; or
- Is certified to be a candidate by the chief election officer or county clerk.

A candidate must file an Organizational Report and periodic disclosure reports of campaign contributions and expenditures on the web-based Candidate Filing System.

## **Candidate committee registration**

The registration process begins by completing the "Application for Electronic Filing Password-Candidate Committee" form and mailing or delivering the form to the Commission's office at 235 South Beretania Street, Room 300, Honolulu, Hawaii 96813. The form is available on the Commission's website at [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign), under "File Reports," by clicking on "Candidate Committees" and printing the form. The Candidate, Chairperson, and Treasurer must sign the form. The Commission will e-mail the username and password to the e-mail address provided on the form.

Register the committee by clicking on "Candidate Committees" under "File Reports" and clicking on "Candidate Filing System ("CFS") Login." Register the committee by entering the Administrator username and password and completing and electronically filing the Organizational report on the Candidate Filing System within ten days of qualifying as a candidate.

An elected official who is a candidate for re-election to the same office in successive elections is not required to re-file the committee's organizational report if the official has not sought election to any other office during the period between elections unless there is a change in information required to be reported.

## **Limit of One Candidate Committee**

A candidate shall have only one candidate committee.

## **Organizational Report**

The Organizational Report requires the following information:

➤ Name and Mailing Address of the Candidate and Candidate Committee

The candidate name, committee name, mailing address and phone numbers are required on the Organizational Report. The mailing address is the address that the Commission will use to mail correspondence and notices to the candidate. The candidate must also provide: a webpage address, if the candidate has one; the office sought; district; county; and party affiliation.

➤ Chairperson and Deputy Chairperson

The candidate must appoint at least one chairperson. The chairperson's name and mailing address must be provided. Also provide the business and residence phone numbers. The chairperson must sign the "Application for Electronic Filing Password-Candidate Committee" form to certify acceptance of the appointment.

A deputy chairperson may be appointed but is not required. If a deputy chairperson is appointed, the candidate must provide the name and mailing address of the deputy chairperson. Also provide the business and residence phone numbers.

➤ Campaign Treasurer and Deputy Campaign Treasurer

The candidate must appoint at least one campaign treasurer. **The candidate may appoint himself/herself as treasurer, however, it is strongly recommended that the treasurer be someone other than the candidate.** The treasurer's name and mailing address must be provided. Also provide the business and residence phone numbers. The treasurer must also sign the "Application for Electronic Filing Password-Candidate Committee" form to certify acceptance of the appointment.

A deputy campaign treasurer may be appointed but is not required. Up to five deputy treasurers may be appointed. If a deputy treasurer is appointed, the candidate must provide the name and mailing of the deputy treasurer. Also provide the business and residence phone numbers.

Only an appointed campaign treasurer and deputy campaign treasurer are authorized to receive contributions and make expenditures on behalf of the candidate. In case of death, resignation, or removal of the treasurer, the candidate committee shall promptly appoint a successor. During the period the office of treasurer is vacant, the candidate, chairperson or deputy treasurer shall serve as treasurer. Once a successor is appointed, an amended Organizational Report must be electronically filed with the Commission within ten days of the appointment to disclose the name of the successor.

➤ Committee Depository (Bank)

The candidate must open a depository (e.g. a bank account) to deposit contributions and to make expenditures. The committee depository must be at a financial institution duly authorized to do business in the state, such as a bank, savings bank, savings and loan association, depository financial services loan company, credit union, intra-Pacific bank, or similar financial institution, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, or the national credit union administration. The depository's name, address and account number must be provided.

**Commingling:** Campaign funds must **not** be commingled with a candidate's personal or any other funds.

➤ Amended Organizational Report

Amended Organizational reports must be filed no later than 11:59 p.m. Hawaii Standard Time on the tenth calendar day after the change is brought to the attention of the candidate or campaign treasurer.

## **Terminating Registration with the Commission**

The termination process begins by manually filing a "Request for Registration Termination" form. The form is available at [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign), under "Forms," click on "Candidate Committee." The termination form may be manually filed at any time if:

- The candidate will no longer be receiving any contributions or making any expenditures reportable to the Commission;
- The balance of the candidate's campaign fund is zero (no surplus);
- There are no unpaid expenditures to be paid (no deficit); and
- There are no outstanding loans to be paid (no deficit).

Also, a closing bank statement for each account must be mailed or delivered to the Commission to verify that all relevant bank accounts have been closed. If there are durable assets, the candidate must sell or otherwise dispose of the assets as permitted by law and report that in "Schedule F-Durable Assets" on the CANDIDATE FILING SYSTEM. The filing of the termination form is only a request to terminate registration with the Commission. Termination of the committee occurs only upon approval by the Commission and after all fines and penalties, if any, are paid.

#### Handling a Surplus

Candidate committees must continue filing reports with the Commission until all surplus funds have been lawfully disbursed.

#### Handling Deficits

##### Outstanding Loans

A candidate may reclassify the candidate's personal loan to the candidate's committee as an "other receipt" as there is no limit on the funds a candidate may provide to his or her committee. Loans from "immediate family members", with their permission, may be reclassified as a contribution subject to the candidate's contribution limits for immediate family members.

Loans from other sources must be repaid in full within one year of the date that the loan was made. If not repaid within one year, all subsequent contributions received and any surplus retained shall only be used to repay the outstanding loan in full. Loans from other sources can be reclassified as contributions subject to the permission of the person providing the loan and the candidate's contribution limits.

##### Unpaid Expenditures

Unpaid expenditures must be reported until payment is made in full or the debt is forgiven. Forgiven debts are considered non-monetary contributions subject to the candidate's contribution limit.

## **II. KEEPING RECORDS**

Complete records of contributions and expenditures must be maintained for at least five years and the "[r]ecords shall include vouchers, worksheets, and receipts which shall provide in sufficient detail the necessary information and data, from which the reports and statements may be verified, explained, or clarified, and checked for accuracy and completeness." A candidate and campaign treasurer should refer to the "Campaign Treasurer's Manual" for assistance with developing and maintaining an organized recordkeeping system for contributions and expenditures.

#### **Recording Contributions (Monetary and Non-monetary)**

A candidate must establish and maintain an itemized record showing the amount of each monetary contribution and the description and fair market value of each non-monetary contribution of more than \$25. The Commission recommends the establishment and maintenance of itemized records of all contributions including those that are \$25 or less, to assure compliance with the requirement that a candidate report all contributions aggregating more than \$100 during the election period.

The law requires that records be kept as follows:

- For contributions that are more than \$25 to \$100 – date of receipt and deposit, contributor's full name and address, and the amount.

- For contributions of more than \$100 -
  - Date of receipt and deposit;
  - Contributor's full name and address;
  - Contribution amount; and
  - Contributor's employer and occupation (if contribution aggregates \$1,000 or more during the election period)(**If all the information required above is not on file for contributions \$1,000 or more, the contribution shall be returned to the contributor within thirty days of deposit.**)
- .In the case of amounts aggregating less than \$500 obtained through multiple contributions made by ten or more persons at the same political function (e.g., calabash bowls), keep records describing the means, method and place for each contribution collected.

The amount of a non-monetary contribution is the fair market value at the time of the non-monetary contribution.

### **Recording Expenditures**

Records of each expenditure must be kept as follows:

- Date of the expenditure;
- Payee's full name and address;
- Purpose of the expenditure (a brief description of why the expenditure was made); and
- Amount of the expenditure.

### Detailed Reporting of Expenditures

Candidates must itemize all expenditures on consultants, advertising agencies and similar firms, credit card payments, salaries, and candidate reimbursements to permit a reasonable person to determine the ultimate intended recipient of the expenditures and their purpose.

Expenditures reported under vague purposes or consolidated into categories such as petty cash, Visa, Master Card, reimbursement to employee, or ad agency, will not meet the requirements of the campaign spending law. All expenditures made, incurred, or authorized by or for a candidate must be reported, including the name and address of each payee and the amount, date, and purpose of each expenditure. Expenditures are reported based on the date that the goods are delivered or the service is provided to the candidate committee. Financial institutions, individuals reimbursed for expenses, lump sum cash payments, and ad or employment agencies are viewed as intermediaries of expenditures. Any use of intermediaries that would have the result of concealing the true and complete nature of the expenditure will not meet the requirements of the campaign spending law.

Reports that describe the purpose in vague terms or fail to include the ultimate payee of the expenditure are defective.

## **III. REPORTING**

All Candidate Disclosure Reports shall be filed electronically on the web-based Candidate Filing System. There are no exceptions or waivers.

Disclosure Reports must be certified as true and correct. This certification requirement for electronically filed reports is met when the "Application For Electronic Filing Password - Candidate Committee" form with the original signatures of the Candidate, Chairperson, and Treasurer is mailed or delivered to the Commission. Whenever a report is required to be "filed", this means the report shall be filed on the Candidate Filing System by the date and time specified for the filing of the report. When any reporting day falls on a holiday or weekend, the deadline shall be the first working weekday after the date the report is due. Failure to file the required report by the applicable deadline will result in large monetary fines.

## Disclosure Report

The Disclosure Report is a summary of contributions, expenditures, and loans for the applicable reporting periods that are reported on the Schedules listed below.

All applicable Schedules listed below must be filled out and will provide the summary data for the Disclosure Report:

- Schedule A Contributions Received;
- Schedule B Expenditures Made;
- Schedule C Other Receipts;
- Schedule D Loans;
- Schedule E Unpaid Expenditures; and
- Schedule F Durable Assets

For detailed instructions on completing the Disclosure Report and Schedules visit [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign). Under "File Reports," click on "Candidate Committees." Under "CFS Guidebooks," click on "Administrator-User Guide" for directions on filing candidate committee disclosure reports on the web-based Candidate Filing System.

## Short Form Report

The Disclosure Report also serves as the Short Form Report for candidates with aggregate contributions and aggregate expenditures of \$2,000 or less each, in a reporting period. After entering contributions, expenditures, and if applicable, other receipts and loans, into the Candidate Filing System schedules, the Candidate Filing System will create the Disclosure Report Short Form when you click on "Preview/Print Report". Click on "File Report" to file the report.

## Reporting for Candidates with Aggregate Contributions and Expenditures of \$1,000 or Less

Candidates are required to notify the Commission, by checking the appropriate box when completing the "Application For Electronic Filing Password - Candidate Committee" form, if they do not plan to receive contributions and make expenditures of more than \$1,000 for the election period. A candidate whose aggregate contributions and expenditures for the election period total \$1,000 or less need not file the preliminary primary, final primary, preliminary general, or special election reports, but shall electronically file a Final Election Period Report, due thirty days after a general election.

Failure to notify the Commission will require the filing of all the required campaign spending reports.

If a candidate exceeds the \$1,000 threshold at any time during the election period, the candidate must file the next required report (i.e., preliminary, final or special election report) and disclose all activity from the beginning of the candidate's campaign through the reporting period in which the threshold was exceeded. All subsequent reports must be filed thereafter until the candidate terminates registration with the Commission.

## First Supplemental Report

The Commission places emphasis on this Supplemental Report as it is the first report for the new "election period" for candidates that previously ran in an election and who are required to continue reporting due to a surplus or deficit. (For a list of reports due after the First Supplemental Report, see the applicable "Schedule of Reporting Dates" at the front of this guidebook.)

The first Supplemental Report is "zero based"; i.e., aggregate contributions and expenditures for the new election period begin at zero.

The first Supplemental report contains the following information:

- Carryover cash on hand;
- Carryover of any liabilities (loans and unpaid expenditures); and
- Any contributions, expenditures and other campaign financial activity occurring from the day after the general election through the last day of the election year.

## **Reporting Cash on Hand**

### Election Period

The Candidate Filing System will show the cash on hand at the beginning of the applicable election period.

### Reporting Period

The Candidate Filing System will also show the cash on hand at the beginning of the applicable reporting period. The closing cash on hand for the current reporting period will “carry over” as the beginning cash on hand for the next reporting period. Ascertain that your closing cash matches your beginning cash for the next reporting period.

## **When to Itemize Contributions**

Monetary and non-monetary contributions of \$100 or less are not required to be itemized on Schedule A. Only an aggregate total for the reporting period is reported on the Disclosure Report. However, once a contributor contributes an aggregate of more than \$100 for the election period, the noncandidate committee must itemize that contribution on Schedule A.

For example, a contributor makes two contributions to a noncandidate committee during the same election period. The contributor contributes \$50 during the first month of the election period. Because the contribution does not exceed \$100, the contribution is not required to be itemized. Instead, the \$50 is reported in the aggregate total of contributions of \$100 or less. Subsequently, the same contributor makes an additional contribution of \$100 during the same election period. This contribution must be itemized, since the aggregate total of \$150 for the election period now exceeds the \$100 threshold.

Therefore, we strongly recommend that all contributions be entered on Schedule A, regardless of whether amounts are \$100 or less, because the Noncandidate Committee Filing System will aggregate all contributions for you. Additionally, even though you enter all contributions into Schedule A, only those contributors of more than \$100 will show on the public site.

## **Reporting Contributions - Schedule A**

### Monetary Contributions

A candidate uses Schedule A for reporting contributions of more than \$100. For each contribution, the candidate must report the following:

- Date of the deposit;
- Contributor's full name and address;
- Contributor's employer and occupation (if contribution aggregates \$1,000 or more during the election period);
- Contribution amount for the reporting period; and
- Aggregate contribution amount for the election period.

### Non-monetary Contributions

All non-monetary contributions valued at more than \$100 shall be reported in the same manner as monetary contributions on Schedule A. In addition, a non-monetary contribution must be entered into the Candidate Filing System as an (off-setting) expenditure (Schedule B) to avoid inflating the amount of the cash on hand.

## **Reporting Expenditures - Schedule B**

Schedule B contains the following information:

- Date of the expenditure;
- Vendor's full name and address;
- Purpose of the expenditure (a brief description of why the expenditure was made); and
- Amount of the expenditure.

An expenditure is made or incurred when the services are rendered or the product is delivered. (accrual basis).

Expenditures are reported on Schedule B regardless of the amount.

The expenditure of funds for durable assets must be reported on both Schedule B and "Schedule F-Durable Assets". The sale or disposition of durable assets is also reported on Schedule F. If funds were obtained from the sale of a durable asset, the funds must be reported on Schedule C.

## **Reporting Other Receipts - Schedules C**

Candidates must report all "Other Receipts" that were received during the applicable reporting period on Schedule C. "Other Receipts" includes interest, returns, refunds, rebates, candidate's funds, and public funds.

Schedule C contains the following information:

- Date of the deposit;
- Source's full name and address;
- Description of the other receipt; and
- Amount of the "other receipt."

Other Receipts are reported on Schedule C regardless of the amount.

## **Reporting Loans - Schedule D**

Schedule D contains the following information:

- Source of the loan (Candidate, Immediate Family, Financial Institution, Other);
- Date of the loan;
- Lender's full name, address, employer and occupation;
- Amount of the Loan

## **Reporting Unpaid Expenditures - Schedule E**

Expenditures are made or incurred when services are rendered or the product is delivered. Expenditures, which are made or incurred, but not paid, are considered unpaid expenditures.

Schedule E contains the following information:

- Date of the unpaid expenditure;
- Vendor's full name and address;
- Purpose of the expenditure;
- Amount of the unpaid expenditure.

Unpaid expenditures are reported on Schedule E regardless of the amount. When the unpaid expenditure is paid, it is noted on Schedule E by checking the box "Expenditure pay off?" Unpaid expenditures, and later paid unpaid expenditures are not reported on Schedule B.

## **Reporting Durable Assets – Schedule F**

Schedule F is used to report and track durable assets. Schedule F contains the following information:

- Date durable asset was acquired;
- Source's full name and address;
- Description of the durable asset; and
- Acquisition amount of the durable asset.

Durable assets are automatically reported after the initial filing until the assets are sold or donated. Donations are subject to limits. The sale or donation is reported as follows:

- Date the durable asset was disposed;
- Name of the person receiving the durable asset; and
- Disposition amount.

The proceeds from the sale of durable assets must also be reported on Schedule C (Other Receipts).

### **Late Contributions Report**

The Late Contributions Report must be filed by candidates that receive contributions aggregating more than \$500 from any person within the period of fourteen calendar days through four calendar days prior to a primary, special primary, general, or special general election. The report is required to be electronically filed no later than three calendar days prior to the applicable election.

The report requires the following information:

- Date of the contribution;
- Name and address of the contributor;
- Employer and occupation of the contributor;
- Contribution amount; and
- Aggregate contribution amount for the election period.

Late contributions will also be reported on the applicable disclosure reports.

The Late Contributions Report is not required if late contributions are not received.

### **Nonelection Year Reporting**

Nonelection years are odd-numbered years in which there are no regularly scheduled state and local elections. Two Supplemental Reports must be filed in nonelection years.

- The first Supplemental Report, covering campaign financial activity through June 30<sup>th</sup> of a non-election year, must be filed no later than 11:59 p.m. Hawaii Standard Time on July 31<sup>st</sup>.
- The second Supplemental Report, covering campaign financial activity through December 31<sup>st</sup> of a non-election year, must be filed no later than 11:59 p.m. Hawaii Standard Time on January 31<sup>st</sup>.

Supplemental Reports must be filed until a candidate files nomination papers to be on the election ballot or terminates registration with the Commission.

### **Filing Amendments**

The candidate must electronically file an amended report if the candidate:

- Discovers that an earlier report contained erroneous information; or
- Is ordered to amend the report by the Commission.

Click on "Amend Mode" in the Candidate Filing System and then select the relevant Schedules to make the applicable changes, validate the report, and then file the report. Each report previously filed for a reporting period occurring after the reporting period for a report that is amended will also need to be amended following the process described above.

## **Year End Bank Statement**

The end of the year Supplemental Report must be accompanied by a bank statement for each account to confirm the status of all account balances through the end of the year. The reported cash on hand balance must match with your reconciled bank statement.

## **Refunds and Returned Contribution Checks**

### Contribution Refunds

When a candidate refunds a contribution, the candidate must report the refund on Schedule B as an expenditure.

### Contribution Check with Insufficient Funds

If a candidate receives a contribution check and the check cannot be cashed due to insufficient funds, the contributor's check should be returned with a letter.

If the contribution has not yet been reported, the Disclosure Reports do not have to be amended.

If the contribution has been reported, the candidate must amend the appropriate Disclosure Reports.

- If the contribution amount was \$100 or less and was previously reported, the candidate should file an amended Disclosure Report for the period that the contribution was originally reported in and subtract the amount of the contribution from the line for contributions of \$100 or less; or
- If the contribution amount was more than \$100 and was previously reported, the candidate must file an amended Disclosure Report for the period that the contribution was originally reported and delete the contribution from Schedule A. The Candidate Filing System will subtract the amount of the check from the line for contributions of more than \$100.

Each report previously filed for a reporting period occurring after the reporting period for which a report is amended will also need to be amended following the process described above.

## **Filing Confirmation**

When a Disclosure Report is filed on the Candidate Filing System, a "Filing Confirmation" page will appear on your screen. You may print this page as a receipt. This page confirms that the Commission has received the report. We advise you to double-check that your report is properly filed by clicking on "Candidate Committees" under "View Report" at [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign), then clicking "Candidate Contribution and Expenditure Reports," click "Standard Report" then type in the candidate's name to ascertain the report is there. Neither the acknowledgment nor the receipt of the report constitutes expressed or implied approval, or in any manner indicates that the contents of the report fulfill the requirements of the campaign spending laws and rules.

## **IV. CONTRIBUTIONS, OTHER RECEIPTS and LOANS**

### **Contribution Defined**

A contribution is anything of value given to influence the nomination for election, or election, of any candidate to office and includes the following:

- A gift;
- Subscription;
- Deposit of money or anything of value including personal services;
- Cancellation of a debt or legal obligation; and
- Purchase of tickets to fundraisers.

## **Types of Contributions**

### Monetary Contributions

A monetary contribution may be made by check, debit card, credit card or cash. Cash contributions of more than \$100 shall not be accepted by the candidate without issuing a receipt to the contributor.

### Non-monetary Contributions

Non-monetary contributions include, but are not limited to the following:

- The donation of goods offered without charge or at an unreasonably low charge;
- The payment, by any person other than a candidate of compensation for the services of another person which are rendered to the candidate without charge or at an unreasonably low charge;
- An expenditure made in cooperation, consultation, or concert with, or at the request or suggestion of a candidate; and
- The financing by any person or political party of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's committee or agents.

### Fair Market Value of non-monetary contributions

- Goods (such as facilities, equipment, supplies and consumable items) are valued at the price the goods would cost if purchased or rented at the time the non-monetary contribution is made. For example, if someone donates the use of a facility, the non-monetary contribution is the usual and normal charge to rent the facility at the time of the non-monetary contribution.
- Services (such as consultant services) are valued at the prevailing commercial rate at the time the services are rendered.

The fair market value of a non-monetary contribution is included in a person's aggregate contributions.

### Volunteers

When services are volunteered, i.e., the volunteer is not paid for by any person, this is not a non-monetary contribution.

However, if a person other than the candidate, pays volunteers for their services, the activity is no longer considered voluntary and the payments are non-monetary contributions to the candidate.

### Fundraiser Tickets

The entire amount paid to attend a political fundraiser or to purchase a fundraiser ticket is a contribution. For example, if a contributor pays \$100 to buy a fundraiser ticket to a candidate's golf tournament, the contributor has made a \$100 contribution to the candidate, even though the golf fees may have cost the candidate \$35.

### Earmarked Contributions

An earmarked contribution is a contribution received by a committee or party on the condition that the funds be contributed or expended on certain candidates. When a party collects and transmits earmarked contributions to a candidate, the amount of the earmarked contribution is counted toward the contribution limit of the party and the person contributing such funds.

### Loans

A loan is an advance of money, goods, or services with a promise to repay in full or in part within a specified period of time. Any loan to a candidate in excess of \$100 shall be documented and disclosed by reporting the lender, including the lender's name, address, employer, and occupation and purpose of the loan. The document shall contain the terms of the loan, including the interest and repayment schedule. A copy of the executed loan document shall be manually submitted at the same time the report in which the loan was received is electronically filed. Failure to document the loan or disclose the loan to the Commission shall cause the loan to be treated as a contribution.

A loan must be reported until fully repaid. If a lender cancels the debt (forgives the loan) in whole or in part, the amount of the cancelled debt (loan) shall be treated as a contribution and will be applied to the contribution limit for that person.

A "loan" does not include expenditures made on behalf of a committee by a candidate, volunteer, or employee if: (1) a candidate, volunteer, or employee's aggregate expenditures do not exceed \$1,500 within a thirty day period; (2) a dated receipt and a written description of the name and address of each payee and the amount, date, and purpose of each expenditure is provided to the committee before the committee reimburses the candidate, volunteer, or employee; and (3) the committee reimburses the candidate, volunteer, or employee within forty-five days of the expenditure being made.

## **Contribution Limits**

### Contribution Limits

- The contribution limits vary according to the office that a candidate is seeking. The contribution limits that apply to the three types of offices are as follows:
- A candidate seeking nomination or election to a two-year office - Aggregate contributions not to exceed \$2,000 during an election period;
- A candidate seeking nomination or election to a four-year nonstatewide office - Aggregate contributions not to exceed \$4,000 during an election period;
- A candidate seeking nomination or election to a four-year statewide office - Aggregate contributions not to exceed \$6,000 during an election period.

No person or any other entity shall make contributions in excess of these limits.

The following is a list of offices and their respective contribution limits:

Two-Year (\$2,000)	State House of Representative County Council (Hawaii, Maui, Kauai)
Four-Year Nonstatewide (\$4,000)	State Senate Mayor Prosecuting Attorney City Council (Honolulu) Board of Education
Four-Year Statewide (\$6,000)	Governor Lt. Governor Office of Hawaiian Affairs

### Election Period

"Election period" means the two-year period between general election days if a candidate is seeking nomination or election to a two-year office and the four-year time period between general election days if a candidate is seeking nomination or election to a four-year office. The current election periods are as follows:

- Two-year office (2010 Election Period) - November 4, 2008, through the day of the next general election which is November 2, 2010;
- Four-year office (2010 Election Period) - November 8, 2006, through the day of the next general election which is November 2, 2010.

### Limits for the Candidate's Immediate Family

Contributions from a candidate's immediate family are exempt from the above limitations but are limited in the aggregate to \$50,000 in any election period. The \$50,000 aggregate limit includes any loans made for campaign purposes from the candidate's immediate family to the candidate. A candidate's immediate family is defined as a candidate's spouse or reciprocal beneficiary, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses or reciprocal beneficiaries of such persons.

### Limits on Candidate's Personal Funds

Loans and the provision of personal funds by candidates to their own candidate committee are exempt from any limits.

When a candidate uses personal funds for campaign purposes, the candidate reports the personal funds as an "other receipt" or a loan to the candidate's committee. If a candidate reports the personal funds as an "other receipt", the candidate cannot be reimbursed. However, if the candidate reports the personal funds as a loan, the candidate's committee may reimburse the candidate at a future time.

### **Spouse and Dependent Minor Contributions**

A husband and wife are treated as separate persons for contribution limit purposes. A person may not make a contribution on behalf of a spouse or any other individual. Any contribution by check will be attributed to the spouse that signs the check.

A contribution by a dependent minor must be reported in the name of the minor but is counted against the contribution limit of the minor's parent or guardian. Therefore, you must obtain the parent's name and enter it into the Candidate Filing System.

### **Loans**

A candidate may receive and accept loans in an aggregate amount not to exceed \$10,000 during an election period. If the \$10,000 limit is reached, the candidate is prohibited from receiving or accepting any other loans until the \$10,000 is repaid in full. If the loan is not repaid within one year of the date that the loan is made, all subsequent contributions received and any surplus retained shall be used to repay the outstanding loan in full.

Certain loans are exempt from the \$10,000 loan limit and the requirement that the loan be repaid within one year: (1) loans by a financial institution regulated by the state or a federally chartered depository institution and made in accordance with the applicable laws in the ordinary course of business; (2) a loan by a candidate of the candidate's own funds; or (3) a loan from immediate family members of a candidate.

### **Contributions to be Promptly Deposited; Acknowledgment.**

The date a contribution is deposited into a financial institution is the date used for reporting that contribution. A contribution must be deposited no later than seven days after a candidate or any individual authorized to receive contributions on behalf of the candidate has received the contribution.

Failure to timely deposit a contribution shall not obviate the requirement to disclose and report the contribution. The Commission recommends that the candidate devise a workable method to ensure that contributions are deposited in a timely manner.

A cash contribution exceeding \$100 must be acknowledged immediately with a receipt.

### **Excess Contributions**

An excess contribution is any contribution over the legal limit. If an excess contribution is returned within 7 days of receipt, the excess contribution is not required to be reported. If you miss the 7 day return, any excess contribution must be returned to the original contributor within thirty days of receipt of the excess contribution. Any excess contribution not returned to the original contributor within thirty days shall escheat to the Hawaii Election Campaign Fund. The contributor is still subject to a fine even if the contribution is returned within thirty days.

## **Prohibited Contributions**

### False Name Contributions

A contribution made in the name of another person is prohibited. Contributions to candidates must be from a person's own money and reported in the name of the same person. A contribution by a person that is reimbursed or in any way compensated by another person (e.g. given a bonus) for that contribution is prohibited.

All contributions made in the name of a person other than the owner shall escheat to the Hawaii Election Campaign Fund.

### Anonymous Contributions

No candidate shall knowingly receive, accept, or retain an anonymous contribution of any amount, or enter or cause such contribution to be entered in the candidate's account as an anonymous contribution. If a candidate receives an anonymous contribution and the contributor cannot be identified, the contribution shall escheat to the Hawaii Election Campaign Fund.

Candidates may retain anonymous contributions that aggregate less than \$500 when obtained through multiple contributions made by ten or more persons at the same political function (e.g., calabash bowls). Detailed records must be retained of the political function.

### Foreign National Contributions

No contributions or expenditures shall be made to or on behalf of a candidate by a foreign national or foreign corporation. A domestic subsidiary of a foreign corporation, a domestic corporation that is owned by a foreign national, or a local subsidiary where financial control is retained by the foreign corporation, may not make contributions or expenditures.

An individual is eligible to make a contribution if the individual has a "green card" indicating that he or she has been lawfully admitted for permanent residence and the source of the funds are generated locally.

### Nonresident Contributions

Contributions from any person, except for a member of the candidate's immediate family, who is not a resident of the state at the time the contributions are made, including a noncandidate committee organized under the laws of another state and whose participants are not residents of the state, shall not exceed twenty percent of the total contributions received by a candidate or candidate's committee for each reporting period.

### Contractor Contributions

Contributions from any person with certain contracts with the state, any of its counties, or any department or agency thereof, are prohibited. These are contracts for the rendition of personal services, the buying of property, or furnishing any material, supplies, or equipment to the state, any of its counties, department or agency thereof, or for selling any land or building to the State, any of its counties, or any department or agency thereof, if payment for the performance of the contract or payment for material, supplies, equipment, land, property, or building is to be made in whole or in part from funds appropriated by the legislative body, at any time between the execution of the contract through the completion of the contract.

## **Other Receipts**

This section describes other receipts that must be reported by the candidate.

### Loans (2008 law)

Any loan to a candidate or candidate committee shall be reported as an other receipt. Additionally, for loans in excess of \$100, the candidate shall provide the following documentation:

- Lender's name;
- Address;
- Employer and occupation;

- Purpose of loan;
- Amount; and
- Executed loan document with the terms of the loan, including the interest and repayment schedule.

A "loan" does not include expenditures made on behalf of a committee by a candidate, volunteer, or employee if: (1) a candidate, volunteer, or employee's aggregate expenditures do not exceed \$1,500 within a thirty day period; (2) a dated receipt and a written description of the name and address of each payee and the amount, date, and purpose of each expenditure is provided to the committee before the committee reimburses the candidate, volunteer, or employee; and (3) the committee reimburses the candidate, volunteer, or employee within forty-five days of the expenditure being made.

#### Public Funds

Public funds received by a candidate must be reported as an other receipt.

#### Interest

The candidate must report interest earned on the committee depositories as an other receipt.

#### Returns, Refunds and Rebates

The candidate must report returns by vendors of deposits, refunds and rebates as an other receipt. Rebates must be offered in the ordinary course of business and on the same terms and conditions as those offered to nonpolitical entities, otherwise they must be reported as contributions.

## **V. EXPENDITURES**

### **Expenditure Defined**

An expenditure, when made or incurred for the purpose of influencing the nomination for election, or election, of any candidate to office whether or not the candidate has filed nomination papers, includes the following:

- Any purchase or transfer of money or anything of value;
- A promise or agreement to purchase or transfer money or anything of value;
- Payment incurred or made; and
- The use or consumption of a non-monetary contribution.

An expenditure is made or incurred when the services are rendered or the product is delivered. (Accrual basis)

### **Campaign Expenditure Limits**

A candidate can voluntarily agree to limit the candidate's campaign expenditures by filing the "Affidavit to Voluntarily Agree with Campaign Expenditure Limits" form ("Affidavit") (Form CC-2) with the Commission. The candidate must agree to limit expenditures in both the Primary election and the General election. The last day to file the Affidavit is the date the candidate files nomination papers with the chief election officer or county clerk. Once the Affidavit is filed, it cannot be withdrawn.

#### Benefits of Filing the Affidavit

A candidate is entitled to the following benefits when the Affidavit is filed:

- Discounted filing fee;
- Contributors may take a tax deduction; and
- Eligibility for public funds.

#### Candidates Not Filing the Affidavit

If a candidate has not filed an Affidavit, the candidate must inform all contributors in writing immediately upon receipt of the contribution that they are not entitled to a state tax deduction for their contributions to the candidate.

### Expenditure Limit Periods

Expenditure limits are applied on a per election basis:

- Primary Election - January 1, 2010 through September 18, 2010
- General Election - September 19, 2010 through November 2, 2010

### Exceeding the Expenditure Limits

A candidate who files the Affidavit and exceeds the respective expenditure limit for either the primary or general election is required to notify the chief election officer or county clerk, pay the full filing fee, notify all opponents and the Commission by telephone and in writing the day the expenditure limit is exceeded. All contributors shall be informed, within thirty days of exceeding the expenditure limit, that tax deductions for their contributions are no longer available.

### **Expenditure Guidelines**

The following guidelines are provided here for reference purposes only. Candidates should consult with the Commission for any expenditure that may be of a questionable nature. There are further limitations on the types of expenditures permitted from public funds by a candidate who has voluntarily agreed to expenditure limits and qualified for public funds.

### Authorized Campaign Expenditures

These are expenses that are predominantly and directly related to a candidate's campaign to influence the nomination or election of the candidate. Authorized campaign expenditures include the following:

- Airfare and hotel accommodations;
- Meal or food expenses incurred at a fundraising event or other campaign activity;
- Professional services that are necessary in a candidate's campaign to seek the nomination or election of the candidate;
- Penalties, fines, judgments, or settlements imposed on a candidate or candidate committee by a court or regulatory agency and related to a campaign to seek the nomination or election of the candidate; and
- Personal gifts to campaign employees or volunteers subject to specific thresholds.

### Prohibition on Personal Expenses

A personal expense means any expense that would exist irrespective of a candidate's campaign to seek nomination or election to office. Candidates are prohibited from using contributions for any personal expense, including, without limitation, the following:

- Household food items and supplies purchased for daily personal consumption by the candidate, a family member of the candidate, or candidate committee;
- Gifts or donations for weddings, Christmas, birthdays, funerals or other personal occasions;
- Clothing usually and customarily worn for everyday wear; provided that a campaign expense for clothing identifying the candidate or campaign for an office shall not be prohibited;
- Tuition and educational fees or expenses not directly related to the performance of duties or responsibilities in a candidate's campaign for elected office;
- Mortgage, rent, and utility expenses for a personal residence; provided that if a clearly segregated portion of the personal residence is being used for campaign purposes, contributions may be used to reimburse the owner of the property a fair rental value for the actual apportioned and actual use of the personal residence;
- Entertainment or sporting events;
- Dues, fees, or other expenses to a country club, health club, recreational or exercise facility and not arising from a fundraising activity or function held at the facility; provided that contributions may be used to pay for membership dues or other expenses in a community or civic organization where the candidate is directly involved in the activities of the organization;
- Compensation for personal services paid to the candidate or candidate's immediate family or relatives, unless the payments are for bona fide services necessary to maintain a campaign to influence the nomination or election of the candidate and is comparable to the compensation paid to other persons in the community providing similar services; and
- Legal expenses not related to the nomination or election of a candidate.

### Expenses that Provide a Mixed Benefit to the Candidate

Contributions may be used to purchase or lease goods or services that provide a mixed benefit to the candidate; provided that an amount attributed to a personal benefit for the candidate shall be determined and the candidate shall reimburse to the committee unless the personal benefit to the candidate is de minimus.

Contributions may be used to provide a mixed benefit to the candidate, including the following:

- Purchase or lease of a vehicle, including any operation and maintenance costs, where the title to the vehicle is in the name of the candidate committee;
- Reimbursement for the use of a personal vehicle, not including operation and maintenance expenses, shall be authorized and documented for audit purposes at the most current mileage rate adopted, from time to time, by the Department of Accounting and General Services, State of Hawaii, at the time the vehicle is used; and
- Lease of real property to a candidate or candidate committee for a renewable period not to exceed one year.

### Donations to Organizations

Campaign funds may be donated to any community service, educational, youth, recreational, charitable, scientific or literary organization. If the candidate is using surplus funds, the candidate may donate up to twice the contribution limit of the candidate's office. If the candidate is running for office, the candidate may only donate up to the contribution limit of the candidate's office.

No donations from campaign funds shall be made from the date the candidate files nomination papers to the date of the general election.

**Note:** The purchase of fundraiser tickets from any organization listed above should be reported as a donation to community organizations, rather than as "candidate fundraiser tickets" or as "other" for a gift.

### **Durable Assets**

Durable assets are supplies and equipment purchased by the candidate committee with a purchase value of at least \$250 and a useful life of twelve months or more. Durable assets include an automobile, digital camera, computer equipment, television, refrigerator or other similar goods to be used during the candidate's campaign.

The acquisition of any durable asset is reported on the Candidate Filing System on Schedule F "Durable Assets". Durable assets are automatically reported after the initial filing until the assets are sold or donated. Donations of durable assets are subject to limits. The disposition of a durable asset is also reported on Schedule F.

## **VI. SURPLUS FUNDS and DISPOSITION OF FUNDS**

### **Surplus Funds**

Surplus funds may be used after a general or special election for: (HB 128)

- Fundraising activity for the candidate, for any other politically related activity sponsored by the candidate
- Ordinary and necessary expenses incurred in connection with the candidate's duties as a holder of an elected state or county office.
- Donations to any community service, educational, youth, recreational, charitable, scientific or literary organizations, provided that in any election cycle, the total amount of all donations from surplus funds is not more than twice the maximum amount that one person or other entity may contribute to the candidate pursuant to HRS, section 11-204(a). (However, a candidate may not make donations to these community organizations from the date the candidate files nomination papers to the date of the general election.)

A "politically related activity" means activities whose purpose is to influence the outcome of a future election. Such activities include a "mahalo party" soon after the election, and newsletters to supporters.

Additionally, "ordinary and necessary expenses" are expenses that bear a direct relation to the office and are necessary for carrying out the duties of the office and include office equipment or supplies.

### **Disposition of Funds**

- A candidate who receives contributions for an election but fails to file nomination papers for that election must return all residual funds to the contributors no later than ninety days after the date on which nominations for that election must be filed. Contributions not returned to the contributors must escheat to the Hawaii Election Campaign Fund.
- A candidate who withdraws or ceases to be a candidate because of death, disqualification, resignation, or other personal reasons shall return all residual funds to the donors no later than ninety days after the candidate ceases to be a candidate. Residual funds not returned to the donors shall escheat to the Hawaii Election Campaign Fund.
- A candidate who fails to be nominated or elected to office may expend surplus funds but under no circumstances shall expenditures be made from funds after one year from the date of the election for which the contributions were received. Contributions not returned to the contributors shall escheat to the Hawaii Election Campaign Fund.
- A candidate who is elected to office, may expend surplus funds but under no circumstances shall expenditures be made from funds after four years from the date of the election for which the contributions were received. Contributions not returned to the contributors shall escheat to the Hawaii Election Campaign Fund.
- Surplus funds may be expended by a candidate for the next subsequent election by the filing of an amended Organizational report.

## **VII. ADVERTISEMENTS**

An advertisement includes:

- (1) Any communication, exclusive of bumper stickers or other sundry items, that:
- (A) Identifies a candidate either directly or by direct implication;
  - (B) Advocates or supports the nomination for election of the candidate;
  - (C) Advocates or supports the election of the candidate; or
  - (D) Advocates or supports the candidate's defeat.

All advertisements shall contain the name and address of the candidate or committee paying for the advertisement.

The advertisement shall also contain a notice in a prominent location that the advertisement is published, broadcast, televised, or circulated either "with the approval and authority of the candidate", or "without the approval and authority of the candidate"; provided that if the advertisement is paid for by a candidate or committee directly associated with a candidate, the notice of approval and authority need not be included.

The penalty for not complying with the requirements above is a fine not to exceed \$25 for each advertisement that lacks the required disclaimer and no more than \$5,000 aggregate, e.g. one newspaper is one advertisement, 1,000 newspapers is 1,000 advertisements.

## VIII. AUDIT and ENFORCEMENT

The law authorizes audits of committees.

The Commission also has enforcement authority. The Commission may issue an order affecting any person violating any laws in the Hawaii Revised Statutes Contributions and Expenditures Subpart and may assess an administrative fine as follows:

- (1) If a natural person, an amount not to exceed \$1,000 for each occurrence or an amount equivalent to three times the amount of an unlawful contribution or expenditure, whichever is greater; or
- (2) If a corporation, organization, association, or labor union, it shall be punished by a fine not exceeding \$1,000 for each occurrence; and
- (3) Whenever a corporation, organization, association, or labor union violates this subpart, the violation shall be deemed to be also that of the individual directors, officers, or agents of the corporation, organization, association, or labor union, who have knowingly authorized, ordered, or done any of the acts constituting the violation.