Acknowledgements

This project benefited greatly from the advice and assistance of Adam Lioz, Juhem Navarro, Emmanuel Caceido, Arn Pearson, and Catie Kelley. With additional support from Every Voice team members Laura Friedenbach, Meghan Faulkner, Adam Smith, and Francoise Stovall.

Every Voice Center wishes to thank our funding partners for supporting the many months of collaborative effort that have gone into the production and review of this manual. Key institutional funding partners of Every Voice Center’s policy, research, and communications capacity over the life of this project include:

- Arkay Foundation
- Compton Foundation
- Drake Bettner Foundation
- Harold Simmons Foundation
- Johnson Family Foundation
- Lisa and Douglas Goldman Fund
- John D. and Catherine T. MacArthur Foundation
- Mertz Gilmore Foundation
- Rockefeller Brothers Fund
- Gaia Fund
- WhyNot Initiative
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THE PROMISE OF SMALL-DONOR DEMOCRACY AND MOMENTUM FOR REFORM

Money’s influence in our political system has become a central issue in politics up and down the ballot, from the White House to the statehouse to county and municipal offices. At the same time, multiple aspects of our democracy are under assault. Gerrymandering of state and federal legislative district maps threatens majority rule by voters. Politically motivated restrictions on voting serve to disenfranchise some groups and not others. Democratic values and institutions are eroding, threatening to shut the majority out of power in order to preserve the power and status of a white, wealthy few.

Fortunately, there is growing excitement at the grassroots level to pass reforms that strengthen democratic values and institutions, broaden access to political power and create a more equitable and inclusive electoral process. One important way to accomplish these goals is by passing and implementing new ways of funding politics that put everyday people front and center. Right now, candidates for elected office often have to spend the majority of their time fundraising from and talking to wealthy donors in order keep up with the rising costs of campaigns. This creates a barrier to entry for many while giving wealthy donors undue influence in our politics. When we enable candidates to win office by depending on their constituents’ small campaign contributions, rather than relying on a relative handful of elite donors, our democracy is more likely to live up to its promise. These small-donor programs create new incentives for candidates to include rank-and-file voters in their campaigning by aligning the fundraising process with political outreach to voters and the grassroots.

In practice, small-donor programs have expanded engagement to embrace communities far more diverse and representative than those embraced by campaigns funded by a much smaller handful of big donors. Whether you are young or old, whether you come from uptown, downtown, or a small town, no matter your race, ethnicity, income, neighborhood, or gender, these programs promote the one-person-one-vote ideal of an inclusive, participatory, and equitable democracy.

The 2016 federal elections set new records, with an estimated $6.9 billion in spending, dominated by an elite set of wealthy donors, according to the Center for Responsive Politics. Thanks to a series of court rulings, including the 2010 Citizens United decision, we are living in an era that includes weakened campaign finance regulation and unlimited spending, through anything-goes super PACs and secretive groups with anonymous mega-donors.

In the face of these challenges, writing, passing, implementing, or improving an effective campaign finance reform law is more important than ever before. All over the country, grassroots leaders...
and activist groups concerned about the role of big money in politics have met legal constraints with creativity. There are more than 30 states and localities using some form of small-donor public financing. Whether through grants, matching funds, vouchers, or some mix of tools—small-donor programs and proposals around the country show a promising path forward. Recent efforts to strengthen and establish new small-donor programs include the following, with more on the way:

- In Maine, 64 percent of winning legislative candidates in 2016 used the Clean Elections program, which provides grants after candidates qualify by raising a set number of $5 donations. This participation level was an increase over 2014, after passage of a 2015 bipartisan-backed ballot initiative strengthened the 20-year-old program.

- In Seattle in 2015, 63 percent of voters passed a ballot initiative to create the first small-donor program to provide $100 of “Democracy Vouchers” to eligible residents to contribute to candidate campaigns, greatly expanding the pool of potential small donors.

- In 2016, 52 percent of South Dakota voters passed a similar program to Seattle's by ballot initiative, but the state legislature overruled the will of voters by repealing the program.

- In 2016, two cities adopted matching programs based in part on the successful model from New York City. Voters in Berkeley, California, passed a ballot measure in November (65 to 35 percent) and city councilors in Portland, Oregon, passed a bill in December. Both laws establish a 6-to-1 match on contributions of up to $50 over an election cycle or election period (primary or general), respectively.

- In 2018, the Washington, D.C. City Council unanimously passed the Fair Elections Act, establishing an initial grant and 5-to-1 match on small donations from city residents for all candidates running for city offices. The mayor signed the bill into law, and the program is expected to be available in time for the 2020 election.

- In Montgomery County, Maryland, a tiered matching system for small donations passed in 2014 and in 2018—the first year candidates are able to take advantage of the system—the number of county candidates has greatly increased and diversified, with a majority choosing to run under the system. Nearby Howard County, Maryland, has passed and is setting up a similar tiered matching system, and the Prince George's County, Maryland council is considering a similar program.

- At the federal level, Rep. John Sarbanes (D-Md.) has proposed the Government By the People Act in the U.S. House, which uses a hybrid approach, combining a number of public financing tools—matching funds, vouchers, and tax credits—to break down the barriers that keep people from running for office and create more options for voters in House races to provide support for the candidates of their choice. On the U.S. Senate side, Sen. Dick Durbin (D-Ill.) has proposed the Fair Elections Now Act, which combines grants, matching funds, and a tax credit.
This manual is designed to walk the reader through various policy options and considerations for building a robust small-donor public financing program. There is no one way to write a new policy, and there is always room for innovative ideas. There's also a wealth of ideas and experiences in the existing programs around the country. There are pitfalls to avoid, details to be careful about, and overarching strategic questions to keep in mind.

Because political environments vary so much, specific strategies to successfully pass a small-donor program will vary in each jurisdiction. Based on experiences of campaigns across the nation, we also flag several key political decision points where there may be potential political landmines to navigate carefully. We also suggest points where pausing to gather more information and consult with key influencers, decision makers, and other stakeholders are crucial for figuring out the best way forward.

And while specific policy provisions and routes to passage may vary from place to place, we do specifically recommend a thoughtful and intentional approach to building a coalition to design, pass, and implement these programs that is inclusive and reflective of your community and the political system you're trying to create.

There's a lot here to digest. The task of designing a winning and effective policy can certainly seem daunting, but remember: every policy discussed in this manual was at one point an idea on a drawing board that committed people and organizations turned into law. Almost all of them were thought by the standards of conventional wisdom to be nearly impossible to win, but here they are.

We hope this guide, which we plan to update periodically, will provide a useful resource for those new to campaign finance reform possibilities, as well as those with many years of experience.
OVERALL AND EARLY CONSIDERATIONS

THE SUPREME COURT ON MONEY-IN-POLITICS REFORM GENERALLY

Due to a series of flawed court decisions, the U.S. Constitution has been interpreted in such a way that spending money on elections is considered equivalent to speech. If money equals speech, then the courts can apply a sweeping “freedom of speech” rationale to eliminate the regulation of money spent to influence an election. While several of the Roberts Court’s narrowly decided cases have extended this analysis, elements of this line of reasoning were part of the seminal 1976 Supreme Court decision *Buckley v. Valeo*. That decision held that contribution limits for donors giving money directly to candidates for their campaigns are constitutional, as they help limit corruption or the appearance of corruption. However, the court went on to declare that overall campaign expenditures, the amount candidates could donate to their own campaigns, and independent expenditures were protected by the First Amendment and could not be subject to limits.

A number of cases, beginning in 2006, began to narrow the court’s rationale for supporting campaign finance regulations. That year, the court’s ruling in *Randall v. Sorrell* made it clear that very low contribution limits could be judged as more likely to limit speech rather than prevent corruption. In the 2010 *Citizens United v. FEC* decision, the court extended *Buckley* to allow unlimited independent political spending by corporations. From that decision, and the D.C. Circuit’s decision in *SpeechNow v. FEC* two months later, the “super PAC” was born—a political committee making only “independent” expenditures that can accept unlimited contributions from donors, including corporations. Super PACs along with nonprofit groups—known as 501(c) organizations—have increased their political spending significantly as a result. While candidates legally cannot raise big contributions for these outside groups directly (at the federal level and in some states), the actual lines between candidate and “independent” campaign organizations can be blurry, with top advisors heading up these supposedly independent campaigns.

Many reformers believe the best way to change this series of legal decisions is to amend the Constitution. Others are developing a new set of facts, arguments, and strategies to bring before a future Supreme Court with a different majority perspective.

In addition to these long-term constitutional or jurisprudential strategies, it is possible to make significant changes to the political system to make it more responsive to the voices of all people, not just the privileged few. Despite the recent rulings of the Supreme Court, including the 2011 *Arizona Free Enterprise* decision discussed later in this manual, the constitutionality of voluntary public financing programs remains intact.

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1. Independent spending at the federal level by entities other than party committees went from $1 billion in the 2012 cycle to $1.5 billion in the 2016 cycle, according to the Center for Responsive Politics. In state elections, where data are more difficult to assemble, the National Institute on Money in State Politics found that outside spending increased by 66 percent between the 2010 and 2014 cycles, across 29 states.
SMALL-DONOR POLICIES ARE CONSTITUTIONAL, WITH IMPORTANT LIMITATIONS

The U.S. Supreme Court has affirmatively upheld the constitutionality of public financing programs (specifically matching and grant programs), with important limitations. In fact, in *Buckley v. Valeo*, the court asserted that these programs advance First Amendment values, as opposed to impinging on them. However, in *Buckley* and *Arizona Free Enterprise v. Bennett*, the court identified specific things public financing programs cannot do: they cannot be mandatory, and they cannot contain a provision that provides a benefit for participating candidates that is triggered by non-participant spending. These are both easily addressed when designing your program.

**Justifications for Small-Donor Programs Affect Their Constitutionality**

The Supreme Court upheld the constitutionality of small-donor public financing under the theory that it fights corruption and the appearance of corruption. If a jurisdiction passes a small-donor program for a different reason entirely, it is unlikely the current Supreme Court will uphold it. Therefore, small-donor public financing bills must be passed for the stated purpose of fighting corruption or its appearance. Though the laws often support other ancillary goals like increasing participation and reducing the barriers to running for office, it is important to make sure it is in the legislative record that the goal for the program is to fight corruption or its appearance. Due to how the Roberts Court has interpreted money spent on elections as protected speech, many constitutional experts urge avoiding the specific term “leveling the playing field” as a reason for passing a small-donor public financing law, as the *Arizona Free Enterprise* decision overturning part of Arizona’s program specifically mentioned the phrase “level the playing field.” Other terminology (“protecting the speech of everyday people from being drowned out” or bringing “balance” to an unbalanced system) is thought to be less risky in view of the current court’s leanings.

**KEY POLITICAL DECISION POINT**

Small-donor public financing programs are passed primarily to combat corruption or the appearance of corruption. While it is important to include that reason in the record (hearing testimony, public communications, etc.), that may be easier to do on a ballot campaign than a legislative campaign, where elected officials who are critical to passing the legislation may be alienated by the implication that they themselves are corrupt or appear corrupt. Many elected officials are struggling to act in the best interest of their constituents despite a campaign finance system that makes doing so challenging. Those elected officials may not appreciate the assumption or implication that they are part of the problem. Putting the issue of corruption onto the legislative record in a legislative campaign in a way that doesn’t sour key relationships between advocates and legislators can be tricky. There are ways to manage this, such as having citizens who testify cover corruption, while core groups advocating for passage focus on other benefits of public financing programs. That way, the issue is on the record, but the groups pushing the bill forward haven’t alienated key legislators. That is one of many ways to handle this issue. We recommend working with key influencers and legislative champions on an intentional plan to put this on the record without jeopardizing the ability to pass the policy.

**BALLOT INITIATIVE OR LEGISLATIVE APPROACH**

In some jurisdictions, reform supporters have a choice between passing a law by ballot initiative or the legislative process. Where this choice exists, you will need to do a strategic analysis of whether you are more likely to win and sustain a program if you ask voters to approve an initiative directly, or whether you are better off convincing a legislature to approve legislation. The public is generally more supportive of these policies than elected officials, which can make ballot questions more attractive. But initiative campaigns can be more expensive than legislative campaigns, so a cost assessment might be a key factor in the decision. The direction you choose will affect many aspects of your proposal, from the title to the policy tools you pick.

There are additional factors to consider when deciding whether to pursue a ballot campaign:

- The cost of a ballot campaign, which can be in the millions, and whether you can raise that amount.
- Whether there are any available ballot campaign staff who have a strong track record of winning ballot campaigns in your jurisdiction and whether you have the ability to hire them.
- Whether key groups who work on ballot campaigns will give your campaign their endorsement and include it in their ballot work to some degree (e.g. including recommending a yes vote on it in their materials to voters).
- Whether you have a policy that both tests well with voters and has broad support from key allies.

Keep in mind that a significant loss at the ballot box can set back progress on this issue, since the loss will be interpreted to mean that the voters rejected the concept, as opposed to being credited to other reasons a ballot measure might fail (e.g., campaign strategy or funding). A legislative loss can be less visible. However, with either route, keep in mind that there could be powerful opponents (local and national) who have the resources to defeat your campaign—defeating a ballot campaign usually costs less than winning one.

Successful legislative campaigns also depend on or greatly benefit from these factors:

- Bringing together a strong coalition from the very beginning, often before the policy design phase. The coalition should include groups with a strong track record for passing major pieces of legislation. These can include organizations that traditionally work on money-in-politics issues, as well as those whose main focus isn't reform, but that believe the issue is important to their overall goals.
- Key legislators’ and other gatekeepers’ approval of the policy and campaign strategy. This can include committee chairs, leadership, and lawmakers with ties to specific constituencies supportive of reform.
- A strategy that experienced political operatives find viable.
- A budget to contract with lobbyists, organizers, and/or communications experts.

If you are working on a campaign in a small town, the cost of the campaign and need for professional help may be reduced (though see the next section on legal expertise), for both legislative and ballot campaigns. These costs will increase the bigger and more populous your jurisdiction is.
Whether you choose a ballot or legislative strategy, having meaningful partnerships with powerful allies who share your values and believe in the policy will significantly enhance the odds of winning. Together, you can design a strong small-donor public financing program that is politically feasible, as well as a strong campaign needed to carry it to victory and beyond. Building a powerful, effective, and inclusive coalition to support the reform will also go a long way toward ensuring the program gets funded each budget cycle, as well as protecting it from attacks down the road.

These programs have been approved both ways. For example, voters first approved the Maine Clean Elections program at the ballot in 1996, and approved updates to the program with a 2015 ballot measure. In Connecticut, the legislature passed the Citizens’ Elections Program.

Ballot initiatives can be expensive, but the legislative process can be fraught with compromises to win support. Also, in some jurisdictions, ballot-won programs can be overturned by legislatures, as they have been in Massachusetts and South Dakota. Even if it doesn't overturn the ballot measure, you will likely be dependent on the legislature to fund the program and not weaken it through legislative changes. Where there is a choice between the two options, the right strategy will differ by jurisdiction and require plenty of analysis to determine.

EXPERT ASSISTANCE

There are several forms of expertise you will almost certainly need to enlist to design an effective small-donor public financing program. This guide is designed to encourage creative thinking and build capacity at the policy development stage; it doesn't substitute for expert help. Below are two types of expertise you will need and examples of the assistance experts can provide.

Legal Expertise

You will likely need legal advice on local political campaign law and constitutional law, which could mean finding two (or more) lawyers. One lawyer will know the local requirements for what must be in any given proposal, whether and how it should be written to amend previous laws, and so forth. The second lawyer is necessary because of the many thorny—and often changing—issues raised by the courts on the subject of campaign financing. It's often the case that one attorney is not an expert in both these areas, so it may be necessary to secure the help of two or more. We strongly suggest that at the appropriate point, lawyers be consulted about any draft legislation, initiative, or other vehicle for enacting public financing reforms. There are also nonprofit advocacy groups with legal expertise on constitutional issues related to campaign finance and drafting experience who may be able to assist. With the legislative route, you will additionally or alternatively rely on and work with legislative counsel and staff.

Think through when to bring in legal expertise. You may have initial questions about whether your jurisdiction has the authority to pass certain reforms that need to be answered early on. You may have questions later in the process about whether the policy design you and your key allies choose is permissible within the jurisdiction's legal framework or if other existing laws might impact how your policy works.

4. Campaign Legal Center, Demos, Brennan Center for Justice, and Common Cause are among the national organizations with legal capacity in this area.
Policy Expertise

Every jurisdiction has different policy needs because elections across the country vary greatly. A well-functioning small-donor public financing program is designed to take into account factors unique to elections in the area such as the average cost of winning past elections, patterns in the existing flow of campaign money, local and state campaign finance laws, and so on. Every Voice Center can provide additional expertise and assistance on policy design to ensure the solution you propose will work effectively and as intended.

One tool Every Voice Center offers is policy modeling, a set of related calculations and projections to help with a number of interconnected design decisions. Or we can help you create something similar. Over the years, in addition to intimate knowledge of different programs, we have developed expertise in compiling and analyzing campaign finance data, including independent expenditures, to inform program design decisions. Taking the fundraising levels and donor bases candidates have relied on to win different offices and applying a range of assumptions, we can create dynamic projections and provide important information for setting parameters, such as public funding caps and match rates, in ways that balance and align with goals. For example, in estimating how previous winners might fare under a new program, Every Voice Center can look at options for balancing the desire to provide adequate funding to candidates, incentives to increase reliance on small donors, and keeping total costs to the public at manageable levels.

We and a number of national reform groups offer information and resources to supplement the information provided in this manual, and we are happy to provide referrals to additional experts and resources.

WHAT ARE YOUR GOALS?

Articulating the goals and related values you want to advance through your small-donor program early in the policy design process creates important guideposts for navigating the questions and challenges that arise in crafting and passing a bill or ballot measure. Questions that can be helpful in developing goals include:

- How has the current landscape of campaign finance laws and local dynamics shaped the money candidates usually depend on to run and win?
- How much political participation through small donations are you seeking to encourage beyond the current levels?
- How will the program encourage small-donor participation that reflects the overall demographics and geography of constituents?
- Are there any local scandals that small-donor public financing might have avoided or limited? Do people feel frustration about their elected officials who may be corrupt, or appear corrupt to them, because they take large donations from special interests?

Below are some of the goals that have been embedded in previous campaigns to create small-donor programs.
Successful small-donor programs diminish the influence of big money in elections, not by eliminating it—which might ultimately be impossible—but by providing alternative funding sources for candidates to run viable campaigns with far less dependence on deep-pocketed funders.

When candidates do not have to rely on big donors to fund their campaigns—when instead, they are able to run competitive races fueled by public dollars, small donations or both—the political ecosystem is altered. Small donors become more important, and since small donors look more like the rest of America than wealthy donors do, participation in elections becomes more reflective of the overall population. Candidates become dependent on the many, not the few. To borrow the words of founding father James Madison, these programs make government “dependent on the people alone.”

As one Bangor, Maine, resident told Every Voice, regarding the state’s Clean Elections program, “I like that system. That’s the one [in which] $5 means I’m a political player.” Or, as stated by campaign finance policy expert Mark Schmitt: “Instead of seeking to limit the channels by which concentrated wealth influences the electoral and legislative process, instead shift the incentives, reducing the influence of large donors by empowering small ones.”

Candidates with a broad base of support can compete—not just those with access to wealthy donors. That diversifies the ballot, reducing barriers for women, people of color, and working class candidates to run.

WHICH FORM OF SMALL-DONOR PUBLIC FINANCING SHOULD YOU CHOOSE?

Small-donor public financing comes in many forms. Over the years, lawmakers and advocates have chosen different tools or approaches to incentivize small donations and increase candidate reliance on a broader set of constituents. This section discusses the strengths and weaknesses of different mechanisms for amplifying or encouraging small donations with public dollars: grants (or lump sums), matching funds, vouchers, and tax credits.

As you decide on specific tools for your program, below are additional questions to ask. We have found that successful, long-standing programs take these questions into account:

- Would most candidates choose to participate and can they use the program to successfully win office? These systems will only work if candidates see a path to victory and decide to participate in these voluntary programs. Under any program, it must be absolutely clear to candidates that they have the potential to access sufficient resources to run a successful campaign.

- What is the surrounding money-in-politics legal regime? This question also relates to whether candidates can be successful using the program. For example, if candidates who do not participate can enjoy large, unlimited donations, in addition to potentially large independent expenditures, how might this impact the candidate relying on small donors and public funds?

• **Are there other elements of the local political and policy environment to take into account?** For example, does this jurisdiction already have a small-donor program that is in disuse and should it be updated or re-vamped? Was there a past effort to pass a small-donor program that failed or was repealed? Is there a particular scandal or ethical lapse you want to be sure is addressed?

• **How well does the program scale or accommodate the needs of different candidates and campaigns across races that may have varying competition levels or neighborhoods with different income levels (and thus uneven donation levels)?**

• **In an ever-changing campaign finance landscape, how well is the program set up to adjust for changing needs, landscapes, and lessons learned over time?**

You will need to incorporate and balance the answers to these questions and others in the policy design process.

When it comes to legislative campaigns, in particular, another competing interest to address will be lawmakers themselves, who are familiar with winning elections under the system as it is. Even legislative allies will have strong opinions on how to reform the system, possibly even strong concerns, based on their own lived experience of running for office.

When it comes to incumbent policymakers in particular, you’ll likely face questions about qualifying thresholds and concerns about being able to find enough small donors, support for challengers, and more. Working with incumbent lawmakers to pass a new system can be a challenge, but it has been one that has been dealt with successfully in campaigns across the country for the past 30 years. The keys are sensitivity to lawmakers’ concerns and good judgment about when to compromise and when to hold fast.

**Grants**

In early small-donor program designs, grants were usually deployed as lump sums meant to cover most or all of the funding candidates would need for an election period. Thus, these “Clean Elections”-style programs have also been called “full” public financing programs. These grants were almost always paired with an additional mechanism for receiving public funds to address high-spending opponents. For example, in the Clean Elections-style programs in Arizona, Connecticut, and Maine, “triggered matching funds” were automatically provided to participating candidates when they were outspent by privately-financed opponents (this mechanism was unfortunately struck down by the Supreme Court in 2011). More recently, grants have been included in new hybrid-style programs as smaller, initial allocations to supply a boost of early funds, or they are part of program designs where the range of spending is quite large and difficult to span with one tool alone. For example, the Fair Elections Now Act proposed for U.S. Senate races includes both grants and matching funds. Currently, we do not recommend program designs where grants are the stand-alone mechanism for distributing public funds to candidates because they are not sufficiently flexible to meet differing candidate needs.

In 1996, Maine voters approved the Clean Elections Act, the first small-donor public financing program in the United States designed to fully cover the fundraising needs of state-level candidates. Under the
Clean Elections model, candidates gathered a certain number of small, qualifying contributions—as little as $5—from voters in the districts where they are running, to demonstrate a broad base of support and viability. Once they qualified for the program, they received a fixed grant of public funds for their campaigns. One goal of supporters of this early design was to keep as much private money out as possible, making the political system more equitable by shielding it from income and wealth inequality.

From the candidate perspective, full grants offered freedom from fundraising once the qualifying periods ended—an attractive feature. The Clean Elections programs also provided candidates additional funds automatically if their privately-financed opponents spent more than the grant amount or if the publicly-funded candidate was targeted by independent expenditures. This provision was intended to motivate participation in the program by ensuring that publicly-financed candidates would be financially viable even when competing against candidates supported by especially large campaign expenditures.

Then, in its 2011 Arizona Free Enterprise v. Bennett decision, the Supreme Court ruled against these provisions in a 5-4 opinion. As a result, “triggered” matching funds were removed from grant programs. Now, many supporters of grant systems support adding a matching or voucher mechanism to allow publicly-funded candidates to receive additional small contributions and public funds based on their needs and not the spending behavior of their opponents. The intent of this addition is to maintain the attractiveness of the public financing system for candidates who believe they will face especially high expenditures against them.

One challenge when offering “full” grants, especially on their own, is figuring out the level at which to set grants so that they meet the needs of most candidates, knowing that some candidates will not need as much and others may need more. When grants provide more funds than a candidate actually needs, the overall program cost is higher than necessary. Smaller grants combined with other public financing elements, like a match on additional small donations, can be a less costly option, as candidates who are in less competitive races will be comfortable with a smaller amount of money, while those in more competitive races will have access to additional funds by proactively reaching out to more small donors. You still need to figure out the level at which to set these grants, balancing the desire to offer enough early money to attract candidates and meet their needs, while not providing more public dollars than necessary. Done well, this hybrid design offers better flexibility than a program with full grants on their own. (Read more about hybrid approaches on page 20.)

Another potential challenge is the view, sometimes held by incumbent legislators, that grants do more to aid potential challengers than they would like. One way to address this concern is to set a higher threshold for qualification, which makes it less likely that candidates with little support will have access to large sums of campaign funding.

Finally, if a program relies solely on grants or public funds to fully replace private dollars, versus a mixture of small donations and public dollars, the program is likely to cost more, which can present a challenge to passing and fully funding the program.

If you are considering grants in some form, you will need to decide if you want to offer them in just the general or both the primary and general elections, if one of those allotments should be larger than the other, and if allotments vary depending on whether or not the race in question is competitive or
one party dominates. Again, this depends a lot on the political realities locally. Typically more money is distributed for the general election than the primary, because far fewer voters are involved in a primary. Of course if primaries are nonpartisan, or if the area in question has a dominant party, this may not be the right approach, as primary spending can exceed general election spending in these cases. One additional consideration is whether or not to permit some flexibility on when candidates can spend their campaign money, across primary and general elections. (Read more in How Much Public Funding Should Candidates Receive on page 21.)

The best approach is to look closely at the actual patterns and amounts of spending in recent election cycles. The idea is to allow publicly-financed candidates to attain necessary levels of funding without requiring dependence on donations beyond what everyday constituents can afford.

In Connecticut, for example, participating gubernatorial candidates in the Citizens’ Election Program in 2018 are eligible to receive $1,250,000 for the primary race and $6,000,000 for the general race, a ratio of roughly 1-to-5. For legislative races, Connecticut provides special rules in “party dominant” districts, which are defined as districts where the percentage of registered voters enrolled in a major party exceeds the registered voters of another major party by at least 20 percent. In such races, funding available to participating candidates is set higher in the primary, to reflect the greater likely costs in these races and encourage use of the program. For example, the 2018 grant for the primary in a state senate district that has no one dominant major party is $35,000; in a district where one party dominates, the grant is $75,000.

Additional Grant Adjustments in Connecticut

There are additional ways the Connecticut program adjusts grants for different races to ensure candidates have enough money to run and win without wasting public funds. Grants are reduced to 30 percent of the full amount if the candidate is running unopposed, or to 60 percent of the full amount if the candidate faces a minor party or petitioning opponent who has not raised an amount equal to the qualifying threshold for that office. Even if a candidate is in a strong position to win a race, they still need money to get messages out to the public and to mobilize voters to go to the polls. Given that the candidate needs the resources, public funding helps that candidate raise the money in a way that keeps them more responsive to all voters rather than big donors. However, the candidate wouldn’t need as much public money as one who is facing a competitive race.

RECOMMENDATION

If you are interested in including grants in a program, we strongly recommend pairing them with another tool, such as a substantial match on small donations. This improves the likelihood that the program will save money on less competitive races, scale up to provide enough funds to more competitive races, and enjoy high participation overall.
Small-Donor Matching

Another proven method to support and amplify the voices of everyday people in elections is through small-donor matching funds. Matching funds allow candidates to receive a multiple match of public money for each small, eligible contribution, usually dispersed at regular intervals throughout the cycle.

The higher the rate of a public match on small donations, the stronger the incentive the candidate has to seek funding from everyday people who might contribute $5 or $10. For example, with a 6-to-1 match, $10 from a school teacher becomes a $70 total donation to the candidate, or $50 from a local small business owner becomes $350 for the candidate. Thus, candidates are encouraged to seek out a broad set of everyday people who can give small amounts, as opposed to seeking out a small number of big donors with deep pockets. Since more people are able to give small contributions than large ones, the candidate gets to interact with a larger pool of potential donors, and—when combined with match money—still run a competitive and viable campaign.

New York City’s Matching Funds Program is one of the oldest examples of such a program, having been in place since the late 1980s. To qualify for matching funds, candidates must collect a minimum amount of funds from residents of the area they seek to represent and a minimum of contributions that would qualify for the match. Once they qualify, the first $175 in donations from any one city resident is matched with public funds at a rate of 6-to-1. Public funding is capped at 55 percent of the spending limits candidates agree to, which are set at different amounts for different offices.

Two elements to consider carefully when creating a matching program are: 1) the maximum amount to match from any one individual (the matchable limit) and 2) the maximum amount that an individual can give overall (the contribution limit). These limits can be set at the same amount. These decisions must balance the desire to encourage high participation among small donors with the desire for candidates to succeed at their fundraising goals. The smaller these maximum amounts, the more the program will amplify and encourage the participation of donors who overall reflect demographic diversity. The trade-off in setting these limits at a low level is that it might become more difficult for candidates to raise sufficient funds to run and compete. If candidates opt out of participating in the program, then the program can’t serve its purpose.

In New York City’s program, there is still a significant role for large donations: contributions per donor and cycle of up to $4,950 for mayor, public advocate, and comptroller; $3,850 for borough president; and $2,750 for city council are all allowed beyond the matchable limit of $175. Newer matching programs in Berkeley, California, and Portland, Oregon, keep contribution limits considerably lower for candidates participating in the small-donor public financing system. In Berkeley, the 6-to-1 match applies to donations up to $50 over the entire election cycle (the match limit). Fifty dollars is also the contribution limit (compared to the $250 limit for non-participants). It’s a straightforward setup that emphasizes small donations. In Portland, the 6-to-1 match also applies to donations up to $50. However, in Portland, the match limit is $50 in each election period (primary and/or general) and donors can give up to...
$250 each period ($200 of which won’t be matched). While still higher than the match limit, the $250 contribution limit is an improvement over the unlimited contributions allowed in Oregon.

Every Voice Center research indicates that matching programs are more likely to generate greater reliance on everyday people when they limit the match amount and the total contribution amount to truly small donations, rather than matching the first dollars of a potentially much larger total from any one donor.

The New York City program has changed over time to further emphasize small donors. When first established, there was a $1 match for every $1 contributed up to $1,000. In 1998, this was changed to a 4-to-1 match for the first $250 contributed. In 2009, the match increased to 6-to-1 for the first $175 per donor. According to a 2010 analysis of the program by the Brennan Center, since the city’s adoption of the multiple match—more than 1-to-1—it has seen an increase in both the number of overall donors and the number of small donors. Participants in the program rely on a greater number of small donors than do non-participants. And in open seat elections, the system has boosted competition by decreasing the difference in fundraising between candidates. The Brennan Center notes, “The City’s campaign financing system...offers valuable lessons in how to build a campaign finance system that boosts the impact of ordinary citizens.”

Small Donors Reflect Racial and Economic Diversity

In an analysis of campaign finance data from New York City’s 2009 elections, Every Voice Center found that the smallest donors, giving amounts such as $10 or $25, lived in neighborhoods where wealth and racial diversity were more representative of the city as a whole.

Donors giving at the $100 level or higher came from wealthier and less racially diverse neighborhoods than citywide averages.

In the Government By the People Act—the flagship small-donor public financing proposal at the federal level, introduced by Rep. John Sarbanes (D-Md.) and co-sponsored by more than 150 members of Congress—there are incentives that encourage candidates to rely on small donors, while also offering an alternative that includes larger contributions. In this program design, participating candidates are allowed to take up to $1,000 per donor, but they can only receive the 6-to-1 match for donors who do not give more than $150 in aggregate over an election period (primary or general). And if the candidate agrees to only take donations of up to $150 per individual (foregoing donations up to $1,000), the match rate is increased to 9-to-1. That means a $150 contribution for the primary and again for the general, for a total of $300, would become $3,000 to the candidate, after the 9-to-1 match.

Even at the lower match rate, the candidate's incentive to seek out smaller donors is strong. A donor's contribution of $150 in either the primary or general would become $1,050 to the candidate once the 6-to-1 match is applied. That amount is larger than the $1,000 the donor would be able to give if they went beyond the $150 match limit. This incentivizes candidates to seek small donors over large donors, since they can actually raise more money that way. By retaining the possibility of including larger donors, while at the same time de-emphasizing them, this structure creates a bridge between the familiar system of large donors and the desired result of focusing on small donors.

Another approach to encourage small donations and expand participation is to offer a bigger match for very small donations and a smaller match on slightly larger donations. This is the “tiered match” approach Montgomery County, Maryland, is taking in a program passed in 2014 for county executive and county council elections. Under the program, the first $50 from a donor to a county executive candidate is matched 6-to-1; the second $50 from the same donor is matched 4-to-1; and the final $50 is matched 2-to-1 (the total contribution limit is $150). For donations to county council candidates, the formula is 4-to-1 for the first $50, 3-to-1 for the second $50, and 2-to-1 for the final $50 (the total contribution limit is $150). In 2017, Howard County, Maryland, passed a similar tiered matching program, with slightly different match rates.

**RECOMMENDATION**

The smaller the amounts matched from any one individual and the lower the contribution limit for participating candidates, the more candidates will be encouraged to fundraise with and rely on the support of a larger, more inclusive, and more reflective set of donors.

**Vouchers**

Small-dollar vouchers for candidate contributions allow every voucher holder to become a donor, no matter the size of their wallet. These programs have been called “democracy vouchers,” “democracy credits,” and “civic dollars,” names that connect with the values underlying the system. Although still a relatively new idea, vouchers have the potential to be the most participatory and egalitarian mechanism for public financing because it requires no disposable income to become a political donor.

With matching funds, the demand for small donations grows by increasing their value to candidates. With vouchers, the supply of small donations is greatly increased as every voter or resident receives a set of vouchers that candidates can turn into campaign cash.
With small donations more readily available, candidates are encouraged to rely on a significantly larger number of people, including residents of limited means, for their campaign financing.

By the nature of vouchers being small and widely available, this tool incentivizes higher and broader participation among donors. For example, assuming each voucher holder has $50 to give, a candidate needing $350,000 would need to reach 7,000 donors. In a 6-to-1 matching program, where a $50 donation becomes $350 total, that same candidate would only need 1,000 such donors, and those 1,000 donors would have to be financially able to give $50 of their own disposable income. We expect that asking for a voucher is easier than asking for $50 in personal funds, and we are already seeing in Seattle that voucher users represent more diverse and demographically reflective cross-sections of the city than cash donors.

In November 2015, Seattle voters approved the nation's first voucher program via ballot initiative. The program covers all city elections and so far, the results are promising. The program is being phased in, with the 2017 cycle covering candidates for at-large council seats and city attorney races, and expanding to additional races in 2019 and 2021, when all seats will be eligible to use Democracy Vouchers, including the mayor.

Titled the “Honest Elections Seattle Initiative,” this program provides every city resident with four $25 Democracy Vouchers, for a total of $100, automatically mailed to registered voters at the beginning of the election year, and each month as new voters register. Residents not registered to vote are also able to request and receive vouchers, with some exceptions. Residents may use these vouchers to contribute to the candidate(s) of their choice who are participating in the program. Beginning in 2019, residents will be able to request and turn in their vouchers online, streamlining the process.

To qualify to receive vouchers, candidates must collect a threshold number of cash contributions of at least $10 and gather a set number of signatures of support from residents. For example, mayoral candidates must collect 600 small contributions and signatures. These measures are designed to ensure a minimum threshold of viability for the candidates, so taxpayer money is not wasted on long-shot campaigns. In addition to being able to redeem vouchers for cash, participating candidates agree to abide by spending limits for their races. Mayoral participants can spend up to $800,000, from a mixture of vouchers and private contributions. Those private contributions cannot exceed $500 per individual or entity, not including vouchers.

In November 2016, South Dakota voters approved the second voucher program in the country for their state elections, yet state lawmakers overturned the will of their voters by repealing the system before it went into effect. Registered voters would have received two $50 “Democracy Credits” over an election cycle, to give to statewide and state legislative candidates who opted in to the program. Under that policy each participant agreed to lower private contribution limits compared to non-participants ($250 per individual for legislative and $500 for statewide participants, compared to $1,000 to legislative and $4,000 to statewide non-participants).

At the federal level, the Government By the People Act includes a “My Voice” voucher pilot program, in addition to the main funding tool of small-donor matching. Individual states could opt in to the pilot, which would entail making $50 in vouchers available to all voting-age residents in the state

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7. Voucher recipients must be 18 years or older, live in Seattle, and be eligible under federal law to make political contributions.
Expanding Political Participation Through the Seattle Democracy Voucher Program

Together with the Seattle-based Win/Win Network, Every Voice Center conducted an early analysis of outcomes from Seattle’s first election cycle using Democracy Vouchers in 2017. We found that Seattle’s Democracy Voucher program is moving toward its intended goals by generating historic numbers of new and small donors, diversifying the makeup of campaign supporters to better reflect the people of Seattle, and limiting candidates’ reliance on big money in local elections. The voucher program helped triple the number of residents who gave in 2017, compared to 2013, a cycle with similar offices up for election. Among voucher donors there was greater representation of young people, women, people of color, and low-income residents, compared to cash donors to mayoral candidates (who were not yet a part of the program in 2017).


Voucher donors represented more of Seattle geographically than donors who made private donations to 2017 mayoral candidates.

Voucher programs vastly democratize the donor base by removing disposable income as a factor for donating. However, if vouchers are the only mechanism for receiving public funds, and voucher total amounts per person stay in the small donor realm (e.g. $100 per person), then candidates might be daunted by the number of vouchers they’ll need to collect, especially in expensive and/or statewide races. For example, if a candidate needs $500,000 and could reach this level with 10,000 residents giving $50 in vouchers, but they currently have experience reaching only 500 donors during a campaign, the
20-fold jump might at first seem intimidating.

This is where messaging and values are important—the candidate will need to reach more than 500 voters, and now all voters are potential donors, so incorporating voucher collection into a campaign is just an extension of their voter contact efforts.

Another important consideration is defining the population that can access vouchers, and how. Registered voters are likely a readily available list of residents, but there are also residents who are not yet registered or who cannot vote, but who can legally make donations. For example, in Florida where a former felon is not allowed to register to vote, that person can make a political donation, and therefore ought to be included in the population of people eligible to receive vouchers. Setting up a voucher program that goes beyond the registered voter population creates a more inclusive program, particularly for communities of color who are more likely to be unregistered to vote, barred from voting, or non-citizen immigrants who are legally allowed to make political donations.

Another way to increase the likelihood of advancing equity goals related to resident participation is to contemplate a role for membership-based organizations that are trusted messengers to their constituencies, particularly those that build long-term relationships with low-propensity voters and low-wage workers. If the program allows grassroots organizations to encourage and assist their members in sending vouchers to specific candidates, more organizations are likely to engage in that activity, and resident participation rates are more likely to reflect racial and economic diversity.

**RECOMMENDATION**

Initial data suggests a well-designed voucher program like Seattle’s can increase and broaden small-donor participation. We’ll learn even more as Seattle’s program moves to the next phase of implementation and that information will help advocates determine whether vouchers, matching funds, or other tools are best suited to their location and goals. If choosing a voucher program, in order to ensure greater equity in participation, it’s important to think through who can access vouchers and how, as well as the role of organizations in facilitating voucher usage and whether the program will be too onerous or challenging for candidates to decide to participate.

**Tax Credits**

Tax credits or rebates, like vouchers, increase the supply of small donations to candidates by making them less expensive for citizens to give.

A tax credit program was actually in place for federal taxpayers donating to federal, state, and local candidates starting in 1972. At its peak, more than 7 percent of eligible filers took advantage of the credit, compared to the estimated 2 to 3 percent of Americans who now contribute to federal political campaigns. However, the credit was not refundable, so low-income tax filers who did not owe federal income tax could not benefit from the program. The tax credit program was repealed in the Tax Reform Act of 1986, part of President Ronald Reagan’s overhaul of the tax code.

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Tax credits or rebates have been in place in several states, including Oregon, Ohio, Arkansas, and Minnesota. Minnesota's program provides a timely refund, outside of the tax return cycle, for small contributions made to participating candidates.

Minnesota's Political Contribution Refund Program, which began with the 1992 election cycle, offers registered voters a refund of $50 per person or $100 per married couple when they donate to a candidate who has agreed to spending limits, or to a registered political party. To receive the refund, small donors must obtain a receipt, fill out a form, and mail it to the appropriate agency. These requests for refunds can be made at any point during the year.

Between 2009 and 2017, the program was only funded for one year, in 2014. When funded, the program was well publicized, candidates participated at high levels, and small donations made up a larger portion of the candidates' funding base compared to other states. As a result of the program lying dormant more often than not, it has been difficult to conduct further research on how the refund program contributes to increased participation of and reliance on small donors. The program became active again in 2018.

A tax credit program, writes David H. Gans of the Constitutional Accountability Center, “won't succeed if it is poorly designed or ignored by candidates and parties. The contours of a tax credit program and its use by candidates and parties can make the difference between success and failure.” Gans suggests a tax credit should be 1) refundable, to ensure wide availability, 2) accompanied by a program of public education, and 3) crafted to not “simply subsidize contributions by the super-rich, who would donate even without a tax credit.” One way to do this, he says, is to limit refunds to small donors who give $200 or less. This is in contrast to allowing big donors the ability to take a tax credit on a portion of their larger contributions. In a 2004 report, U.S. PIRG made a similar recommendation, to provide tax credits only to individuals who give $100 or less to any candidate, party, or PAC in an election cycle. The report suggested covering 100 percent of an amount that is “significant but also not out of the reach of most Americans, such as $100 (or $200 for joint returns).”

One of the challenges with tax credits is encouraging their use among middle- and lower-income earners. In Oregon, residents can receive a tax credit (up to $50 per individual) for donations to candidates, parties, or PACs. Data for 2010 shows the top quintile of tax filers made the most use of the tax credit: filers with income over $77,000 used 58 percent of the $6.3 million distributed that year.

**RECOMMENDATION**

We do not recommend a stand-alone tax credit program without additional program features that encourage broader participation in and distribution of the benefits of reform.

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Hybrid Approaches

Increasingly, money-in-politics reform advocates are pursuing programs that combine two or more public financing mechanisms, to encourage broad participation by both candidates and the public. For example, matching funds and vouchers can combine to increase incentives for donors to give, or grants and matching funds can supply money at crucial times and scales for different types of campaigns.

Some races demand more fundraising for a candidate to compete than others. In the U.S. Senate, the cost of winning varies greatly depending on seat competitiveness and state population. In this case, an approach that combines grants with matching funds can meet the wide variety of candidate needs. Candidates who do not need to raise large sums are able to do their small-donor outreach during the qualifying period. Other candidates who need more campaign cash can raise additional matching funds if they continue to fundraise from small donors beyond the qualifying period. The Fair Elections Now Act, a proposal already introduced in the U.S. Senate by Sen. Dick Durbin, includes a hybrid grant and match structure, where the initial grant is sufficient for most candidates.

Similarly, a ballot initiative passed by Maine voters in 2015 updated an existing grant program to give candidates the opportunity to qualify for additional grants, using the structure of $5 qualifying contributions candidates and residents already know and understand. For example, for contested state representative races, the initial general election grant is set at $5,000. However, for each additional increment of 15 $5 contributions, the candidate can receive an additional grant of $1,250—the program allows up to eight such supplemental payments.

Another approach might combine matching funds with vouchers or tax credits, to increase the supply of small donors. The Government By the People Act’s matching program proposal includes a refundable tax credit of 50 percent of the donation, not to exceed $25 for each taxpayer. This refundable credit would not be permitted if that individual contributed more than $150 during an election ($300 over the cycle) to any single federal House candidate or to any political committee established by a national political party. Also, no credit would be given if the taxpayer received a My Voice Voucher for that election cycle. Note that combining vouchers with matching funds means deciding whether vouchers should be matched and whether they can be used to help a candidate qualify for matching funds.

The more features and mechanisms that are included in the programs, the more complicated it can become for the public to understand, candidates to navigate, and the government to administer.

Be sure to weigh the value of easy-to-understand and easy-to-implement programs against the benefits of additional tools to come up with a program that meets your overall goals while still being able to be understood and administered.

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14. In 2016, the least expensive winning Senate campaign was run by Sen. John Hoeven (R., North Dakota), who spent $2,786,736, according to the Center for Responsive Politics. But the average cost of a winning Senate race was much higher ($12.2 million), and the most expensive Senate race cost the winner $30.9 million, based on direct candidate spending and thus, not including independent expenditures.
HOW MUCH PUBLIC FUNDING SHOULD CANDIDATES RECEIVE? A BALANCING ACT

As you begin thinking about constructing a small-donor public financing system, put yourself in the position of a campaign manager, whose only goal is to win the seat for a candidate. The system must be attractive enough to lure a candidate away from the status quo of soliciting a smaller number of large contributions from big donors. After all, if no candidates participate in your new system, then it won’t change anything. To ensure that candidates participate, they must believe that their participation will make them as competitive, if not more, than pursuing large donations. Crucial to this calculation is how much money to offer candidates, which must also be balanced against the overall cost of the program.

Most candidates are practical. They will do the calculation and decide if they have a good or better chance to win using public financing or traditional, private fundraising. When public financing amounts cease to be practical and competitive, candidates stop participating in the program.

The presidential public financing program is a perfect example of this. It was used by all major party candidates for 32 years after its launch in response to the Watergate scandal. However, in 2008, then-candidate Barack Obama declined to participate, saying, “the public financing of presidential elections as it exists today is broken, and we face opponents who’ve become masters at gaming this broken system.” Leading candidates have not used it since.

As important as it is to provide adequate funding for competitive candidate campaigns, it’s also crucial that the policy parameters are set in such a way to protect public money, so that both the public and politicians will support the program. Whether attempting to get approval from voters or a legislature, you will inevitably be asked about the cost of the program. Even though these programs generally amount to very small expenditures when compared to other government programs and as a percentage of the overall budget, opponents of public financing will attempt to paint the costs as excessive.

Finding the right balance between program costs and competitive allocations to candidates can feel more like art than science, but the decision should be based on hard facts and careful political analysis.

Base your decisions on the following information:

- How much candidates for relevant offices have spent in recent election cycles.
- Size of outside spending in races. Given its increasing quantity and influence, even sometimes at the local level, you'll want to include outside spending to build a complete picture.
- The overall program cost that will work politically (even as programs tend to be around 0.1 percent of an overall annual budget, and often less).

For lobbying and communications purposes, identify useful cost comparisons (the program costs less than X), an attractive funding source when possible (more on this below), and potential sources of savings that could result from an effective system (such as recent political spending that has enriched an unpopular special interest). For example, for 30 years in Connecticut, unclaimed bottle deposits were mostly given back to drink distributors, which had a significant lobbying presence in the legislature. In 2009, after the Citizens’ Elections Program was implemented, a bottle bill passed to end that special-interest payout and redirect as much as $33.5 million per year into public programs, approximately twice the cost of the program itself in its most recent cycle that included statewide races.\(^{16}\)

### KEY POLITICAL DECISION POINT

If the jurisdiction is facing a significant budget shortfall you may be advised to either (a) run your campaign in a future year when there is space in the budget for new spending or (b) create a new revenue stream that can pay for the program. See the box on page 24 for more on the pros and cons of creating new revenue streams.

Some programs set an overall program cost limit, to demonstrate that the amount of public money provided to candidates will not be limitless. In Seattle's voucher program, the cost is limited to $30 million over 10 years, with the first year not to exceed $3 million, for a projected 0.05 percent of the city's 2017 budget. (In 2017, the first cycle of implementation, only $1.14 million in voucher value was redeemed, driven mostly by the small number of races included in the program that year.) As with other limits that relate to the cost of campaigns, which can grow faster than the inflation rate, this limit will need to be adjusted over time. If you choose to cap public dollars available across all candidates, candidates should know what to expect in the event that program funds are insufficient to support all participants at the levels set by the program.

If the program is structured in such a way that policy makers must vote to increase the cap when needed, then the future prospects of the program will be contingent on mustering the political will to increase those caps each time. If legislators fail to act, participation in the program could dwindle, leaving the program more vulnerable to repeal or simply falling into disuse. Having a program cap in the statute does offer a line of defense against opponents’ attacks asserting runaway costs. On the other hand, not having a statutory cap and relying instead on a sound budget estimate, which allows for more program funding as needed, can provide greater certainty to candidates. If your program is very successful in attracting candidate participation, you will be better positioned to succeed overall. The successful New York City program exemplifies a reliable approach to funding: granting the

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administering agency, the Campaign Finance Board (CFB), independent budgetary authority and not setting a program cost limit. Before each cycle, the CFB estimates the overall program cost and receives their requested allocation. If the program starts to run low into the election cycle, there is a process for making emergency appropriations to the CFB, to ensure all participating candidates have access to the matching funds they are entitled to receive. The New York City program costs from two recent cycles, 2009 and 2013, average $8 million per year, or 0.01 percent of the city’s recent $70 billion annual budget.

To estimate cost, Every Voice Center uses a policy modeling process that includes projections built on recent campaign finance data, and assumptions about new behavior and candidate participation, based on observations across programs. There are also back-of-the-envelope methods for rough estimates based on the program type. For example, if you are considering a 6-to-1 matching program for only small contributions and you assume that candidates will tend to spend what they have spent in the past, that competitiveness levels will not change much in the first cycle of implementation, and that most candidates will participate in the program, then you could take the total cost of a recent cycle and estimate that six-sevenths of that number will be public dollars, since one-seventh will be small donations from the public.

Another important component of this balancing act is the level of small-donor outreach built into the program and how that relates to cost and participation. For example, when designing a match program, setting a lower matchable amount (e.g. $50 vs. $150) for a 6-to-1 match rate would mean more candidate effort to reach a certain amount. This translates potentially into fewer public dollars going to candidates, since candidates will tend to only do the level of fundraising they need, and candidates will need to talk to more small donors to reach comparable funding levels. Since talking to more small donors is also a goal, this is an example of a balancing act between candidate needs, program cost, and the program goal of greater civic engagement.

**PROGRAM FUNDING SOURCES**

“Finding the money for public financing systems is essentially a political problem, not a financial problem,” wrote Tracy Westen, then CEO of the Center for Governmental Studies (CGS), in 2011. This is still true today. Public financing of elections is not a substantial line item in a municipal, county, state, or federal government budget. Despite that, depending on the local political and economic situation, it may be difficult to find a consistent source of money that is not vulnerable to political attack. It’s paramount that small-donor public financing programs receive enough funds to meet their goals. Candidates are unlikely to participate in a system if they’re unsure whether they’ll get enough funds to run competitive campaigns. Here we explore the options available to ensure reliable funding for small-donor public financing programs.

You should try to avoid regular political battles over funding, to the extent possible. There are two ways to do that. The first is to ensure the fund is non-lapsing (which means it does not get zeroed out at the end of the year) and funded annually. This way, the fund doesn’t get zero funding in non-election years and suddenly need millions of dollars in election years. It is easier to include the same approximate

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17. The New York City program distributed $38.2 million in the 2013 cycle and $17.7 million in the 2017 cycle (elections occur every four years for all offices).
amount for a budget item annually. For example, a fund may require $20 million every two years and an additional $20 million every four years, for a total of $60 million every four years. It is generally easier to get the legislature to fund the program at $15 million every year, rather than to get no program funding in year one, $20 million the next year, zero the year after, and then $40 million after that. In addition, a non-lapsing fund can help prevent frequent funding battles.

Second, if there is a mechanism for this in your jurisdiction, we recommend making the fund as unsweepable—or, difficult for lawmakers to remove the funding—as possible. An unsweepable fund makes it harder for legislators to raid the fund in an election off-year to pay for other items in the budget. If the fund is unsweepable, it is more likely the $15 million annual allocation will reach $60 million when needed, rather than being raided and needing to find $60 million right before a major election year, which is more challenging. Some jurisdictions have limitations on whether a fund can be unsweepable. There is no such thing as a completely unsweepable fund. Money is fungible and determined legislative bodies can find a way to raid a fund if they want to. But making a fund harder to sweep makes it less likely that the small-donor elections fund will be targeted for harmful reductions. Find out what your jurisdiction's strongest version of an unsweepable fund is, if there is one, and consider making the small-donor elections fund that type of fund.

You'll also need to decide whether to fund the small-donor elections program out of the general fund or whether to create a dedicated revenue stream that goes directly into the program's fund. Some jurisdictions have a strong preference for using the general fund, while in others, creating a dedicated stream of revenue can better ensure regular and sufficient funding for the program.

**KEY POLITICAL DECISION POINT**

Be cautious about new revenue streams. New taxes can make it harder to pass the policy on the ballot or through the legislature. Opponents may use new taxes to attack the program. Some legislators may be less willing to increase taxes to pay for the program, and some voters may be unwilling to raise taxes. Finally, adding a new revenue stream can change the process by which the policy must pass. Legislatively, it may require the bill to go through an additional committee or it may mean the bill must pass with a supermajority instead of a simple majority. Be sure to know what these requirements are and how they might impact the chances of passing your policy before deciding whether to add a revenue stream to your policy.

One advantage of using the general fund is that it is not dependent on a specific revenue stream that may fluctuate between budget years, so long as opponents don't syphon it off. For example, in Maine, funding for the Clean Elections program comes from the general fund. Unfortunately, it has been a target for cuts. In 2013, Gov. Paul LePage, an opponent of the program, proposed eliminating $4 million in funding over two years. In the end, because of a budget shortfall, lawmakers removed the governor's race from the law in 2014, so that only legislative candidates could run using Clean Elections.19 (Gubernatorial candidates are eligible to participate in Clean Elections in 2018.)

On the other hand, Maine voters have consistently supported increased funding for Clean Elections. As part of the initiative approved by voters in November 2015, the overall funding level for the program was increased from $2 million to $3 million per year, to be automatically appropriated annually. To help pay for this increase, the initiative directs the legislature to cut $6 million in corporate tax breaks. This figure is based on a 2006 report from the Maine Office of Program Evaluation and Government Accountability, which identified more than $100 million worth of tax incentive programs that it recommended to be evaluated and perhaps eliminated. Although this funding source did earn the opposition of the local Chamber of Commerce and the Maine legislature has been slow to implement it, funding such a program through eliminating wasteful tax breaks can be a good selling point to the public.

Connecticut's program is financed by abandoned property (funds left in inactive savings and checking accounts), voluntary contributions, and interest on assets. If there is a shortfall, money is deposited from a portion of the corporate business tax.

Arizona funds its Clean Elections program through a 10 percent surcharge on civil penalties and criminal fines, as well as civil penalties paid by candidates. If exploring such an option it is important to consider whether such a funding system would be economically regressive and/or unfairly impact people of color who are charged for certain crimes disproportionately.

In Seattle, the new voucher initiative is funded via a property tax levy, which may raise up to $30 million over 10 years, with no more than $3 million in the first year. Property taxes due to the program may not exceed $0.0194/$1,000 of assessed value, or just under $10 on a $500,000 home.

Westen's 2011 guide, “Where to Get the Money,” provides a long list of possible revenue sources for consideration by policy makers. These include, but are not limited to: corporate tax surcharges; fees or surcharges on bids for state contracts; and fees or surcharges on regulated industries.

If you decide to generate new revenue to pay for the program, be sure there is strong buy-in from a wide variety of organizations on the source of revenue, especially those who represent any community that might be especially affected, and groups whose support could be needed to win. For example, “sin” taxes and other consumer product taxes fall disproportionately on low-income households. This funding mechanism could alienate potential ally organizations, allied elected officials, or voters. It could also arm your opposition with a powerful new argument, such as that the poor are being taxed to fund political campaigns. Few new revenue sources come without controversy, as the ones that aren't controversial have typically already been levied for something else. Tread carefully here to find the right option to help you win, not hurt your chances.

WRAP-AROUND REFORMS

Small-donor public financing is a transformative reform policy because it expands political participation, but there are additional reforms with broad appeal too. To strengthen the appeal of public financing measures, many advocates include provisions in their policy proposals that close loopholes or strengthen other features of the campaign finance system. This can be an appealing way to package (or “wrap”) a proposal both for the public and, in some cases, for elected officials. It also may provide a substantive response to local scandals or concerns that help build the case for reform overall. Such a list may include provisions strengthening constraints on coordination between candidates and outside spending groups; closing the revolving door between government and private lobbying interests; decreasing contribution limits; banning contractor and lobbyist contributions or gifts to lawmakers; increasing penalties for violating campaign finance laws; and improving public disclosure of contributions or spending. When packaging, keep in mind or look into any single subject rules that might apply in your jurisdiction and can impact the ballot measure route.

For example, the federal Government By the People Act strengthens bundling reporting rules—what must be disclosed, and when, by people who organize the gathering of contributions for candidates. It also puts more teeth into public broadcast rules, by requiring TV stations to sell broadcast time at the lowest unit price to candidates.

In Seattle, the initiative establishing vouchers also prohibits candidates from taking contributions from contractors who have received more than $250,000 from the city over the prior two years, as well as from firms that have spent at least $5,000 on lobbying over the previous year. It also bans high-level city employees and other elected officials from lobbying for three years after leaving office.

Whether or not to include such provisions depends on the local landscape. If it’s in the campaign budget, polling can help inform whether and which wrap-around policies to include.

Coordinating Additional Reforms

If you are pursuing a ballot strategy or you think a legislative strategy might still end up on the ballot, it can make strategic sense to include provisions that go beyond small-donor public financing and that are especially popular with the public, such as bans on contributions by government contractors and their lobbyists. However, sometimes such provisions require tweaks to other parts of the law. For example, does your locality require that campaigns disclose employer information about their contributors, as is the case at the federal level? Without such information, it may be difficult to enforce a ban on contributions from government contractors. You may need to add a provision on transparency, requiring that information to be disclosed. (See section on expert assistance for more information.)
Including the right wrap-around policies can improve your chances of winning, while choosing the wrong ones can hurt your chances. If you are running a ballot campaign, choosing popular wrap-around policies can increase support for your initiative. Even if you are running a legislative campaign, your opposition may put a repeal of your policy on the ballot, so you may want to prepare for that by considering legislative wrap-around policies from voters’ perspectives as well as legislators’.

If you are pursuing a legislative pathway, you need to ensure that wrap-around policies will help, not harm, your chance of winning. For example, a lobbyist gift ban is very popular with voters, but it may alienate or not work for certain allies or legislators whose support you need to pass legislation—they may not appreciate the implication of corruption. Gift bans may also make acceptable ways of interacting with elected officials difficult. Wrap-around policies must be chosen as carefully—and with the input of elected officials and a broad coalition—as the program design and funding source.

**RECOMMENDATION**

Before choosing wrap-around policies, discuss possible ones with key allies and anyone who can block your policy, to ensure they don't oppose the policies.
NUTS AND BOLTS

The success of a small-donor public financing program hinges on how well it works when put into practice. The nuts and bolts are important! When designing your program, it is helpful to check with local experts familiar with campaign operations—community organizers, canvass directors, campaign finance directors, campaign managers, political consultants, candidates, and elected officials—in addition to legal experts familiar with the ins and outs of your state or local campaign laws.

PROGRAM TITLE AND PURPOSE

Names can be crucial to success or failure, and there are nuances about what works best for different audiences. If you are crafting a proposal that must be approved by elected officials, they are likely to be insulted and unsupportive if you call it the “Stop the Dirty Politicians Act.” If you want to appeal to the public on a ballot initiative, that name will be more popular, although it may still undermine legislative support down the road. If possible, it’s helpful to do polling on any names that are being considered. For example, recent polling in some venues has indicated the terms “small donor” and “accountable” are popular.

The first full public financing programs that passed in the 1990s used variations on the term “Clean Elections.” That phrasing has fallen more out of favor in recent years. The two major federal proposals are called the “Fair Elections Now Act” and the “Government By the People Act.” Both titles take away the emphasis on corruption and turn the focus toward shared values.

Polling is recommended to craft your messaging in general, and this includes the title of a bill or ballot measure. Every Voice can provide assistance on how to craft polling questions on messaging.

KEY POLITICAL DECISION POINT

Great messaging will appeal to a wide audience while also avoiding potential missteps. Consider consulting a wide variety of stakeholders in order to ensure your message and title appeal to as many people as possible and do not unintentionally exclude or offend anyone. For example, you might want to call your policy “Citizen Funded Elections.” But for immigrant rights groups or key allies, this may fail to reflect the inclusive intentions of the proposal. Also, given that legal residents may give to candidates, it may give the opposition an argument that your policy is hypocritical because it is called citizen-funded but still allows non-citizens to fund elections. Or you might opt for “Honest Elections” and then run into legislators who don’t want to support your bill because it implies that they are dishonest now. To ensure you find a title that is popular with the public, key allies, and key elected officials, it is worth the effort to get input from many corners at the outset.

Depending on strategy and local rules, it may be possible to add text to a preamble or purpose section. As noted earlier, in recent Supreme Court cases, reducing corruption and the appearance of corruption have been accepted as governmental interests and are therefore very wise to include in a purpose section. You can include either “the corrupting influence of money in politics” or “the appearance of corruption” or both, because this could impact whether your bill is upheld or struck down by a court. However, legislators may not appreciate the implication. You may need to communicate to them that
while you do not plan to focus on this messaging overall, it is an important legal basis for the policy and needs to be clearly on the record if the law is to be upheld. The rest of your preamble or purpose should be determined by the best overall messaging for the policy.

If you are putting this issue on the ballot, we recommend consulting with a lawyer or nonprofit with legal expertise on campaign finance constitutional issues when crafting your reform's title and purpose section. (See section on expert assistance for more information.)

**OFFICES TO COVER**

Which offices will the program cover? Ideally, these programs should cover all offices for which the cost of winning office promotes a dependence on elite donors, opens the doors to corruption or undue influence, or discourages candidates without access to wealth.

Unless it is prohibited for some reason (such as state law), you should be able to cover every elected office, including legislative; executive; elected commissions; supreme, appellate, and trial courts; sheriffs; district attorneys; and school boards.

**KEY POLITICAL DECISION POINT**

The choice of offices to cover in a program can affect which organizations support your policy. For example, covering judicial races may garner the support of organizations that seek criminal justice reform, such as the trial lawyers association or civil rights organizations, both of which are often very influential with a set of legislators. But don’t take any group’s support for granted. Just because a policy may be in what you believe to be an organization’s interest, the group might not endorse it or devote resources to the campaign. As with all coalition relationships, a thoughtful approach that includes trust and goal alignment is important.

If circumstances or program cost concerns make it impossible to offer public financing for all offices, one approach is to fund a subset of offices, and build support over time for additional ones. Some lawmakers might be more willing to test a program for an office other than their own, such as judicial seats. You can also consider phasing in certain offices over time, starting with legislative races that can be funded first, and phasing in executive races in two or three election cycles. The benefit to phasing in races, particularly through the law establishing the program, is that you don’t have to run a whole new campaign in order to expand the program to cover additional races, though you will have to work to protect the program and ensure expansions are adequately funded.

If making a choice like this, it is important to consider whether the choice of races funded first will improve or hurt the likelihood of success for the program. For example, phasing in a set of seats (e.g. legislative races) first, rather than a single position (e.g. governor), creates a better opportunity to demonstrate program benefits. It can reduce the risk that inaccurate generalizations will be made based on one or two candidates or races, and may be more effective at building support for expanding the program.
REQUIREMENTS FOR CANDIDATES

There are a number of program considerations for candidates to qualify for access to public funds and participate in the program. Participating candidates volunteer to abide by certain restrictions or requirements, which can include lower contribution limits, restricted sources of money, or participation in a number of public debates. The idea behind these requirements is that if a candidate is receiving a public benefit, that candidate has certain obligations to the public. Such provisions help assure voters that any tax money used to support candidates is well spent.

Qualification Thresholds

Determining the requirements candidates must meet before receiving public money is hugely important to the success of public financing programs. If designed well, those requirements encourage outreach to small donors and constituents, ensure the programs are widely used by candidates, and safeguard public funds from misuse.

In privately financed races, there are strong incentives for candidates to court affluent donors early on to demonstrate that they will be able to meet the financial demands of winning. With small-donor programs, candidates demonstrate their viability by showing broad community support through the collection of a large number of small donations. This broad community support shows the viability of their campaign and gives them access to public funds.

In a grant-style program, candidates prove they have broad support by collecting a certain number of small donations—often as little as $5—from voters in the communities they seek to represent. This reduces the risk that “fringe” candidates with views far outside the norms of the community and without reasonable support for their candidacy will have access to public funds. This is not meant to discourage diverse points of view. Rather, it is intended to use public funds wisely and help maintain public support for the program. Qualifying contribution requirements also build the power of small donors, who become very important to would-be candidates early in a campaign and in a way they rarely are in privately-funded systems. That way, ordinary people connect with the electoral process—indeed collectively they become quite powerful—which is often a major goal of public financing programs.

The level at which to place the minimum threshold for qualifying can vary based on the type of public funding. The qualifying requirement for a grant that fully covers a candidate’s campaign could be

RECOMMENDATION

• If you can’t offer public financing for all elected offices, consider phasing in implementation of races, but start with a set of races that include numerous seats (e.g. all legislative races or all judicial races, as opposed to just the governor and lieutenant governor).
• Consider the offices eligible for public funds with an eye to making passage of the policy more likely, whether because the public perceives the greatest need to cover those offices or those offices help gain influential allies for passing or expanding the policy.
set higher than a requirement to begin receiving matching funds or vouchers. The logic here is more public money is at stake initially with a grant, whereas candidates continue to “earn” their matched contributions or voucher amounts by doing additional outreach to small donors. In Seattle’s new voucher program, candidates must collect a minimum number of contributions of at least $10 (but not surpassing the contribution limit of the office sought). For mayoral candidates, for example, 600 small contributions (or 0.10 percent of the voting age population) are required before candidates can begin collecting and cashing in vouchers. In the Government By the People Act, congressional candidates are eligible for matching funds once they collect a total of at least $50,000 in amounts of $150 or less from at least 1,000 state residents (or 0.18 percent of the voting age population), for an average of $50 per donor. Both programs have lower qualification requirements than Albuquerque, New Mexico, where contributions from 1 percent of the voting age population are required before receiving grants, or Maine, where state senate candidates must collect 175 $5 donations (about 0.58 percent of the voting age population).

Looking at the threshold number of small donors as a percentage of the voting age population can provide a sense of the ease or difficulty in meeting this qualification requirement. Looking at recent fundraising behavior and typical donor counts provides a helpful gauge as well.

In addition to the number of small contributions or donors, some jurisdictions, including New York City and Connecticut, have added the requirement that a candidate must also meet a total dollar amount threshold for qualifying contributions. In Connecticut, qualifying contributions can range from $5 to $100 for statewide offices, with total qualifying amounts of $250,000 for gubernatorial candidates. These programs may want candidates to show that their broad support is based on more than the smallest contribution possible (e.g., $1 or $5), which might be considered token amounts. If both a number of donors and aggregate amount of qualifying contributions make up the qualification requirements, we recommend setting these thresholds to allow for an average amount per donor that still stays in the small donor realm (e.g., $50 per donor or less).

In grant programs, these qualifying contributions can also be thought of as a kind of super-charged match. For example, in Maine, a candidate for the state house must collect 60 $5 contributions totalling $300 before qualifying for a grant of $2,500 for a contested primary race. In a sense, this is a match of more than 8-to-1 ($2,500-to-$300). If the candidate then receives public financing for a contested race in the general election, it’s like a 25-to-1 match ($7,500-to-$300). Another way to think about this is Maine House candidates participating in the program can potentially rely on public funds for 90 percent of their spending: $7,500 from primary and general election public funding grants combined, compared to $500 in seed money (which will be discussed in the next section) plus $300 in qualifying contributions.

In a matching program, it usually makes sense to match contributions from the qualification round of fundraising once candidates reach the threshold requirements, because candidates tend to need funds early on to start up their campaigns.

Another factor to consider when developing a qualifying contribution provision is defining the permitted source of such contributions. Typically, existing public financing programs limit such contributions to individuals, as opposed to traditional PACs, corporations, or unions. This emphasizes

23. For the 2018 program, qualifying contributions for legislative offices range from $5 to $250 and total $5,100 for state representative candidates and $15,300 for state senator candidates. The $250 threshold is higher than previous cycles, when that limit aligned with the statewide limit of $100.
the importance of individuals.

Geographic requirements for qualifying contributions reinforce the idea of showing a significant base of support among constituents. Most of the existing programs have in-state or in-city requirements for all or most qualifying contributions. For example, Maine’s Clean Elections program requires qualifying contributions come from registered voters in the candidate’s district or jurisdiction. Connecticut has a less restrictive and more inclusive policy. Candidates must collect 90 percent of their qualifying contributions from in-state residents, who are not required to be registered voters. For a gubernatorial candidate, this means $225,000 out of $250,000 must be collected in-state.

While setting a qualifying threshold too low might lead to candidates with very little support being awarded taxpayer money and increased expenses for the program, setting a threshold too high might deter new candidates with good ideas but who have not yet developed broad networks of popular support. A lower threshold, and the availability of additional matching funds or vouchers post-qualification, allows a lesser-known but appealing candidate to build a base of small-donor supporters during the campaign as their visibility increases.

Finally, with qualifying contributions, bookkeeping and transparency are crucial. What form will contributions be accepted in: cash, check, credit card, etc.? Can they be transmitted through an electronic intermediary, such as a website with a donation link? How will they be verified, particularly if there’s a requirement that they come from voters in a particular geographic area? And how will they be reported? Reporting the contributions to the overseeing agency is required to assure that the threshold is met without fraud. Making small donors’ information available to the public electronically or online increases transparency, though consideration should be given to protecting contributors against employers who disapprove of their employees’ political choices. (See the transparency section beginning on page 43 for more details about transparency requirements and considerations.)

**RECOMMENDATION**

There are a number of reference points to use for setting qualification thresholds that strike the right balance of creating access to public funds for serious candidates with broad community support and from diverse backgrounds, while safeguarding public funds against misuse. To determine the right qualifying requirements, you can:

- Look at typical donor base sizes (using campaign finance data) and the size of the voting age population in the area. Compare these to thresholds in other programs.
- Consult with local experts, particularly campaign managers, to gauge what qualifications can realistically be met by serious candidates.
- Think about the scale of the public funds offered once candidates qualify—larger amounts may warrant higher qualification thresholds.
- Most importantly, think about how the values and goals of the program are advanced by the qualification requirements. For example, if you want candidates to maximize interactions with residents from all parts of a city or state, making it possible for the candidate to qualify by accepting the smallest amounts possible and necessitating that donors be residents of the candidate’s district would align with that goal.
**Getting Started: Seed Money**

It costs money to get a campaign started, including collecting the contributions necessary to qualify for a small-donor public financing program. Accordingly, many of these systems—particularly those that offer public funding grants—have “early money” or “seed money” provisions that permit candidates to collect money from private sources so they can jumpstart their campaigns. However, there are typically limits both on the overall amount of seed funding they can collect and the specific amounts they may collect from each private source—individuals, family members, PACs, the candidate’s personal funds, etc.

Seed money contributions don’t necessarily have to come from small donors. They can be limited amounts from any source, including self-funding. They can be distinct from qualifying contributions by being significantly less limited in how they are collected. When figuring out the parameters of a seed money provision, it’s helpful to start by thinking about the amount of money necessary to set up a viable operation to collect the required qualifying contributions. The limit of allowable seed money should be enough to cover these start-up expenses.

When setting a limit on the total amount of seed money allowable, you may want to set it as a percentage of the primary public funding grant, which makes it easy to update in new election cycles. It’s also possible to set the amount as a specific dollar amount, but then that total will need to be revisited.

In Maine, seed money contributions are limited to $100 per contributor, including members of the candidate’s family. Candidates are not allowed to accept seed money from lobbyists while the legislature is in session. Maximum amounts of seed money are set at $3,000 for senate candidates and $1,000 for house candidates. To give a sense of scale, initial grants distributed to candidates with contested primary races are $10,125 for state senate seats and $2,525 for state representative seats, making the maximum amounts of allowable seed money 30 and 40 percent of the public grants, respectively. (The 2015 voter-approved initiative eliminated seed money contribution limits for gubernatorial candidates.)

In Connecticut, expenditures made or incurred before the primary or general election campaign is certified are limited to the amount raised by qualifying contributions and any additional personal funds the candidate is allowed to contribute. In 2018, the limits are $250,000-$270,000 for gubernatorial candidates, about $75,000-$85,000 for other statewide candidates, $15,300-$17,300 for state senate candidates, and $5,100-$6,100 for state representative candidates.

In the Government By the People Act, House candidates can use the $50,000 they collect from small donors to qualify for matching funds as their seed money or start up funds.

It’s important to think through a reporting requirement for seed money. Often these are the same as private campaign finance disclosure rules, which require that individuals’ names, employers, and addresses be listed, along with the contribution amounts. Sometimes there is a threshold amount at which such details must be reported. Seed money reports are often due when a participating candidate files for certification to receive public funds.
Getting the seed money allowance right can make the difference between a candidate deciding to participate in the program or not. Seed money allowances should be set in alignment with the amount of money it takes in that jurisdiction to get the basic infrastructure of a campaign up and running (e.g., set up campaign bank account, file candidacy) as well as raise the amount of small contributions to qualify for the program (e.g., set up a digital fundraising site, print materials to take to events and door to door, etc.). This will vary by jurisdiction and office type. Getting a number that works under varying circumstances is key.

The best people to help you set this number are candidates who have successfully won office, or their campaign managers, who share your values. Paradoxically, some of the people who can best design a successful small-donor public financing program are the people who have figured out how to win in our current broken campaign finance system but are committed to fixing it.

**RECOMMENDATION**

Gather feedback, particularly from candidates and campaign managers, on seed money allowances, limits, and reporting to be sure they are sufficient to get a campaign up and running and raise enough qualifying contributions, without being too generous or open to the same abuses or influence peddling as the private financing system.

**Self Funding with Personal Money**

Though the Supreme Court protects the right of candidates not participating in public financing programs to self fund their campaigns without limit, when crafting a public financing program, you should consider restricting publicly funded candidates’ use of personal funds in their campaigns. The higher the amount of self funding allowed, the greater advantage given to those who are financially well off enough to contribute to their own campaigns. However, in many cases, small-donor public financing programs offer candidates the chance to contribute modest amounts to their campaigns, which may make the programs more attractive to a broader array of candidates. Often these limits are also extended to close family members of candidates.

In New Mexico, participating candidates are permitted to contribute $5,000 to their own campaigns, which counts toward their $5,000 seed money allowance. In other words, rather than raise $5,000 from another source, a candidate may opt to put in $5,000 of their own money instead.

In other locations, limits are set on self-financing to ensure that it’s a small percentage of the total collected. In Arizona, Clean Elections legislative candidates may contribute up to $720 to their campaigns, while statewide candidates may contribute $1,420. These limits also include contributions from close family members.

At the federal level, the Government By the People Act would limit personal contributions to no more than $10,000, including immediate family members. In Connecticut, in 2018, self-funding limits were set at $20,000 for governor, $10,000 for other statewide races, $2,000 for state senator, and $1,000 for state representative.
On the one hand, one goal of public financing is to reduce barriers for candidates without personal wealth or networks of wealth to run. On the other hand, a goal of public financing is to reduce candidate dependence on large donors. These goals compete with one another on the issue of self funding. Giving a self-funded candidate some ability to use personal funds might entice such a candidate to use the program, reduce their use of large contributions, and result in a focus on a much larger number of small donors. On the other hand such a provision gives some advantage to wealthy candidates. It is a balancing act.

**Limits on Contribution Sizes and Sources**

In addition to limits on seed money and self-funding, in order to encourage outreach to more small donors and reduce reliance on well-heeled ones, you'll want to consider limits on the size of contributions and who can give.

Within a voluntary program, contribution limits can be set at a low level to ensure candidates using public funds seek out many small donors instead of relying on a few big ones. Determining the appropriate level at which to set limits for your program will depend on other parameters in the program that interact with one another, as explained below. For example, depending on whether the public financing tool is matching, vouchers, or some other form, the levels might be set differently. In Arizona and Maine, both of which are grant-style programs, candidates who participate in Clean Elections may not accept any private contributions beyond seed money and $5 qualifying contributions from individuals. In Berkeley, a matching funds program, the matchable limit and contribution limit are the same, $50. In Seattle’s Democracy Voucher program, mayoral candidates are limited to taking private contributions of no more than $500 over an election cycle (the same limit for non-participating candidates), and city council candidates are limited to $250 (half the limit for non-participants). These contribution limits include any money taken by a candidate to qualify to receive vouchers, but exclude voucher contributions.

Some programs also limit the sources candidates can accept donations from. In the Seattle program, participating candidates can take contributions from individuals or entities (non-individuals), up to the same limit ($250 or $500). Yet, as part of the 2015 ballot measure that established Democracy Vouchers, voters approved barring city contractors or any person or entity that hires lobbyists from donating to any city candidates. While most programs limit participants to individuals as the source of contributions, allowing non-individuals to give up to a small limit (such as $250) should limit undue influence.

Depending on the established local limitations around taking certain types of private money, there can be additional loopholes to avoid that would otherwise allow for big-donor influence to slip through. Jurisdictions that allow corporate giving or consider LLCs to be individuals may want to look at whether an “LLC loophole” is a concern. This loophole includes the ability of a single set of business owners to set up multiple entities and write checks from each account, thus evading the contribution limit placed on individuals or corporations. This practice is common among real estate developers, in particular.

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24. The 2015 ballot measure in Seattle that established the Democracy Voucher program also lowered the contribution limit for all city candidates from $700 to $500.
Another fundraising loophole is the leadership PAC, a political action committee that candidates can set up, often to raise additional funds to benefit themselves, as well as to distribute funds to other candidates. If participating candidates are allowed to have leadership PACs and those committees are not subject to low contribution limits, this creates a potential source of private, big-money influence for the publicly-financed candidate. (See the political parties section of this guide for more on leadership PACs.)

What about the candidates who choose not to participate in a public financing system? Those candidates are subject to existing contribution limits. It’s important to consider how the contribution limits for non-participants compares to the limits for participants and how that difference may alter candidate behavior and influence the decision to participate in the public financing program or not. In Maine, privately-financed legislative candidates can take no more than $400 in contributions from a single individual for their primary race and another $400 for the general, for a total of $800 per donor per election cycle. Meanwhile, Clean Elections candidates are only taking $5 contributions for each round of public funding. Participation in the Maine program is high with a majority of legislators elected in 2016 using Clean Elections to fund their campaigns. In Arizona, low participation in the grant program was likely exacerbated when individual contribution limits for non-participants went from $440 to $4,000 in 2013 and the limit for PAC contributions was eliminated entirely. This made it easier for privately-financed candidates to outraise their Clean Elections opponents.

Under current constitutional precedent, every small-donor program must be voluntary and exist alongside the privately-financed option. The more the small-donor option can be made attractive when compared to the private one, the better. Low contribution limits for non-participating candidates are key in this regard, while also reducing the likelihood of pay-to-play corruption. However, making private contribution limits too low or adding significant new private fundraising restrictions could be viewed by the courts as coercive and an unconstitutional restriction on free speech.

In a matching system, the largest contribution possible to a privately-financed candidate would ideally be equal to or lower than the total value of a matched small contribution to a publicly financed candidate. For example, a program that matches small contributions of no more than $100 at a 6-to-1 rate can generate a maximum value of $700 for each small donor. In that system a contribution limit of $500 for non-participants would help make the small-donor public financing route an attractive alternative when viewed alongside the private financing route.

Previously, another way of limiting big-donor influence was to limit the the number of candidates any one donor could contribute to. However, in 2014 the U.S. Supreme Court ruled in *McCutcheon v. the FEC* against having an overall cap for contributions by individuals, thus eliminating that strategy. Candidates can now contribute to as many candidates as they wish, but must still abide by the contribution limits for individuals and entities that exist in most places. So an individual may still be limited to donating a certain amount per candidate, but may give the maximum amount to as many candidates, party committees, and other entities as they please.

With this in mind, limiting contribution sizes and excluding some sources is the best way to limit the undue influence of wealthy donors when setting up public financing programs.
Spending Limits and Public Caps

Many existing small-donor programs include candidate campaign expenditure limits as a means to reduce the influence of private money. In the early grant-based programs, because no additional private funds were permitted after qualifying, a spending limit was built in—essentially the size of the grants, plus any “triggered” matching funds if a privately-financed opponent spent heavily against a candidate. In the longstanding New York City match program, large contributions are permitted, but the overall expenditure limits provide a cap on the role of private money for participating candidates.

It can be tempting to place spending limits on participating candidates, particularly in an attempt to keep program costs low. But setting candidate spending caps too low could reduce a participating candidate’s ability to compete with privately-financed opponents (and independent spending) and lead to lower participation in the program. Instead, a cap on public funds available to each candidate can manage program costs while allowing candidates to continue raising unlimited small contributions, once their public allocations are drawn down. Otherwise, candidates will not use the program if they fear there is not enough money for them to run a competitive campaign.

The public cap for each candidate should be set at an adequate level for candidates to run a successful campaign based on past experience with the cost of winning elections in the area, while also incorporating a level of variance in those costs based on the historical record. Candidates may not need the most money to run, but they need enough money to compete. One way to calculate a public cap is to look at an average of the top 20 percent of spenders for a given office, including an accounting for independent expenditures, and set the public funds cap high enough for candidates who need to reach this level, or higher. You do not need to get to the level of the very highest spenders but the program should take into account the sums needed to win the most competitive contests, including the capacity to compete with outside spenders. If outside money is common in the most competitive race, consider increasing the cap so that candidates will still feel comfortable competing for office within the public system.

In well-designed matching programs, for example, a public cap structured to accommodate competitive races does not necessarily mean a majority of candidates use the maximum amounts of public funds available. Candidates are less likely to continue asking for donations beyond the levels needed for their particular races, especially if funds left over at the end of the campaign must be returned to the public.

RECOMMENDATION

• For participating candidates, the contribution limit should be low enough to support the goals of the program to limit big donors and encourage small-donor fundraising.
• For non-participating candidates, consider their contribution limits in relation to program participants and how easy or hard it will be for non-participating candidates to outraise participating ones. If possible, for a matching program, a contribution limit for non-participants that is lower than the full value of a matched small donation makes participation in the program more attractive.
• If considering a matching program and the numbers work out, setting the contribution limit for participants at the same level as the matchable limit simplifies the program.
fund rather than kept by the candidate. Also, it is possible to set up the match rate and match limit so that reaching the cap requires a larger number of small donors than most candidates will want to reach, unless their races are very competitive.

In the current grant-style programs, the grants themselves, aggregated over a cycle, are essentially both the spending limits and public caps. In the New York City matching program, the public money limit per candidate is set at 55 percent of participant spending limits, but together with the high contribution limits, this can leave room for greater reliance on larger private donors. The new Portland, Oregon, matching program sets the public cap to 65 percent of total campaign spending limits for city auditor and commissioner seats, and 80 percent of the total campaign spending limit for mayoral candidates.

Like other program parameters that relate to how campaign costs change over time, public caps should be evaluated and adjusted to account for growth trends and other considerations, for example by including a formula to calculate an increase each cycle or assigning a commission the responsibility of evaluating the caps.

**RECOMMENDATION**

- We usually advise against setting spending limits. To address concerns around program costs, we instead suggest considering caps on the amount of public funds candidates can receive.
- In matching programs, setting a low matchable limit (e.g., $50) can make reaching the public cap something that only candidates in very competitive races are likely to do (thus controlling program costs while encouraging outreach to small donors).
- For the first cycle of implementation, set public caps at a level that takes into account expensive races and the need to compete against current and potential levels of independent spending. For future cycles, there should be a way to adjust public caps to keep pace with the changing costs of winning elections, possibly through a commission or formula, or both.

**Political Action Committees**

Traditional political action committees (PACs) typically collect funds from individuals, other PACs, and party committees and then spend it directly supporting or opposing candidates, including making cash contributions to favored candidates. PACs often advance a specific set of issues, political beliefs, or constituencies. They aggregate money from many sources and the limits on the contributions they can give a candidate are often set higher than what individuals can give to a candidate. Because many PACs represent narrow concerns and many draw their support from relatively small groups of contributors making large donations, they are often viewed as political instruments for wealthy special interests.

In many public funding programs, participating candidates are prohibited from taking contributions from PACs, along with other types of private donations after they are certified program participants, and sometimes before. In New Mexico, would-be publicly-funded candidates are permitted to accept early/seed money contributions up to $100 from PACs, as part of a $5,000 total amount of permitted seed money. Alternatively, in Arizona and Maine, contributions from PACs are prohibited for early/seed
money, as well as throughout the cycle, for Clean Elections participants.

In addition to prohibitions on taking contributions from PACs, programs sometimes clarify the separation between candidates and PACs that spend on their behalf in order to prevent coordination. In Seattle's new voucher program, participating candidates may not “knowingly solicit money for or on behalf of” any PAC, party, or organization that will make an independent expenditure for or against a city candidate. This language attempts to address the issue that candidates are increasingly soliciting money for super PACs, which can accept donations with no contribution limits. The Federal Election Commission (FEC) has ruled that federal candidates may solicit contributions for super PACs supporting them as long as the amounts fall under PAC contributions limits. Super PACs may take unlimited contributions; however, the FEC reasoning is that while candidates may not solicit for unlimited amounts, they are permitted to do so for contributions that fall within normal limits for PACs. Including rules to strengthen the separation between super PACs and candidates makes it more difficult for a super PAC to become what it often is—in essence, a second campaign committee for a candidate.

In Maine, there is no such requirement. The candidate's manual instead advises candidates that while they are not prohibited from fundraising for a PAC, they "should be aware of certain risks in doing so," particularly that “fundraising will create the public perception or lead to the conclusion” that the candidate cooperation with the PAC is done to “promote the candidate.”

Some proposals adopt different rules for PACs that accept only small contributions—called small-donor PACs or People's PACs—to contribute to participating candidates. Similar to publicly-financed candidates, they gain their financial strength by attracting large numbers of small contributions, as opposed to smaller numbers of large contributions. For example, in the Government By the People Act, a People's PAC could give to small-donor program participants as long as the donors to these PACs stay under the contribution limit of $150 annually. The PAC's contributions to candidates are not eligible for public matching funds.

When setting the contribution limit for individuals to small-donor PACs, one option is to make it the same as the matchable limit in the program. Another option is thinking about the monthly amount an organization might collect from members who can afford small donations—for example, $10 per month would translate to $120 per year to the small donor PAC. Many organizations that engage in politics collect small monthly amounts, and having a conversation with some of these groups about the small-donor PAC option is helpful for guiding your decisions about this design feature. Allowing this type of organized small money inside the program is in keeping with the democratic values these programs aim to encourage. It recognizes the value of collective action by everyday people that is at the heart of democracy.

Here's another way to think about the important role of groups that organize lots of people around an issue that they care about. A voter who cares about the environment may not know which candidate to support or donate to. And candidates that have not supported the environment in important ways may tell voters they are pro-environment and make a convincing case, e.g., sponsoring a bill (that they know would never pass) to clean up the river. Organizations that track candidates’ records and positions closely are needed to ensure that people can organize around issues they care about and support leaders who act in genuine alignment with those views.
If you decide to allow for contributions from small-donor PACs to participating candidates, you will need to decide on contribution limits to the PACs, contribution limits from the PACs to the candidate, and whether that PAC money is eligible for public matching.

**RECOMMENDATION**

Consider allowing program participants to accept donations from PACs that only accept small donations. Allowing small-donor PACs can align with program goals related to the important role of organizing and engaging residents. Talking to groups that might use this part of a program is important when designing it.

**Political Parties**

Figuring out the role of political parties in public funding programs is another balancing act. If party committees use private contributions to make large expenditures on behalf of publicly-funded candidates, it might appear that the candidate is exploiting the program, benefitting from both public funds and larger private contributions. However, parties often engage in party-building programs that many believe are legitimate expenses for publicly and privately funded candidates alike.

The larger the coordinated party expenditures on behalf of a candidate, the more likely the public perception will be that a loophole is being exploited. However, smaller expenditures for party building are less likely to cause concern. In Arizona, for example, party committees may pay for sample ballots and slate cards, and other written materials that promote three or more nominees for public office. Party committees may also pay for pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs that are used in connection with volunteer activities. However, they may not pay for any ads in newspapers, magazines, billboards, TV, or other telecommunications systems on behalf of participating candidates.

In New Mexico, the public funding program permits participating candidates to accept monetary or in-kind contributions from party committees if the total amount of that contribution does not exceed 10 percent of the total amount the candidate receives in public financing for that election cycle. In-kind contributions must be used for “campaign related expenses.” Party committees may also spend funds on general operating expenses, conventions, Get Out The Vote, and other “non-candidate specific party building activities.”

The Government By the People Act offers a different option: party committees may make coordinated expenditures for participating candidates if they are made from a segregated account where only small donations are collected. Similar to the small-donor PAC idea, this policy provision retains the emphasis on participation by small donors and limits the influence of big donors.
Independent Expenditures

Thanks to a series of court decisions, most famously the 2010 U.S. Supreme Court decision in *Citizens United*, outside spending is on the rise. There are currently no limits on how much an individual or group not formally connected with a campaign can spend to influence an election.

The good news is that at a time when voters are increasingly concerned about the role of money in politics, small-donor public financing programs are a constitutional and effective method of working within current legal precedent to reduce the influence of big money and give everyday people a bigger voice. The Supreme Court has found that small-donor public financing programs not only are constitutional, but enhance free speech.

The bad news is that a series of damaging decisions by the Supreme Court not only allowed big donors to spend unlimited and often anonymous money in our elections, but also struck down some provisions in small-donor public financing programs aimed at ensuring candidates have the funds to compete against big-money opponents. Understanding these limitations will help you create a program that meets current precedent while giving candidates the ability to run a successful small-donor driven campaign even in the face of big-money opponents.

The 2011 Supreme Court decision in *Arizona Free Enterprise v. Bennett* struck down the section of the Arizona Clean Elections law that provided additional funds to a publicly-funded candidate when they were outspent by a privately-funded opponent, including via outside groups supporting the privately-funded candidate. These funds, called “triggered” funds since they were only given to candidates if spending against them triggered their release, were included in other public financing programs to make the public financing program attractive to candidates who wanted assurances that they could effectively compete against any opponent, including big-spending, privately-financed candidates or large outside expenditures. After the *Arizona Free Enterprise* ruling, these programs were forced to eliminate their triggered funds provisions. For example, after a U.S. District Court in Maine issued an order striking down a similar provision in that state, the provision was formally eliminated from the law by legislation in 2012, which contributed to the need for voters to update the law with a ballot measure in 2015.
With outside spending on the rise, and triggered funds disallowed by current court precedent, public financing advocates have been approaching the policy problem creatively. As a practical matter, some of the groups you want in your coalition are also groups that make independent expenditures. If there are policy decisions related to independent expenditures, talking to them about the options is important, both to understand the political dynamics in that environment and to find common ground on the way forward.

Every Voice Center’s preferred approach is in keeping with advice outlined previously: the public funding system should permit a candidate to be competitive financially by relying on small contributions from everyday people rather than large gifts only wealthy donors are likely to make. As noted earlier, this means factoring in the potential additional ability for participating candidates to effectively respond to independent expenditures. The updated program in Maine, now with the supplemental grants that, as described earlier, allow candidates in high-spending races to collect additional $5 contributions to qualify for supplemental funding, is an example of this approach. In a voucher or matching program, the public cap must be set high enough to permit the level of campaign funding required to counter outside expenditures.

A second approach is to waive private fundraising restrictions placed on small-donor program candidates if they are opposed by significant independent expenditures. For example, Seattle’s initiative for Democracy Vouchers includes a provision that releases participating candidates from spending and contribution limits if they face candidates who are either spending over the spending limit themselves, or when the amount the privately funded candidate spends plus outside spending in support of that candidate is more than the spending limit. Given the potential for court challenges based on arguments similar to the ones successfully raised in the Arizona Free Enterprise case, it is also important to consult with constitutional experts on the specifics of such provisions. If you want to pursue this policy provision, remember that requiring prompt disclosure of independent expenditures ensures that caps are lifted on a timely manner when candidates need the funds.

Finally, many programs are now requiring more in-depth disclosure of outside spending, so that voters may be more fully informed about who is spending money for or against particular candidates and incorporate that information into their voting decisions. In New York City, effective August 2015, disclosure requirements for independent spenders include revealing the owners, officers, and board members of contributing organizations and funding sources of the organizations that contribute $50,000 or more. On materials, the spender’s principal owner, CEO, and top three donors must be listed in the “paid for by” notice, along with a web address for more information. In Maine, the initiative approved by voters in November 2015 requires independent expenditures to include disclosure statements on ads and materials listing the top three funders.

**RECOMMENDATION**

- Be sure to incorporate likely levels of independent expenditures as you set the levels of public funding available to candidates.
- Talk to reform-supportive allies who make independent expenditures when working out how to handle independent expenditures in the legislation. Their understanding of the dynamics in play may be helpful in designing effective protections for candidates facing significant outside money.
Transparency and Disclosure Requirements

In the *Citizens United* decision, the majority opinion held that disclosure of political spending is important, writing, “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.” In reality, when it comes to political spending, solid disclosure provisions are often lacking, particularly where nonprofit groups that do not disclose their donors enter the political fray, and often pass “secret money” around to each other to hide the true sources. Sometimes figuring out the actual donor feels like taking apart a set of nested Russian dolls. The biggest doll may not be the actual donor; it may be the doll within that one, or the one within that one. Often it’s hard to get to the identity of that innermost doll.

In the digital age, people have certain expectations about how information should be made available. The idea that there are pieces of paper somewhere where information is stored is no longer acceptable. If campaign donors are to be disclosed, people expect it to be easily accessible online.

The new standard is that disclosure of donors be online, timely, machine-readable, and downloadable (including in bulk or batches). It is not enough to simply post information online, especially if it’s in a format such as PDF. PDFs often are not searchable, and even if they are, it is labor intensive to take the information that is disclosed and enter it into a format that can be analyzed in a spreadsheet or database program. Requiring that the information be downloadable ensures that watchdogs, journalists, and others have the access they need to help hold candidates accountable.

There is less reason to make the identities of small donors public. While disclosure of these donors to the agencies charged with campaign finance oversight is necessary to help prevent fraud and to improve their effectiveness, it’s not necessary that they be publicly disclosed, as small donations do not necessarily raise the same conflict of interest and improper influence concerns as large contributions. Carefully crafted disclosure provisions can serve enforcement considerations while protecting the privacy of small donors by requiring disclosure of all donors to the campaign finance oversight body while only disclosing large donors publicly. Depending on local conditions, including how much it costs to win races in the area, giving patterns of donors, and laws around bundling donations, you can make a determination about what constitutes a significant donation to candidates in your area and pick a corresponding threshold at which to disclose donors publicly. For example, in a race that costs $1,000,000, disclosing donors publicly who give $200 or more may be appropriate while in a race that costs just $10,000, disclosing donors publicly who give $50 or more may be appropriate.

That said, we recommend that disclosure of some small-donor information be made available. Anonymized donor data providing lump sums by census block or zip code can be very helpful to researchers attempting to learn about the patterns of giving in publicly-funded elections. For example, in 2008, Every Voice Center (then called Public Campaign) published the report “All Over the Map,” which showed that donors of qualifying contributions in Arizona came from more diverse neighborhoods racially, ethnically, and by income, than private contributions. In 2017, Every Voice Center and the Seattle-based Win/Win Network teamed up to analyze data from Seattle’s first election using Democracy Vouchers and found voucher donors better reflected Seattle’s population including young people, women, people of color, and less affluent residents as compared to traditional cash donors.²⁵

²⁵http://www.honestelectionsseattle.org/2017-report/.
Some public financing programs have more thorough transparency requirements than others. The Government By the People Act, for example, would require that there be disclosure of donors over the Internet “in a searchable, sortable, and downloadable manner,” which is the ideal type of requirement.

In Seattle, the new voucher program states that the agency in charge of administering the program must maintain a website that includes “all assignments and redemptions of Democracy Vouchers including recipient name, Democracy Voucher identification number and suffix, date assigned, to whom assigned, when redeemed, and amount redeemed.” These records are online at http://www.Seattle.gov/DemocracyVoucher/.

In Maine, candidates who raise more than $1,500 for a race are required to file periodic reports electronically with the Maine Ethics Commission. Among the requirements, Clean Elections candidates must report their seed money contributions, although contributions under $50 are reported as a lump sum. They must also report amounts of public funding grants. All candidates must report their expenditures in detail. And a new requirement directs newly elected governors to disclose funds donated to pay for gubernatorial inaugural celebrations including in-kind contributions, along with the names, addresses, occupations, and employers of donors contributing more than $50 and the amounts and dates of all donations. These records are made available online at a dedicated website, http://mainecampaignfinance.com/. Records on contributions and expenditures may be downloaded in bulk into a spreadsheet format.

Finally, you will want to consider key stakeholders who will be affected by transparency requirements and seek their input. Some of the groups you may want in your coalition are also groups that are affected by transparency requirements. They may see those requirements as burdensome or inadvertently deterring political participation by smaller groups and groups that represent marginalized communities. Before deciding provisions for transparency and disclosure, talk to such groups to understand their perspectives and see if there are alternatives that meet shared goals. The same goes for campaign staff and candidates who may be disinclined to participate in a small-donor public financing program if the transparency requirements are too burdensome or may incur accidental fines if the rules are too hard to understand and comply with. Elected officials, former candidates, and their staff can provide useful input to ensure you meet the goals of disclosure while making the process manageable for candidates and their staff.

Public Debates and Education

When writing a new public financing law, it’s a good opportunity to add benefits that will help increase voter participation and education. After all, one goal of these programs is to make government more responsive to regular people. Instituting public debates is a popular option. If your locality does not already require the publication of a voter guide, this is also an important provision to consider. Other possibilities include requirements to ensure accessibility for disabled voters and voters whose primary language is not English, and specifying that debates be available for viewing on television and/or the Internet.

The Seattle Ethics and Elections Commission (SEEC) publishes guidebooks for candidates that explain the voucher program, which are accessible to those with disabilities and translated into different languages spoken by a number of Seattle residents.
Arizona requires candidates to write 200-word statements that are published in pamphlets that are mailed to voters for the primary and general elections. The Arizona Citizens Clean Elections Commission also sponsors debates that participating candidates are required to be a part of, while non-participating candidates are encouraged to attend.

In New York City, the Campaign Finance Board mails out voter guides for every regularly scheduled primary and general election, as well as publishing an interactive edition on its website. In addition, candidates for citywide office that participate in the matching fund program are required to participate in debates before each election, two for the primary and two for the general, as well as one if there’s a runoff. These debates are typically televised and also available for viewing on the Internet. Some are either simulcast or rebroadcast in languages other than English.

**ADMINISTRATION AND ENFORCEMENT**

In order to see your policy come to life, you need a government body in charge of administering it and enforcing the rules. In considering administration and enforcement, important balances must be struck. The government body that implements the system must ensure that the law and rules governing the system retain fairness and public confidence in the law. At the same time, the agency must also make the process reasonably simple for candidates who are using the system, so use of the system and compliance are not unnecessarily burdensome. These two priorities can sometimes run up against each other, so it is also important to decide proactively which provisions of the program need to be built into the law and which components can be left to rulemaking. Flexibility is important to accommodate real-world changes in campaign finance, but too much flexibility might lead to a situation in which the program becomes ineffective in serving its intended purposes.

**Agency Structure**

Public-financing policy drafters will need to decide whether to house administration of the program within an existing agency or to create a new one. Which is the better approach is entirely a matter of the local policy landscape. There is a strong advantage to creating a new agency if the one that exists to oversee elections would be adverse to changes in the system, has a poor track record of performing important functions, or is hobbled because of the way it is set up structurally. If the program is managed ineffectively then participation in the public financing program may be low, and if the rules are not enforced then the program may be prone to scandal.

Any agency overseeing a public financing program should have the following characteristics:
- Nonpartisan
- Structured to prevent gridlock
- Enough funding to carry out its functions
- Subpoena authority, to adequately enforce the law

In addition, housing administrative and enforcement authority for a public financing program under one roof can make for a stronger program. The New York City Campaign Finance Board is set up this way, for example.
At the federal level, the Federal Election Commission (FEC) is widely considered to be toothless when it comes to enforcing campaign finance laws. More often than not, the six partisan members of the FEC deadlock on matters of policy concern since there are three members from each side of the political spectrum and no tiebreaker. In light of this, in the Government By the People Act creates a new commission, the Government By the People Oversight Commission (GPOC), to oversee the program, regularly review its efficacy, and make recommendations to Congress on any changes need over time. The Treasury Department is charged with overseeing the tax credit portion of the proposal. The GPOC would be made up of five members, appointed by the president with consent of the Senate. Two would be appointed by the House majority leader and two by the House minority leader. The fifth would be recommended by the other four commissioners. Commissioners would serve five terms. Any person who served as a registered lobbyist, government employee, or officer of a political campaign within the two years prior would be disqualified.

In Arizona, the Citizens Clean Elections Commission oversees the program. There are five commissioners, no more than two from the same political party, and who live in different parts of the state. Terms are for five years.

The Maine Commission on Governmental Ethics and Election Practices (Maine Ethics Commission) oversees the public financing program in that state. There are five commissioners, with no more than two from the same party, and they serve for staggered three-year terms.

Often, the agency that handles elections or campaign finance laws is a natural fit to implement the program. Run through the pros and cons of various options with a broad range of coalition members, including those that have interacted with any agency being considered for implementation.

**RECOMMENDATION**

- Ideally the body administering the program is independent and able to perform its responsibilities. Be wary of an agency that might oppose the program and thus jeopardize its success.
- Run through the pros and cons of various options with a broad range of coalition members, including those that have interacted with any agency being considered for implementation.

**Certification**

Certification requirements for candidates participating in public financing programs need to be strong to reassure the public that their tax money is not being misspent on candidates who are not serious. In addition, it’s important to carefully think through how certification occurs so that money is distributed to participating candidates in a timely manner. Certification can include statements of intent to run and abide by the rules of the program, small donation qualification thresholds (as discussed in the section on qualification thresholds), and more.

New York City candidates participating in the city’s matching fund program are required to file a special certification form. This form must have notarized signatures from the candidate and the
treasurer, and contains contact information for people working on the campaign. This form must be submitted on June 10 in an election year, or another date specified by the Campaign Finance Board.

Publicly-funded candidates in Connecticut must submit an “Affidavit to Abide by Expenditures Limits and Other Program Requirements.” In addition, when they apply for public funding grants, they must submit certification showing that any previous campaign finance penalties have been paid.

**Deadlines and Distribution Schedule**

Keep things simple for candidates. If there is a qualification process for receiving public funds, try to make deadlines correspond with existing ones for qualifying for the ballot. This particular timing consideration can also be important to allow later entries into a race in the event that candidates announce or withdraw from races closer to ballot qualification deadlines.

Also make sure the system for distributing public funds is efficient and timely. For example, set a turnaround time for electronic funds distribution of about five days or less, and allow for funds to be distributed more frequently toward the end of an election.

In the Government By the People Act, participating candidates can submit reports requesting additional matching funds in increments of at least $5,000, filing no more than one report per week. During the final 30 days prior to a general election, the $5,000 threshold is waived, but the weekly limit remains.

**RECOMMENDATION**

Run all dates and deadlines past candidates, campaign managers, and elected officials who share your interest in ensuring the small-donor public financing program is a success, to be sure that they are aligned with how campaigns must be run to win and the deadlines and timelines don’t create a strategic disadvantage for publicly-financed candidates.

**Enforcement and Penalties**

If a publicly-funded program is not well-enforced and if penalties are not significant, there will be little incentive for participating candidates to abide by the rules and public support can quickly erode. On the other hand, when a program is well-enforced, small-donor public financing has the potential to increase trust in the leaders running under the system. Some policies rely on existing systems of campaign finance penalties that are in place for all candidates, whether publicly funded or not. Others add in new, tougher penalties as part of their proposals.

In Seattle, participating candidates who exceed campaign finance spending limits are subject to a civil penalty of two times the excess amount spent, unless the administering agency deems the overspending insignificant. The commission may also impose penalties of up to $5,000 for general violations. Trafficking, theft, or forgery of a voucher, or possession of a stolen voucher is punished by a fine of $5,000 or imprisonment up to 364 days. Candidates who fail to file required reports may be sanctioned up to $5,000.
In Maine, the initiative approved by voters in November 2015 toughened the penalties in the Clean Elections program. The overseeing commission may now double the authorized penalty for violations occurring less than 28 days before an election day and triple it for violations less than 14 days before an election day. Violations of independent expenditure reporting may result in penalties of no more than 100 percent of the amount of the expenditure, with the exception of lawn signs, where the maximum penalty is $200. In addition, the late filing of reports is punished based on a percentage of the total contributions or expenditures for that filing period, whichever is greater, multiplied by the number of calendar days the report is late. Percentages begin at 2 percent and increase with subsequent violations. The fine for not filing a report is $10,000, or the amount the candidate failed to report, whichever is greater.

A crucial component of good enforcement is a strong auditing regime. An agency can be authorized to perform audits through the statute, which can also include some procedures and consequences. In practice, some programs perform post-election audits on all participating candidates (New York City), and others perform audits on most candidates (Connecticut audits all statewide candidates and a randomized 50 percent of legislative candidates).

**Program Review and Maintenance**

Flexibility and the ability to adapt to changing circumstances is key to the long-term survival of your program. Candidates will discover glitches, new loopholes will emerge, and spending patterns will change. Your program needs to be up to such challenges and adapt over time.

As policy meets practice and legal landscapes change, program parameters should be evaluated against program goals, such as the reduction of corruption, candidate participation, and resident engagement. For example, campaign costs might grow faster than inflation, or higher levels of competition and candidate participation may call for a larger program budget. Programs that do not keep pace with the realities of campaign costs can become outdated and defunct—the presidential public financing program is unfortunately an example of this outcome.

In Arizona, for example, the state constitution requires a 75 percent supermajority to amend any law passed by voter initiative. Initially, that law protected the Clean Elections program from attacks by hostile lawmakers. Now, however it makes it easy for opponents of public financing to block changes needed to keep the program relevant with the rising cost of running campaigns and the impact of negative court rulings. At the other end of the spectrum, Maine's program provides for a regular post-election survey of participating candidates to find out what people think worked and what didn't, and then allows the Maine Ethics Commission to propose program revisions.

Similarly, in New York City, the Campaign Finance Board administers the program and reviews it after each election cycle. Over the years, the board has recommended a range of program adjustments, from matching only the smallest contributions (up to $10) to lowering contribution limits and distributing matching funds earlier in the cycle.

CONCLUSION

As we have shown, small-donor public financing is an effective, flexible, and constitutional way to combat the increasing influence of big money in politics. When designed well, small-donor public financing results in a more inclusive, reflective, and accountable government, where regular people can run for and win office, regardless of their access to wealthy donors.

There is a lot to take in and consider in this manual—but you don't have to go it alone. Rely on the expertise of members of your coalition, sympathetic elected officials, other jurisdictions that have implemented existing policies, local legal and policy experts, and of course, Every Voice Center.

We are energized and excited by the increasing numbers of cities, counties, and states taking up the call of small-donor public financing, and we want to ensure that you succeed.

If you have questions or run into roadblocks as you work to design, pass, or implement these policies, please email us at policymanual@everyvoice.org.