



Tips for Complying with Post-Election Contribution Rules

Although election day has come and gone, contributors may still receive solicitations related to the 2024 elections. Those interested in making post-election campaign contributions may do so under certain circumstances. Donors may also receive solicitations for transition and inaugural committees of candidates who prevailed in their races last Tuesday. Below are compliance tips to consider before making a post-election contribution.

Federal Candidate Recount Funds

Federal candidates are permitted to establish separate accounts to pay the costs of recounts and other expenses related to contested elections. Donations to recount funds are not aggregated with contributions to a candidate's primary or general election campaigns—meaning that an individual may contribute up to \$3,300 and a multicandidate political action committee (PAC) may contribute up to \$5,000 to each candidate's recount fund even if they previously contributed to that candidate this election cycle.

National Party Recount Funds

National party committees such as the Democratic National Committee (DNC) and Republican National Committee (RNC) are also permitted to establish accounts and raise funds specifically for election recounts, contests and other legal proceedings. These recount accounts are subject to separate contribution limits. Accordingly, an individual may contribute up to \$123,900 and a multicandidate PAC may contribute up to \$45,000 per year to these accounts, even if they have previously contributed to a national party committee's principal campaign account.

Debt Retirement

Federal candidates may accept contributions after the general election if their campaigns have net debt outstanding (i.e., a campaign's unpaid debts exceed its cash on hand). Contributions for debt retirement after an election occurs are only possible if the contributor has not already made the maximum contribution to the candidate for that election. For example, if Jane Doe contributed \$3,000 to Sen. Smith's general election campaign on or before election day, she may only contribute an additional \$300 toward the campaign's general election debt retirement after November 5, assuming the campaign has net debt outstanding. Further, any contribution for debt retirement must be designated for the election for which the campaign is retiring debt. If the contribution is not correctly designated, it will be applied toward the limit for the candidate's next election.

Presidential Transition Organizations

Federal law permits presidential candidates to raise funds from private sources to support the transition of the president-elect. Individuals, corporations and other organizations may contribute up to \$5,000 each to President-elect Trump's transition organization. Donors should take note that donations are publicly disclosed in a report filed with the General Services Administration within 30 days after the inauguration. Presidential transition organizations are organized as 501(c)(4) organizations under the tax code. Consequently, donations to transition organizations are not deductible for federal tax purposes.

Presidential Inaugural Committees

The president-elect may also establish and solicit funds for an inaugural committee. These committees are distinct from presidential transition organizations and are used to defray the costs associated with the presidential inauguration ceremonies in January. Individuals, corporations and other organizations may contribute unlimited amounts to a presidential inaugural committee. Foreign nationals, however, are prohibited from contributing. Individuals who are not U.S. citizens or lawful permanent residents therefore cannot contribute to President-elect Trump's inaugural committee. Corporations and other entities organized under the laws of, or having a principal place of business in, a foreign country are also prohibited from supporting presidential inaugural committees. Contributions to presidential inaugural committees are publicly disclosed in a report filed with the Federal Election Commission within 90 days after the inauguration.

State and Local Transition and Inaugural Committees

Successful candidates for state and local offices, such as governors-elect and mayors-elect, may also be permitted to establish transition and inaugural committees under state and local laws. Before donating to a state or local transition or inaugural committee, individuals and businesses should consider whether their donations may be restricted by pay-to-play laws. These laws limit and/or require disclosures of contributions to support candidates and officials responsible for awarding government contracts. For example, Securities and Exchange Commission Rule 206(4)-5, which regulates contributions by investment advisers who manage or seek to manage public funds, explicitly covers contributions made to pay for transition or inaugural expenses of successful candidates for state or local office. We strongly recommend seeking the advice of counsel before donating to a state or local transition or inaugural committee if you or your employer do business with government entities in that jurisdiction.

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The Akin political law team will continue to monitor developments to keep clients informed on these and other key issues. We are available to conduct due diligence, pre-clear contributions and advise on other forms of political engagement.

Contributors: [Melissa Laurenza](#), [Ken Gross](#), [Kevin Paulsen](#)