



JILL STEIN FOR PRESIDENT  
PO BOX 260197  
MADISON, WI 53726

January 12, 2018

Federal Election Commission  
ATTN: Mary Moss  
999 E Street, NW  
Washington, DC 20463

The Jill Stein for President Campaign submits the enclosed response to the Preliminary Audit Findings dated November 30, 2017.

While the Committee agrees with most of the findings and recommended remedies, the Committee is requesting consideration of a single item and makes a few proposals herein.

If you have any questions concerning this response, please contact us at [Finance@Jill2016.com](mailto:Finance@Jill2016.com) or [Treasurer@Jill2016.com](mailto:Treasurer@Jill2016.com).

Sincerely,

Matt Kozlowski  
Director of Compliance  
Jill Stein for President



JILL STEIN FOR PRESIDENT  
PO Box 260197  
MADISON, WI 53726

The Jill Stein for President Committee (hereafter “the Committee”) requests consideration of the following response to the Preliminary Audit Findings dated November 30, 2017.

## I. Background

The Jill Stein for President Campaign disputes preliminary finding 1 “Matching Funds Received in Excess of Entitlement” contained within the Preliminary Audit Findings presented during the Audit Exit Conference. This dispute arises from the determination of the Committees Date of Ineligibility (“DOI”) and the relevant Primary costs incurred in relation to and after this date.

## II. Determination of Date of Ineligibility

In the course of operating, the Committee anticipated that its costs for Ballot Access expenses and the related organizational costs incurred as a direct result of Ballot Access expenses would be considered Qualified Primary Expenses and would be considered in determining the Committee’s DOI. This assumption was based largely on Advisory Opinion 1995-45 which finds that:

It has long been the view of the Commission that, for non-major party candidates, the process by which they satisfy the requirements of State law governing qualification for a position on the general election ballot serve purposes similar to a primary election or other nominating process. This view is supported by the Commission regulations defining the term “election,” which state that, for non-major party and independent candidates, the day prescribed by applicable State law as the last day to qualify for a position on the general election ballot may be designated as the primary election for such candidate. 11 CFR 100.2(c)(4)(i). AO 1995-45

In the 2016 Presidential Election cycle, the following states had State deadlines and qualifications after the date of the Green Party’s Presidential Nominating Convention and DOI:

Alabama – August 18<sup>th</sup>, 2016  
Arizona – September 9<sup>th</sup>, 2016  
Colorado – August 10<sup>th</sup>, 2016  
Delaware – August 20<sup>th</sup>, 2016  
Hawaii – August 10<sup>th</sup>, 2016  
Iowa – August 19<sup>th</sup>, 2016  
Louisiana – August 19<sup>th</sup>, 2016  
Mississippi – September 9<sup>th</sup>, 2016  
New Hampshire – August 10<sup>th</sup>, 2016  
Ohio – August 10<sup>th</sup>, 2016  
Rhode Island – September 9<sup>th</sup>, 2016  
Utah – August 15<sup>th</sup>, 2016  
Wyoming – August 29<sup>th</sup>, 2016

Alaska – August 10<sup>th</sup>, 2016  
California – August 12<sup>th</sup>, 2016  
Connecticut – August 10<sup>th</sup>, 2016  
Florida – September 1<sup>st</sup>, 2016  
Idaho – August 30<sup>th</sup>, 2016  
Kentucky – September 9<sup>th</sup>, 2016  
Minnesota – August 23<sup>rd</sup>, 2016  
Montana – August 17<sup>th</sup>, 2016  
North Dakota – September 5<sup>th</sup>, 2016  
Oregon – August 30<sup>th</sup>, 2016  
Tennessee – August 18<sup>th</sup>, 2016  
Virginia – August 26<sup>th</sup>, 2016



JILL STEIN FOR PRESIDENT  
PO Box 260197  
MADISON, WI 53726

In this election cycle, the Committee was successful in attaining many of the above deadlines prior to the Green Party Convention date, but the remaining states with deadlines after the DOI required a significant majority of the Committee's resources in order to successfully qualify. These resources include, but are not limited to, monetary resources to pay for ballot petitioning and related expenses, staff time to coordinate such efforts nationally, fundraising efforts, and administrative resources.

As of the DOI, the Committee was still actively petitioning in the following states:

Alabama, Connecticut, Idaho, Iowa, Kentucky, Minnesota, Montana, Nebraska, New Hampshire, North Dakota, Rhode Island, South Dakota, Utah, Virginia, and Wyoming.

### **III. Impacts of Early DOI Date and Calculation of Expenses**

Under the current DOI and the calculation of incurred expenses as applied in the Preliminary Audit Findings report, there are a large number of expenses that are clearly primary-related ballot access expenses and other primary-related expenses that have not been recognized for the full cost incurred by the Committee. It is the view of the Committee that this rule, as applied, causes de facto discrimination against non-major party candidates utilizing the Primary Matching Funds program as it forces committees to act in the following potential ways that are inconsistent with existing regulations and conventional campaign practices:

1. Forces committees to fundraise for primary expenses after the DOI has passed;
2. Forces committees to fundraise excessively in advance of determining campaign needs;
3. Incur clearly primary-related expenses without the ability to properly utilize the program;
4. Delay practical expenses and preparations for FEC Audits, winding down planning, and other actions which increase efficiency and timeliness of compliance with regulations and other requirements; and/or
5. Undertake operations in a way that inherently weakens the committee's ability to attain ballot access in states with later petitioning or qualification deadlines.

All of these scenarios (or any combination of these scenarios) have the inherent effect of causing non-major party committees to use public funds in an inefficient manner, fundraise under questionable pretenses, blur the line between primary election and general election fundraising and expenses, or suffer electoral consequences for compliance with existing rules as applied.

While the Committee acknowledges that the findings in the Audit Division's Preliminary Audit Findings clearly allow varying percentages of expenses incurred after the DOI, it excludes significant portions of these expenses and outright disallows other clearly primary-related expenses.



JILL STEIN FOR PRESIDENT  
PO Box 260197  
MADISON, WI 53726

## IV. Statement of Questions for Legal Consideration

The Committee asks that the Commission consider the following questions:

1. Are clearly primary-related expenses (such as ballot access expenses) incurred after a convention date qualified primary expenses under the Primary Matching Funds program?
2. Should committees be allowed to incur Winding Down expenses and other Primary expenses after the DOI if they are clearly incurred to improve compliance with existing laws and regulations or if they are clearly required in the course of seeking the qualification for the ballot in various states?
3. Should the DOI be applied as of the dates of conventions, or in the case of non-major party candidates, as the last dates by which they are seeking qualification for the ballot in a state?

## V. Suggested Remedies

In order to accurately and fairly assess the costs of the Committee and determine the Net Outstanding Campaign Obligations and any corresponding repayment order, the Committee suggests one of the following approaches or a combination thereof:

1. Count all clearly primary-related expenses as 100% primary, regardless of the determined incurred date of the expense.
2. Re-examine the eligibility of various expenses post-DOI in order to assess a fair calculation of their relevance to the primary.
3. Re-examine the Committee's DOI based on the states where ballot access petitioning efforts were in effect and their corresponding deadlines.

## VI. Conclusion

Thank you for the opportunity to respond to the Audit Division's findings and recommendations. The Committee fully intends to continue to comply and cooperate with the Commission's recommendations and determinations. The Committee extends its warmest thanks and appreciation to the Audit Division for their understanding, assistance, and professional demeanor in handling fieldwork and post-fieldwork.

Sincerely,

Jill Stein for President