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Suzanne Doran, Acting Executive Director

TO: Public Ethics Commission
FROM: Jelani Killings, Ethics Analyst
Suzanne Doran, Acting Executive Director
DATE: August 19, 2022
RE: 2022 LPF Program - Distribution of Funds

The Limited Public Financing Act (LPF Act), enacted in 1999, provides District City Council candidates with some public funds to be used for campaign expenses, with the goal of helping ensure that all individuals have a fair and equal opportunity to participate in the elective and governmental process. The process for applying for LPF funds begins after the City Clerk certifies the names of all candidates to appear on the ballot.

The City Clerk recently certified the names of all of the November 2022 candidates for City office. Attached is the list of certified candidates that was last updated on August 18. The Commission now must determine the following:

- 1) Whether the amount of money in the Election Campaign Fund is adequate to provide the maximum amount of funds allowable by law to each potentially eligible candidate, and
- 2) If the fund is not adequate, how to distribute the funds on either a pro rata or other equitable basis.

This memorandum provides background information and Staff recommendations for Commission consideration.

Background

Oakland Municipal Code Chapter 3.13, as amended in 2010, outlines the current provisions of the Limited Public Finance Act.

O.M.C. Section 3.13.065 of the LPF Act specifies the process for determining how to allocate LPF funds to candidates:

No later than seven days after the city clerk has certified the names of all candidates to appear on the ballot, the public ethics commission shall determine at a publicly noticed meeting whether, based on the number of potentially eligible candidates, the amount of money in the election campaign fund is adequate to provide the maximum amount to potentially eligible candidates. If the commission determines that the election campaign fund will not be adequate to provide the maximum amount of funds to potentially eligible candidates, the commission shall order the disbursement of available funds on a pro rata or other equitable basis. The commission may at any time revise the disbursement plan consistent with these rules and prevailing law.

Section 3.13.110(E) of the LPF Act sets the maximum amount of funds to be allocated to each candidate at 30 percent of the voluntary expenditure ceiling for the office being sought.

Analysis

1. Is the amount of money in the Election Campaign Fund adequate to provide the maximum amount of funds allowable by law to each potentially eligible candidate?

The combined total amount in the Limited Public Financing Election Campaign Fund for fiscal years 2021-22 and 2022-23 is \$177,000 to be available for distribution to the candidates who opt into the program for the November 2022 election.

As of August 18, 2022, the City Clerk's final certification list includes eight candidates running for election to the office of District City Councilmember in Districts 2, 4, and 6.

The chart below shows the breakdown of the number of candidates per district race, the voluntary expenditure ceiling and maximum potential LPF amount per candidate for each district, and the total amount of public funds that would be needed in order to offer each candidate the maximum amount of public funds allowable under the LPF Act, if all of the eight candidates opted into the program.

District Number	Number of Candidates Qualified for Ballot	Expenditure Ceiling	Maximum Potential LPF Amount for Each Candidate	Total Funds Needed per District to Provide the Maximum Amount	Total Amount Needed in the Fund
2	2	\$176,000	\$52,800	\$105,600	\$432,000
4	2	\$176,000	\$52,800	\$105,600	
6	4	\$184,000	\$55,200	\$220,800	

To offer each candidate the maximum amount of public funds allowable under the LPF Act, the Election Campaign Fund would require a total of **\$432,000** if all eight candidates accept LPF program participation.

Because the current fund balance available to candidates is \$177,000, the amount of money in the Election Campaign Fund is *not adequate* to provide the *maximum* amount allowed by law to potentially eligible candidates. Since the fund balance is not adequate to provide the maximum amount to each candidate, the Commission must determine how to distribute the available funds on a pro rata or other equitable basis.

2. How should the available funds be distributed?

A simple distribution of the current Election Campaign Fund balance can be achieved by dividing the balance of \$177,000 by the total number of candidates who have been certified by the City Clerk *and* who, within 14 days of certification, have submitted their Statement of Acceptance of the LPF program to the Public Ethics Commission. Once the 14-day deadline passes, Commission staff will calculate the total number of candidates who accept participation in the program and then divide the total amount available in the Election Campaign Fund by the number of participating candidates.

3. How will we ensure that all funds are distributed?

The intent of staff in administering the LPFA program is to distribute the full amount allocated in the general election fund of \$177,000. In the 2014 election cycle, the Commission implemented a new process for submission of claims in order to maximize the use of LPF funds by candidates. Under the two-phased approach, candidates are required to file their first reimbursement claim by September 19 in order to confirm that allotted funds will be used. Prior to the 2014 election cycle, substantial funds had gone undistributed, resulting in fewer funds being distributed to each candidate than was available in the fund by the end of the program. This issue resulted from some candidates opting to participate in the LPFA program, essentially reserving the funds for their own use, but never requesting reimbursement.

In 2012, 14 candidates stated they would accept public dollars, but only six submitted and received reimbursements. The table below reflects the LPFA fund allocation from the 2012 election. It shows the initial allocation based upon candidates who filed LPFA Form 1 to accept public financing, the number of candidates that actually filed LPFA Form 3 for reimbursement, and how funds were allocated to participating candidates.

District	Maximum Potential LPFA Amount for Each Candidate (if fully funded)	Number of Candidates that Filed Form 1	Number of Candidates that Filed Form 3	Total Amount Available to Each Candidate in 2012	Percentage of the Fund that Went Unclaimed
1	\$33,300	4	3	\$8,552.92	58 percent
3	\$35,700	5	1		
5	\$37,200	3	1		
7	\$38,100	2	1		

In 2014, under the new two-phase process, 11 candidates stated they would accept public dollars, but only eight submitted for a reimbursement by the September Phase I deadline. The table below reflects the LPFA fund allocation from the 2014 election. It shows the initial allocation based upon candidates who filed LPFA Form 1 to accept public financing, the number of candidates that filed LPFA Form 3 for reimbursement by the September deadline, and how funds were re-allocated to *participating candidates*, resulting in an increase of \$4,887 to each candidate.

District	Maximum Potential LPFA Amount for Each Candidate (if fully funded)	Number of Candidates that Filed Form 1	Number of Candidates that Filed Form 3	Total Amount Available to Each Candidate in 2014 (before re-distribution)	Total Amount Participating Candidate received upon redistribution
2	\$38,100	4	4	\$13,034	\$17,921
4	\$36,300	3	2		
6	\$36,300	4	2		

The new two-phase approach resulted in the Commission distributing 99.9 percent of the Election Campaign Fund in 2014, compared with 67 percent and 42 percent of the total funds being used in 2010 and 2012 respectively. In 2016, seven candidates filed LPF Form 1, but only four submitted for reimbursement by the Phase I deadline. Seventy-nine percent of the total funds available were used,

due to one candidate only submitting for one reimbursement and not utilizing their full allotment, a decrease from 2014 but still yielding a higher allocation rate than previous elections prior to the two-phased approach. The new approach also encouraged candidates to submit their claims earlier, resulting in more claims being submitted and funds being disbursed and used earlier in the campaign. The effectiveness of the two-phase approach continued in the last two elections cycles as the total amount of reimbursement funds distributed to candidates was \$176,489 or 96 percent of the total funds available in 2018, and \$137,485 or 90 percent in 2020. For these reasons, Staff plans to continue the two-phase approach in the 2022 election.

Recommendation

Staff recommends that the Commission find that the amount of money in the Election Campaign Fund is not adequate to provide the maximum amount of money to potentially eligible candidates. Secondly, Staff recommends that the balance of \$177,000 be divided equally by the total number of candidates who accept participation in the Limited Public Financing program by the 14-day deadline, subject to the two-phase approach outlined above, in order to ensure full distribution of available funds and to ensure participating candidates receive the maximum possible amount.

Attachments:

1. Qualified Candidate List for the November 8, 2022 Municipal Election, Oakland City Clerk's Office
2. Limited Public Financing Program Guide, 2022



City of Oakland

2022 Election

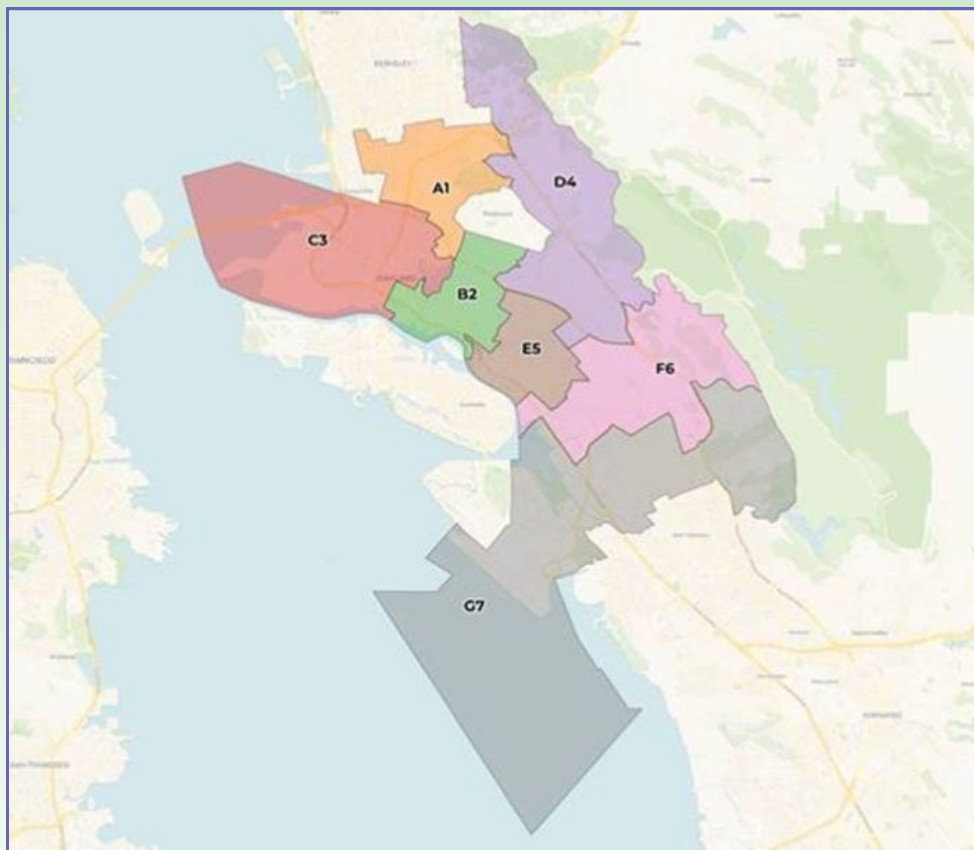
Item 4 - Staff Memo

Status	Office Sought	Candidate Name (Last name, First name)
Qualified	Mayor	De La Fuente, Ignacio
Qualified	Mayor	Hodge, Gregory
Qualified	Mayor	Jordan, Tyron C.
Qualified	Mayor	Liu, Peter Y.
Qualified	Mayor	Reid, Treva
Qualified	Mayor	Reimann, John
Qualified	Mayor	Scott, Seneca
Qualified	Mayor	Taylor, Loren
Qualified	Mayor	Thao, Sheng
Qualified	Council D2	Bas, Nikki Fortunato
Qualified	Council D2	Lowe, Harold
Qualified	Council D4	Joiner, Lanenna "Nenna"
Qualified	Council D4	Ramachandran, Janani
Has Not Qualified	Council D6	Jeffries, Desmond I.
Qualified	Council D6	Jenkins, Kevin E.
Qualified	Council D6	Session, Kenneth
Qualified	Council D6	Sidebotham, Nancy
Qualified	Council D6	Zazaboi, Yakpasua M.
Qualified	City Auditor	Ruby, Courtney
Qualified	School Board D2	Brouhard, Jennifer L.
Qualified	School Board D2	Kakishiba, David
Qualified	School Board D2	Orozco, Maximino
Qualified	School Board D4	Hudson-Manigo, Pecolia T.
Qualified	School Board D4	Hutchinson, Mike G.
Qualified	School Board D4	Resnick, Nick S.
Qualified	School Board D6	Bachelor, Valarie L.
Qualified	School Board D6	Mungia, Kyra H.
Qualified	School Board D6	Velasquez, Joel

UPDATED 8/18/2022

501 filed =	Candidate has filed a Candidate Intention Statement with Clerk's Office
Noms. Issued =	Candidate was issued nomination documents
Pending =	Candidate has submitted nomination documents; documents are being verified
Has not qualified =	Nomination docs have been verified; candidate has NOT qualified for the ballot
Qualified =	Nomination docs have been verified; candidate has qualified for the ballot

City of Oakland Public Ethics Commission



Limited Public Financing Program Guide for City Council District Candidates

NOVEMBER 2022 ELECTION

Public Ethics Commission
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INTRODUCTION

The City of Oakland Limited Public Financing Act (Act) provides a limited amount of campaign funds for candidates running for Oakland City Council District seats. The purposes of the Act include the following:

1. Ensure that people have a fair and equal opportunity to participate in elective and governmental processes;
2. Reduce the influence of large contributors with a specific financial stake in matters under consideration by the City and counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people;
3. Reduce the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters;
4. Encourage competition for elective office;
5. Allow candidates and officeholders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community;
6. Ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of important issues involved in political campaigns; and
7. Help preserve public trust in governmental and electoral institutions. [Oakland Municipal Code (OMC) § 3.13.030]

Campaign Reform Act Compliance

Public financing laws work in coordination with the Oakland Campaign Reform Act (OCRA), which limits contributions, provides optional spending limits, restricts contributions from people doing business with the City, and regulates local campaign finance disclosure as a supplement to state campaign finance laws.

The Commission imposes fines for violations of campaign finance and public financing laws, such as failure to file campaign finance forms or receiving contributions over the limit. For more information about campaign rules and potential fines, see the Commission's Oakland Campaign Reform Act Guide for 2022.

The Public Ethics Commission (Commission) administers the Public Financing Program (Program) and is here to assist you in your application and reimbursement process. The application and reimbursement process is complex, so please contact Commission staff if you are a candidate for a City Council District seat who might be interested in help with financing your campaign.

Oakland Public Ethics Commission

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AM I ELIGIBLE FOR PUBLIC FINANCING?

Any candidate who is certified by the City Clerk to appear on the ballot for the office of Oakland City Councilmember in Districts 1 – 7 and who is opposed by another candidate may apply for public financing through the City. Candidates for Citywide offices, such as the office of Mayor, City Auditor, City Attorney, and At-Large Council Member, along with candidates for the Oakland Unified School District Board of Directors, are not eligible. [OMC § 3.13.060]

Application process steps and eligibility requirements include the following:

Step	Program Requirement	Due Date
1	OCRA Form 301 – Candidate must sign and submit the Form 301 accepting voluntary expenditure ceilings to the Public Ethics Commission	Before receiving contributions at higher amount
2	Candidate Certification – by City Clerk to appear on the ballot	City Clerk deadline for certification
3	Candidate Has Opposition – Candidate is opposed by another candidate for the same office	Certification of candidates by City Clerk
4	Candidate Received Training – Candidate or their campaign treasurer or designee has attended a PEC LPF training program	August 26, 2022
5	LPF Form 1 – Statement of Acceptance or Rejection submitted to PEC	Within 14 days of certification by City Clerk
6	LPF Form 2 – Initial Application for Public Financing submitted to PEC	September 19, 2022
7	Minimum Campaign Contributions Received – Candidate has received contributions from Oakland donors totaling at least 5% of the voluntary spending limit for the office	September 19, 2022
8	Minimum Campaign Expenditures Made – Candidate has made campaign expenditures totaling at least 5% of the voluntary spending limit for the office being sought	September 19, 2022
9	Candidate's Personal Funds Are Within Limits – Candidate has not made contributions or loans from personal funds in an amount exceeding 10% of the voluntary spending limit	Ongoing
10	Campaign Fundraising Materials Comply with OCRA – Candidate included the proper notice regarding contribution limits and contribution prohibitions on contractors doing business with the City on all campaign fundraising material (See Oakland Campaign Reform Act Section 3.12.140)	Ongoing
11	Return Surplus Funds – Following the election, the candidate must return to the City a portion of excess funds remaining in the campaign account as of December 31	January 31, 2023

HOW MUCH MONEY WILL BE AVAILABLE?

The amount of money available to candidates will depend on how much money was budgeted by City Council and how many candidates are running for City Council Districts 1 – 7 in this election. This year, there is a total of roughly \$177,000 available to be distributed among eligible candidates. In past years, the amount distributed per candidate has ranged between \$8,000 and \$25,000. No candidate may receive more than 30% of Oakland's voluntary spending limit for the office being sought.¹ Commission staff will announce the amount available to candidates following the deadline for candidates to opt in to the program (as detailed below).

HOW DO I APPLY?

There are two main forms for applying for public financing:

1. **Opt-In** – Complete **LPF Form 1 (Acceptance/Rejection of Public Financing)** to accept or reject public financing no later than 14 days after the City Clerk has certified the names of all candidates to appear on the ballot (usually mid-August). [OMC § 3.13.070]
 - The failure to file on time **LPF Form 1** shall constitute an **irrevocable rejection** of public financing for the upcoming election.
2. **Apply for Program Participation** – Complete **LPF Form 2 (Application)** to formally apply for public financing. **LPF Form 2** requires the following:
 - **Campaign Information** – Be sure that we have all current campaign contact information as we use this information to communicate with you and your campaign staff regarding all aspects of your public financing participation, including when your check is ready.
 - **Tax ID/EIN Number** – Campaign committees will need to obtain a Taxpayer/Employer Identification Number (EIN) from the Internal Revenue Service (IRS) to receive reimbursement payments from the City. You can electronically file for an EIN as a political organization at www.irs.gov. Once you have obtained your EIN from the IRS, you will need to submit a completed IRS Form W-9 to the PEC. If you encounter any trouble obtaining your EIN, contact PEC staff for assistance.
 - **Proof of Contributions Received** – The candidate must submit copies of campaign contributions (i.e., contribution checks; not cash) demonstrating that the candidate has received contributions from Oakland donors totaling at least 5% of the voluntary spending limit for the office being sought. The written instrument used to make the contribution must demonstrate an Oakland address. Candidates may submit contributions received electronically from Oakland residents to meet the 5% contribution threshold. In that case, candidates should request that the vendor collecting the online contributions send a CSV (comma separated variable) report directly to the PEC to validate contributor and payment information. PEC staff can assist you with this process. Note that contributions from a candidate's own funds shall not be counted toward meeting this 5% requirement. [OMC § 3.13.080(C)]

¹ The Public Ethics Commission annually adjusts the voluntary spending limits every January to reflect any increase in the Consumer Price Index. The voluntary spending limits and campaign contribution limits for 2022 are included at the end of this Guide.

- **Proof of Expenditures Made** – The candidate must also submit proof in the form of detailed invoices or proof of payments/receipts that he or she has made campaign expenditures totaling at least 5% of the voluntary spending limit for the office being sought. [OMC § 3.13.080(C)]

HOW DO I REQUEST FUNDS?

Funds are provided to candidates as reimbursements for certain types of campaign expenditures (see box on this page). Candidates may apply for reimbursement in minimum increments of \$1,000 or more. Within ten calendar days of the election, candidates may apply for reimbursements in minimum increments of \$500. [OMC § 3.13.120]

A candidate applies for reimbursement by completing **LPF Form 3 (Reimbursement Claim Form)** which must be accompanied by copies of the following for each item for which reimbursement is requested:

1. Billing invoices;
2. Proof of payment by the campaign committee; and
3. Campaign literature, advertisement, radio or television script, or website configuration, if applicable. [OMC § 3.13.110(C)]

Expenditures Qualifying for Reimbursement

Reimbursement will only be provided for the following campaign expenditures:

- Candidate filing and ballot fees
- Printed campaign literature and production costs
- Postage
- Print advertisements
- Radio airtime and production costs
- Television or cable airtime and production costs
- Website design and maintenance costs

[OMC § 3.13.110(B)]

All requests for reimbursement must be submitted prior to the date of the election. Claims submitted on or after the date of the election will not be considered.

Commission staff will review submissions and work closely with candidates to ensure that all documents are in order. Once the submission is complete, Commission staff will respond with payment or an explanation of denial within two weeks.

Upon approval, public financing checks will only be made payable to a candidate's campaign committee. Candidates must deposit the check into the candidate's campaign account within three business days of receipt.

A denial or limitation of a request for reimbursement by the Commission's Executive Director may be appealed to the Commission whose decision shall be final. A request to appeal the denial shall be submitted to Commission staff in writing no more than ten calendar days after receiving written notice of the denial. [OMC § 3.13.110(D)]

REALLOCATION OF THE FUND

To ensure that the full amount allocated in the general election fund is distributed to all interested candidates, the Commission provides a two-phase approach for the disbursement of LPF funds to participants.

1. Phase I – The initial phase begins once eligible candidates opt in to the LPF program and the PEC determines the amount available to each participant.

2. Phase II – The second “redistribution phase” sets an early deadline for participants to submit the first reimbursement request. Thus, **LPF Form 2** and the first **LPF Form 3** must be submitted on or before the Phase II deadline of **September 19**. Failure to timely file **LPF Form 2** and initial **LPF Form 3** by that deadline will deem the participant ineligible to receive public funds for the 2022 election.

Candidates who meet the September 19 deadline may proceed to Phase II. After the Phase II deadline, the PEC recalculates and then re-allocates funds according to the number of participants that met the Phase II requirement. The redistribution can potentially increase the allotted amount to each participant based on the number of candidates that proceed to Phase II.

POST-ELECTION PROCEDURES

The Act requires that a portion of any surplus campaign funds remaining as of December 31, 2022, be returned to the Election Campaign Fund no later than January 31, 2023. [OMC § 3.13.150] The amount to be returned shall be calculated by multiplying the amount of surplus campaign funds (less any outstanding debts) by the percentage that total public financing received represents of total monetary contributions received for the election period.

- For example, if a candidate receives \$40,000 in contributions, \$10,000 in public financing, and as of December 31 has a remaining balance of \$14,000, with \$2,000 in debt, the candidate would owe the Election Campaign Fund \$3,000. (Note: The \$40,000 in contributions does not include public financing funds. LPF funds are NOT considered monetary contributions but are listed as “miscellaneous increase to cash” on campaign statements.) See LPF Form 4 on page 19 of this guide for a breakdown of this calculation.

A candidate shall not be required to return any surplus funds in an amount greater than the amount of public financing received. Commission staff can assist you in calculating the amount that must be returned, if any.

ENFORCEMENT AND OVERSIGHT

The Public Ethics Commission is authorized to administratively enforce the provisions of the Limited Public Financing Act, which may include the imposition of fines, penalties and the return of public financing received. [OMC § 3.13.180, 3.12.200] In addition, the City Auditor is required to complete audits of all candidates receiving public financing to ensure compliance with the rules of the program. [OMC § 3.13.100]

Share your feedback on public financing in Oakland

The Commission continues to review the effectiveness of this public financing program. Please be sure to provide your feedback on this program, sharing your experience as a local candidate, to Commission staff to assist with the Commission’s ongoing effort to improve this program.

APPENDIX 1: OCRA FORM 301



Submission Time: March 23, 2022 4:49 pm

Acceptance of Voluntary Campaign Spending Limit - OCRA Form 301

1. Candidate Information

Name	Ana Lara - TEST
Email	ethicscommission@oaklandca.gov
Office Sought	City Council, District 5
Election Date	November 8, 2022
Copy of Form 501 Candidate Statement Form	https://www.formstack.com/admin/download/file/12455534555

2. Declaration

I hereby declare that I have established a campaign committee in order to solicit contributions towards my candidacy. By submitting this form I accept the voluntary spending limits as defined in Sections 3.12.050(c), 3.12.060(c), 3.12.190, 3.12.200, 3.12.210 and 3.12.220 of the Oakland Campaign Reform Act. I understand that once accepted, the voluntary spending limit is irrevocable unless waived pursuant to Oakland Campaign Reform Act Section 3.12.220. I certify, under penalty of perjury under the laws of the State of California, that to the best of my knowledge, the information contained herein is true and complete.

Date/Time	Mar 23, 2022
Description Area	OCRA Form 301 (January/2020)

Unique ID: 944685512

APPENDIX 2: Local Contribution and Expenditure Limits

The Limited Public Financing Act applies in conjunction with the Oakland Campaign Reform Act (OCRA). OCRA, as amended in 2019, establishes, among other things, local contribution limits and optional campaign spending limits for Oakland candidates and committees.

Spending limits for Citywide offices, such as the Mayor, City Auditor, and City Attorney, as well as each individual district office, are established in correlation to the number of residents in each district and shall not exceed a specified amount per resident for each election in which the candidate is seeking office (O.M.C. 3.12.200). The PEC adjusts the contribution and spending limits annually to reflect the increase in the Consumer Price Index.

The next page provides a breakdown of the contribution and expenditure limits for 2022. To learn more about local contribution and spending limits, check out the Commission's 2022 OCRA Guide for candidates.

CITY OF OAKLAND
CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS PER THE OAKLAND CAMPAIGN
REFORM ACT 2022
REVISED 4/1/2022*

LIMITATIONS ON CONTRIBUTIONS FROM PERSONS, BUSINESSES, AND OTHER ORGANIZATIONS (§3.12.050)

For candidates who do not adopt the expenditure ceilings (3.12.050(A))	\$200
For candidates who adopt the expenditure ceilings (3.12.050(B))	\$900

LIMITATIONS ON CONTRIBUTIONS FROM BROAD-BASED POLITICAL COMMITTEES (§3.12.060)

For candidates who do not adopt the expenditure ceilings (3.12.060(A))	\$400
For candidates who adopt the expenditure ceilings (3.12.060(B))	\$1,800

EXPENDITURE CEILINGS FOR CANDIDATES FOR MAYOR AND OTHER CITYWIDE OFFICES WHO AGREE TO VOLUNTARY SPENDING LIMITS (§3.12.200)

Mayor	\$579,000
City Auditor	\$413,000
City Attorney	\$413,000
Council Member At-Large	\$413,000
District 1 Council Member	\$175,000
District 2 Council Member	\$176,000
District 3 Council Member	\$182,000
District 4 Council Member	\$176,000
District 5 Council Member	\$173,000
District 6 Council Member	\$184,000
District 7 Council Member	\$176,000
District 1 School Board Director	\$117,000
District 2 School Board Director	\$117,000
District 3 School Board Director	\$121,000
District 4 School Board Director	\$117,000
District 5 School Board Director	\$115,000
District 6 School Board Director	\$122,000
District 7 School Board Director	\$117,000

INDEPENDENT EXPENDITURE COMMITTEE THRESHOLD/EXPENDITURE CEILINGS LIFTED (§3.12.220)

Citywide offices	\$131,000
District offices	\$28,000

*Recalculated based on the map adopted by the Redistricting Commission on February 23, 2022, per the 2020 decennial census.

APPENDIX 3: Limited Public Financing Act

Chapter 3.13 - LIMITED PUBLIC FINANCING ACT

Article I. - Findings and Purpose

3.13.010 - Title.

This chapter shall be known as the "Limited Public Financing Act of the City of Oakland."

3.13.020 - Findings and declarations.

The findings of this Act are as follows:

- A. The financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.
- B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by the city government. This has caused the public perception that votes are being improperly influenced by monetary contributions.
- C. High campaign costs are forcing officeholders to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

3.13.030 - Purpose of this Act.

The purpose of this Act is to accomplish the objectives stated in Oakland's Campaign Reform Act as follows:

- A. To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.
- B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the city, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.
- C. To reduce the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.
- D. To encourage competition for elective office.
- E. To allow candidates and officeholders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.

- F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of important issues involved in political campaigns.
- G. To help preserve public trust in governmental and electoral institutions.

Article II. – Definitions

3.13.040 - Interpretation of this Act.

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the text, the definitions set forth in Chapter 3.12 of this Code and in Government Code Sections 81000 et seq. as amended govern the interpretation of this Act.

For purposes of this Act, "principal residence" shall mean the place in which a person's habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning.

For purposes of this Act, "primary place of doing business" shall mean the street address of a corporation's or association's principal executive office as filed with the California Secretary of State or the street address of an unincorporated association's principal office as filed with the California Secretary of State.

Article III. - Election Campaign Fund

3.13.050 - Election campaign fund.

There is hereby established an account within a special revenue fund of the city to be known as the "Election Campaign Fund."

3.13.060 - Appropriation of funds.

- A. The city council shall appropriate to the election campaign fund, under the city's current two-year budget cycle, an amount sufficient to fund all candidates eligible to receive public financing for the office of district city councilmember.
- B. The city public ethics commission shall provide in the form and at the time directed by the mayor and city administrator a written estimate of the amount necessary to be appropriated for any two-year budget cycle according to the provisions of this Act for all eligible candidates. The amount of funds to be allocated to the election campaign fund shall be based on a consideration of anticipated campaign activity, anticipated administrative costs, and existing unspent funds within the account. The amount of funds to be allocated to the election campaign fund shall not exceed \$500,000.00 for any two-year budget cycle.
- C. The election campaign fund shall be established as an interest bearing account. Unspent funds in the election campaign fund at the end of a two-year budget cycle shall remain in the fund and accrue for disbursement to candidates eligible for public financing in future elections and for administrative costs.

- D. Up to seven and one-half percent of the amount allocated to the election campaign fund pursuant to Subsections 3.13.060(a) and (b) may be utilized by the public ethics commission to cover the anticipated cost of administering the provisions of this Act.

3.13.065 - Allocation of election campaign fund.

No later than seven days after the city clerk has certified the names of all candidates to appear on the ballot, the public ethics commission shall determine at a publicly noticed meeting whether, based on the number of potentially eligible candidates, the amount of money in the election campaign fund is adequate to provide the maximum amount to potentially eligible candidates. If the commission determines that the election campaign fund will not be adequate to provide the maximum amount of funds to potentially eligible candidates, the commission shall order the disbursement of available funds on a pro rata or other equitable basis. The commission may at any time revise the disbursement plan consistent with these rules and prevailing law.

Article IV. - Eligibility for Public Financing

3.13.070 - Application and withdrawal procedures.

- A. Each candidate for district city council shall file a statement with the city clerk on a form approved for such purpose indicating acceptance or rejection of the voluntary spending ceilings pursuant to Section 3.12.190.
- B. Each candidate for district city council shall file with the public ethics commission a statement of acceptance or rejection of public financing on a form approved by the public ethics commission no later than 14 calendar days after the date the city clerk has certified the names of candidates to appear on the ballot for the election in which public financing will be sought. The statement of acceptance or rejection of public financing shall advise and require that the candidate's decision to reject public financing is irrevocable for the election in which his or her name appears on the ballot. The failure to timely file a statement of acceptance or rejection of public financing shall constitute a rejection of public financing.
- C. If a candidate declines to accept the voluntary expenditure ceilings prescribed in Section 3.12.200, the candidate shall be subject to the contribution limits of Subsections 3.12.050(a) and 3.12.060(a) and shall not be eligible for public financing.
- D. If a candidate agrees to accept the voluntary expenditure ceilings prescribed in Section 3.12.200, the candidate shall be subject to the contribution limits of Subsections 3.12.050(b) and 3.12.060(b) as adjusted pursuant to Subsections 3.12.050(g) and 3.12.060(g), and shall be eligible for public financing upon meeting the qualification requirements as provided in this Act.
- E. In the event expenditure ceilings are lifted pursuant to Section 3.12.200, a candidate who accepted expenditure ceilings shall be permitted to receive public financing but shall no longer be subject to expenditure ceilings.

3.13.080 - Qualification procedures.

A candidate shall be approved to receive public financing if the candidate meets all of the following requirements:

- A. The candidate has filed a timely statement of acceptance of the voluntary spending ceilings and acceptance of public financing.
- B. The candidate is certified to appear on the ballot for the election for which public financing is sought.
- C. The candidate has (1) received contributions in an aggregate amount of at least five percent of the expenditure ceiling for the office being sought from contributors whose principal residence or whose primary place of doing business is located within the city and which residence or business address appears on the written instrument used to make the contribution, and (2) made qualified campaign expenditures in an aggregate amount of at least five percent of the expenditure ceiling for the office being sought. Contributions from the candidate's own funds shall not be counted towards meeting this five percent requirement. The candidate shall provide copies of the contribution checks received and records of payments made to meet the five percent eligibility requirements.
- D. The candidate is opposed by another candidate for the same office.
- E. The candidate agrees to all conditions and requirements of this Act and to submit to any reasonable audit deemed appropriate by the public ethics commission or other civil authorities.
- F. The candidate or his or her campaign treasurer or designee attends a training program conducted or sponsored by the public ethics commission.
- G. The candidate has filed, and completely and accurately executed, all pre-election campaign statements that are due at the time public financing is payable. All candidates receiving public financing shall timely file, and completely and accurately execute, all post-election campaign statements for each election in which they received public financing.

3.13.090 - Use of personal funds.

A candidate who accepts public financing shall not receive contributions or loans from the candidate's own funds which aggregate total exceeds ten percent of the voluntary expenditure ceiling for the office being sought. If the voluntary expenditure ceilings for the office being sought are lifted, this provision shall not apply.

Article V. - Disbursement of Public Financing

3.13.100 - Duties of the public ethics commission and office of the city auditor.

- A. The public ethics commission shall develop any and all forms necessary to carry out the provisions of the Act. The public ethics commission may, in its discretion, require

any document or form to be filed in an electronic format that is provided by the public ethics commission to the candidates free of charge.

- B. The public ethics commission shall review records submitted to determine a candidate's eligibility to receive public financing and requests for reimbursement promptly. For any candidate determined not to be eligible for public financing, the commission or its designee shall inform the candidate of the reasons why the candidate is not eligible and what actions, if any, the candidate may take to correct any insufficiencies.
- C. The city auditor shall conduct mandatory post-election audits of all candidates accepting public financing. The city auditor may choose to limit the scope of any audit to the items submitted for reimbursement. The audit report shall be a public record and provided to the public ethics commission. The city auditor shall conduct all audits in accordance with generally accepted government auditing standards.

3.13.110 - Requests for public financing.

- A. Public financing pursuant to this Act shall be provided solely by reimbursing eligible candidates for certain qualified campaign expenditures lawfully made by the candidate and his or her campaign committee.
- B. The qualified campaign expenditures eligible for reimbursement are:
 - 1. Candidate filing and ballot fees;
 - 2. Printed campaign literature and production costs;
 - 3. Postage;
 - 4. Print advertisements;
 - 5. Radio airtime and production costs;
 - 6. Television or cable airtime and production costs; and
 - 7. Website design and maintenance costs.
- C. The following conditions and restrictions shall apply to any request for reimbursement:
 - 1. All requests for reimbursement shall be made on a form authorized by the public ethics commission and shall include: (a) a copy of the billing invoice for which reimbursement is sought; (b) a copy of the check(s) by which the candidate's campaign committee made payment on the billing invoice; and (c) a copy, when applicable, of the campaign literature, advertisement, radio or television script, or website configuration.
 - 2. All requests for reimbursement shall include a sworn declaration by the candidate and his or her campaign treasurer that (a) the check(s) used to make payment on the billing invoice represents payment in full of the billing invoice submitted for reimbursement and that sufficient funds exist in the campaign account to provide payment, and (b) any money received from the election campaign fund has not been previously earmarked or specifically encumbered to pay or to secure payment of any loan, return of contribution or of any expenditure other than the one for which reimbursement was sought.
- D. Any decision made by the executive director to deny a request for reimbursement may be appealed to the commission whose decision shall be final. A request to

agendize an appeal of the executive director's decision shall be made in writing and delivered to the office of the public ethics commission no more than ten calendar days after receiving written notice of the executive director's decision.

- E. The total amount of public financing allocated to each candidate shall not exceed 30 percent of the voluntary expenditure ceiling per election for the office being sought.

3.13.120 - Disbursement and deposit of public financing.

- A. A candidate or candidate's controlled committee, certified as eligible to receive public financing, shall submit requests for reimbursement to the public ethics commission in minimum increments of \$1,000.00 or more.
- B. A candidate or candidate's controlled committee, certified as eligible to receive public financing, shall submit requests for reimbursement in minimum increments of \$500.00 or more ten calendar days before the election.
- C. The public ethics commission or its designee shall have ten calendar days to cause the review and approval or denial of the request for reimbursement and disburse funds from the election campaign fund to the candidate or candidate's controlled committee.
- D. All funds disbursed from the election campaign fund shall be made payable to the candidate's controlled committee and shall be deposited directly into the candidate's campaign checking account within three business days of receipt.

3.13.150 - Return of surplus funds.

- A. Surplus campaign funds remaining at the end of the post-election reporting period following the election for which public financing was received shall be returned to the election campaign fund no later than 31 calendar days from the last day of the semi-annual reporting period following the election in an amount specified by this section. A candidate shall not be required to return any surplus funds in an amount greater than the amount of public financing received. The amount of surplus campaign funds to be returned to the election campaign fund shall be calculated by multiplying the amount of surplus campaign funds by the percentage that total public financing received represents of total monetary contributions received for the election period.
- B. For purposes of this Act, campaign funds shall be considered "surplus" campaign funds to the extent that the total amount of contributions (excluding the receipt of public financing) exceed the total financial obligations of the candidate's campaign committee (excluding unlawful or non-qualified campaign expenditures) as of the last day of the semi-annual reporting period following the election. A financial obligation includes (1) accounts payable billed, or (2) accounts payable for which bills may be expected, for goods or services received during the election.
- C. Public financing shall not be disbursed to the certified candidate from the election campaign fund following the day of the election or the candidate's withdrawal from the election, whichever occurs first, except that public financing may be disbursed to a certified candidate after the date of the election or withdrawal provided that the

candidate submitted a properly documented request for reimbursement before the date of the election or the date of withdrawal from the election.

3.13.170 - Public debates.

While not a condition for receiving public financing, candidates receiving public financing are strongly encouraged to participate in one or more nonpartisan candidate debates for each election.

3.13.180 - Enforcement.

The public ethics commission is the sole body for civil enforcement of this Act. In the event criminal violations of the Act come to the attention of the public ethics commission, the commission shall promptly advise in writing the city attorney and the appropriate prosecuting enforcement agency.

3.13.190 - Criminal misdemeanor actions.

Any person who knowingly or willfully (1) misrepresents his or her eligibility for public financing, (2) makes a material misrepresentation in connection with a request for reimbursement, or (3) causes, aids or abets any other person to violate the provisions of this Act, is guilty of a misdemeanor. Prosecution shall be commenced within four years after the date on which the violation occurred.

3.13.200 - Enforcement actions.

- A. Any person who intentionally or negligently (1) misrepresents his or her eligibility for public financing, (2) makes a material misrepresentation in connection with a request for reimbursement, or (3) causes, aids or abets any other person to violate the provisions of this Act, is subject to enforcement proceedings before the public ethics commission pursuant to the public ethics commission general rules of procedure.
- B. If two or more persons are responsible for any violation, they shall be jointly and severally liable.
- C. Any person alleging a violation of this Act shall first file with the public ethics commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The public ethics commission shall review, investigate and make determinations regarding any alleged violation consistent with the public ethics commission's general complaint procedures.
- D. The commission has full authority to settle any action involving public financing in the interest of justice.
- E. If the commission determines a violation has occurred, the commission is hereby authorized to administer appropriate penalties and fines not to exceed \$1,000.00 per violation and to order the repayment of public financing received or expended in violation of law.

- F. The public ethics commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.
- G. No complaint alleging a violation of any provision of this Act shall be filed more than four years after the date the violation occurred.

3.13.220 - Construction.

The Act shall be liberally construed to accomplish its purposes.

3.13.240 - Applicability of other laws.

Nothing in this Act shall exempt any person from applicable provisions of any other laws of the city, state or other appropriate jurisdiction.

3.13.260 - Severability.

If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.