

CITY OF OAKLAND

HOW TO APPLY FOR LIMITED PUBLIC MATCHING FUNDS

A HANDBOOK OF THE OAKLAND PUBLIC ETHICS COMMISSION



EFFECTIVE FEBRUARY 2008

I. INTRODUCTION

In December, 1999, the Oakland City Council adopted the Limited Public Financing Act. The Act currently provides a limited amount of public funds for eligible candidates to assist in running for District City Council offices.

The highlights of the Public Matching Fund program are:

- The City will match the first \$100 of every qualified campaign contribution received and deposited within 180 days before the election. Eligible contributions must originate from donors whose residence or business is located within the City of Oakland. The maximum amount a candidate can receive is 30 percent of Oakland's voluntary expenditure ceiling for the office being sought.
- Candidates must first raise in Oakland campaign contributions an amount at least equal to 5 percent of the voluntary expenditure ceiling for the office being sought to become eligible to receive public matching funds. Once eligible, candidates are entitled to receive accelerated, lump-sum grants of matching funds.

The Oakland Public Ethics Commission is authorized to implement and administer the Public Matching Fund program. The Public Ethics Commission has adopted administrative regulations to interpret and implement the program. These regulations, together with the Act itself, are "must reading" for interested candidates and their treasurers. Enclosed in this Handbook you will find:

- The Limited Public Financing Act
- Administrative Regulations
- Public Matching Fund Forms
- Tips and Reminders for Filing Your Claim
- FPPC Guidelines for Recordkeeping
- January 2008 Expenditure Ceilings

This Handbook is intended to be advisory only. To the extent the Handbook conflicts with the actual Act or administrative regulations, those laws shall govern the interpretation, implementation and enforcement of the Public Matching Fund program.

Any questions about this Handbook or the Public Matching Fund program should be directed to:

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II. APPLYING FOR PUBLIC MATCHING FUNDS

1. Who May Participate In The Public Matching Funds Program?

All candidates for the office of District City Councilmember who are certified to appear on the ballot may apply for public matching funds. (**Note:** Matching funds will not be available to candidates for the elected office of School Board Director until the first election after the Oakland Unified School District regains all rights, duties and powers pursuant to the terms of SB 39.)

2. How Does A Candidate Become Eligible To Receive Public Matching Funds?

The first step in applying for Public Matching Funds is to complete and file with the Public Ethics Commission LPF Form No. 1 entitled, "Statement And Application For Public Matching Funds." See Enclosed Form No. 1.

LPF Form No. 1 sets forth the basic requirements for participating in the program:

- The City Clerk must have already certified the candidate's name to appear on the ballot;
- The candidate must have already filed OCRA Form No. 301 with the City Clerk, in which the candidate agrees to accept voluntary expenditure limitations. An executed copy of OCRA Form No. 301 must accompany the Statement and Application;
- The candidate declares that he or she has received campaign contributions totaling at least five (5) percent of the voluntary expenditure ceiling, exclusive of any personal loans or contributions, and which contributions originate within the City of Oakland;
- The candidate has attached a completed LPF Form No. 2 entitled, "Matching Funds Claim Form" to the Statement and Application. The Matching Funds Claim Form and its accompanying "Matchable Contributions List" requires the candidate to identify the specific contributions that make up the candidate's five percent eligibility threshold, as well as any specific contributions that the candidate seeks to have matched under the Public Matching Fund program. **This form must be submitted in electronic format either by email or on a compact disc. The electronic form is available from the Public Ethics Commission on CD or by email.** (See Enclosed Form No. 2 -- Also see Section IV.1., below);

- The candidate declares that he or she has not made any contributions or loans from personal funds in an amount exceeding 5 percent of the voluntary expenditure ceiling for the office being sought;
- The candidate declares that he or she will timely file, and completely and accurately execute, all pre-election and post-election campaign statements;
- The candidate or his or her campaign treasurer or designee has attended a training program conducted or sponsored by the Public Ethics Commission; and
- The candidate agrees to abide by all conditions and requirements pertaining to the lawful use of public matching funds, and agrees to submit to any reasonable audits or reviews deemed appropriate by the Public Ethics Commission.

3. What Is The Voluntary Expenditure Ceiling For This Election?

The City Clerk adjusts the voluntary expenditure ceilings annually in January to reflect any increase in the Consumer Price Index. The voluntary expenditure ceilings from January, 2008, are enclosed.

4. What Happens After A Candidate Files A "Statement And Application For Public Matching Funds"?

Once the candidate submits the Statement And Application For Public Matching Funds to the Public Ethics Commission, Commission staff will review the Statement and Application to determine if it has been filled out completely and signed, and to confirm whether other conditions of eligibility have occurred, namely:

- The candidate must also be opposed by another candidate for the same office who also qualifies for public matching funds; or,
- The candidate is opposed by another candidate who has received contributions or made expenditures or has cash on hand in an amount of at least seven (7) percent of the voluntary expenditure ceiling for that office.

Commission staff will notify candidates within three to five business days whether they have qualified to receive public matching funds or, if they have not, the reasons why and what actions the candidate must take to become qualified.

5. What Happens If A Candidate Decides To Withdraw Or Is Disqualified From Participating In The Election?

Any candidate who is determined to be eligible to receive public matching funds but who is later disqualified from appearing on the ballot or who withdraws from the election will be suspended from receiving public matching funds. Any such candidate must also repay all "unencumbered" public matching funds within ten (10) days of the disqualification or withdrawal (See Section V.2.; below).

III. AMOUNT OF MONEY AVAILABLE FROM THE PUBLIC MATCHING FUND PROGRAM

1. How Is The Available Amount Of Public Matching Funds Determined?

Eligible candidates may receive one dollar of public matching funds for each dollar raised of the first \$100 or less contributed by each contributor per election. This means that the program will match every dollar a candidate receives, deposits, and verifies on the Matching Funds Claim Form, up to a total amount of \$100 per contributor, per election. For example:

- The maximum an eligible candidate may receive from any individual contributor is \$600. Regardless if that contributor gives one check in the amount of \$600, or six checks of \$100, the program will only match the first \$100 of any contribution from any individual contributor.
- Candidates typically may contribute as much as they want to finance their own campaigns. However, as a condition of participating in the Public Matching Fund program, candidates agree not to receive contributions or loans from their own funds in excess of five (5) percent of the voluntary expenditure ceiling (unless the voluntary expenditure ceilings are lifted under Oakland Municipal Code Section 3.12.220).

Only contributions from donors whose principal residence or primary place of doing business is located within the City of Oakland will be matched!

The address appearing on the check will be presumed to be the actual residence or place of doing business of the contributor.

2. What Is The Most A Candidate Can Receive?

Eligible candidates may receive up to 30 percent of the voluntary expenditure ceiling established for the election. However, this maximum amount ***may be less*** depending on the number of candidates who qualify to receive public matching funds. If the number of eligible candidates does not permit each candidate to receive the maximum individual amount, the Public Ethics Commission is authorized to allocate

the available funds on a "pro rata or other equitable basis" and to revise the amounts as necessary throughout the campaign. The Public Ethics Commission will timely notify candidates if there is any change in the maximum amount a candidate may receive.

3. Are Lump-Sum Grants Of Matching Funds Available?

Yes. Eligible candidates will receive an initial lump-sum payment representing 10 percent of the total amount of available matching funds which he or she is allocated to receive. Upon demonstration that the eligible candidate has raised Oakland contributions equaling at least 10 percent of the expenditure ceiling, eligible candidates will receive a second lump-sum payment equal in amount to the first. These lump-sum grants are an accelerated payment of the total amount a candidate is allocated to receive and do not represent additional funding.

4. Can Personal Loans, Cash, Cashier's Checks or Money Orders Be Matched By Public Matching Funds?

No part of a loan may be matched by public matching funds. Cash contributions, cashier's checks or money orders will not be matched.

5. Will Separate Contributions Made By A Person And The Business He Or She Owns Count As Two Separate Matchable Contributions?

No. The rules prohibiting the aggregation of contributions among families, businesses and other organizations under Oakland Municipal Code Section 3.12.080 (OCRA) will apply to the Public Matching Fund program. For example:

- Contributor Doe makes a \$100 contribution to a candidate. The company she owns also makes a \$100 contribution to the same candidate. Since these two contributions are treated as having been made by the same person under OCRA Section 3.12.080, only \$100 of the two \$100 contributions will be matched.

6. Are Matching Funds Available To Run-Off Candidates?

Only in a limited amount. Candidates involved in a run-off election will be entitled to receive a single, lump-sum payment equal to the amount of any lump-sum payments received during the primary election. No other matching funds will be available for run-off candidates.

IV. DISTRIBUTION OF PUBLIC MATCHING FUNDS

1. When Can A Campaign Get The Money?

Once candidates have received written notice from the Public Ethics Commission that they are certified to receive public matching funds, they may apply to receive money every time their campaign contributions reach an amount that entitles them to receive \$3,000 or more in public matching funds. Within ten (10) calendar days of the election, candidates may apply to receive money whenever contributions entitle them to receive \$1,000 or more in public matching funds.

Candidates apply to receive matching funds by submitting an executed Matching Funds Claims Form (LPF Form No. 2) to the Public Ethics Commission. This is the same form that the candidate uses to verify that he or she has received the five percent threshold amount to become eligible to participate in the program. **This form must be submitted in electronic format either by email or on a compact disc that the Public Ethics Commission will provide.** The form requires the candidate to:

- Identify the date the contribution was received;
- Identify the address, occupation and employer of the contributor if the contribution totals \$100 or more;
- Attach a copy of the check used to make the contribution (***even if less than \$100***);
- Attach a copy of the deposit receipt for all checks to be matched;
- Provide the total amount of contributions made by the contributor for the pending election.

No contribution shall be eligible for public matching funds unless a copy of the check and deposit receipt is included with the Matching Funds Claims Form!

The Public Ethics Commission staff will have ten (10) days to approve or deny a claim for public matching funds and to disburse the money. In the event one or more contributions are rejected for public matching funds, those rejected contributions may be re-submitted with the proper documentation the next time a \$3,000 or \$1,000 threshold is reached. For example:

- Candidate Doe submits contributions entitling her campaign to a total of \$3,200 in public matching funds. If contributions entitling her to \$200 of public matching funds are rejected because of insufficient documentation, she can re-submit those contributions only when she reaches the next threshold amount. If, on the other hand, contributions

entitling her to receive \$500 in public matching funds are rejected, she must re-submit her entire claim once she provides documentation to support at least a \$3,000 claim.

Public matching funds checks will only be made payable to a candidate's campaign committee. Candidates must deliver to the Public Ethics Commission a copy of the deposit receipt within three (3) business days of deposit into the candidate's campaign account.

2. What Is The Deadline To Submit A Claim Form?

Candidates may receive public matching funds for properly documented claims that are submitted prior to the day of the election. No claim submitted on or after the date of the election will be considered.

3. For What Purposes May Public Matching Funds Be Used?

Public matching funds can be used for any lawful qualified campaign expenditure. They may ***not*** be used to pay back any personal loan made by the candidate or any illegal campaign expense.

V. POST-ELECTION PROCEDURES

1. Will Campaigns Have To Account For Expenses?

Ultimately, yes. No later than July 31, 2008, all candidates receiving public matching funds must submit to the Public Ethics Commission staff "sufficient proof of payments" for campaign expenses. This "proof of payments" can and will include any invoice, receipt, bill or other written demand for payment.

2. What Happens If A Campaign Has Money Left Over?

The Limited Public Financing Act treats any "unencumbered" campaign funds remaining as of the last day of the semi-annual reporting period following the election (or as of the date of withdrawal from the election) as unspent public matching funds that must be returned to the City. The unencumbered funds must be returned no later than 31 days from the earlier of **1**) the last day of the semi-annual reporting period following the election, or **2**) the candidate's withdrawal from the election. The return of campaign funds cannot exceed the amount of public matching funds received. Campaign funds will be considered "encumbered" if the committee's total financial obligations (excluding personal loans or unlawful expenditures) exceed the total amount of contributions actually received by the date of the election or withdrawal.

Funds will be considered encumbered if they are required for accounts payable billed, or accounts payable for which bills are expected.

3. What Happens If A Candidate Returns To The Donor A Check That Has Already Been Matched?

In the event matching funds are paid to a candidate based on a contribution that is returned to the donor for any reason, the candidate shall return to the Public Ethics Commission the amount received in matching funds based on the returned contribution no later than seven business days after the contribution is returned.

4. Are There Penalties For Violations Of The Limited Public Financing Act?

Yes. 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 matching funds.

5. Will Campaign Financial Statements Be Audited Or Reviewed?

Yes. The Limited Public Financing Act requires that the Office of the City Auditor complete audits or compliance reviews of all candidates receiving public matching funds to ensure compliance with the rules of the program.