

CITY OF OAKLAND

Public Ethics Commission

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Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: August 18, 2014
RE: Limited Public Financing Act Program 2014; 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.

On August 18, 2014, the City Clerk certified the names of all of the November 2014 candidates for City office. Attached is the list of certified candidates, which was finalized on August 18. The Commission now must determine 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 if not, then 2) how to distribute the funds on either a pro rata or other equitable basis. This memorandum provides background information and recommendations to assist in the Commission's determination.

Background

Oakland Municipal Code Chapter 1.13, as amended in 2010, outlines the current provisions of the Limited Public Finance Act.

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% of the voluntary expenditure ceiling for the office being sought.

In addition, Section 3.13.060(D) authorizes up to 7.5 percent of the total amount in the Election Campaign Fund to be used by the Public Ethics Commission to cover anticipated costs of administering the LPF program.

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 2013-14 and 2014-15 is \$155,000 to be available for the November 2014 election. The Commission is authorized to receive 7.5%, or \$11,625 to cover the costs of administering the provisions of the Act. Therefore, the remaining balance of **\$143,375** will be available for distribution to the candidates who opt into the program.

As of August 18, 2014, the City Clerk’s final certification list includes 12 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 12 candidates opted into the program.

District Number	Number of Certified Candidates	Expenditure Ceiling	Maximum Potential LPF Amount for Each Candidate	Total Funds Needed per District to Provide the Maximum Amount	Total Amount Needed in Election Campaign Fund
2	5	\$127,000	\$38,100	\$190,500	\$444,600
4	3	\$121,000	\$36,300	\$108,900	
6	4	\$121,000	\$36,300	\$145,200	

In order to offer each candidate the maximum amount of public funds allowable under the LPF Act, the Election Campaign Fund would require a total of \$444,600, if all of the 12 candidates accepted LPF program participation.

Because the current fund balance available to candidates is \$143,375, 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 pro rata distribution of the current Election Campaign Fund balance can be achieved by dividing the balance of \$143,375 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 can 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 \$143,375. In each prior election cycle, substantial funds have gone undistributed, which in turn could have doubled a participating candidate’s subsidy in some cases and funding participating candidates closer to the maximum amount at 30% of the voluntary expenditure ceiling. This issue results from candidates opting to participate in the LPFA program but never requesting reimbursement. In 2012, 14 candidates stated they would accept public dollars, but only 6 submitted and received reimbursements.

For example, 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 would have been allocated to participating candidates, if a redistribution had been made in 2012.

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	Total Amount <u>Participating</u> Candidate would have received upon redistribution
1	\$33,300	4	3	\$8,552.92	\$19,956.82
3	\$35,700	5	1		
5	\$37,200	3	1		
7	\$38,100	2	1		

Recommendation

Staff recommends that the Commission issue a finding that the amount of money in the Election Campaign Fund is not adequate to provide the maximum amount of money to potentially eligible candidates and that the balance of \$143,375 will be divided equally by the total number of candidates who accept participation in the Limited Public Financing program by the 14-day deadline.

Staff further recommends requiring a September 19th deadline to file LPFA Form 2 and the first LPFA Form 3 (claim for reimbursement) in order to ensure full distribution of available funds

and to ensure participating candidates receive the most funds possible. This deadline would disqualify candidates who did not file for reimbursement and potentially will not be using LPFA funds. The funds that remain in the Election Campaign Fund, following the processing of all claims submitted by September 19, will be recalculated and distributed in pro rata form based on the number of candidates who meet the deadline. This will allow staff to assess true program participation effectively and to maximize the use of available LPFA funds to participating candidates.

Attachment:

Qualified Candidate List for the November 4, 2014 Municipal Election, Oakland City Clerk's Office