

City Auditor
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May 28, 2015



**Performance Audit of the Limited
Public Financing Act Program
November 2014 Election**

Audit Team:

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CITY OF OAKLAND

OFFICE OF THE CITY AUDITOR

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Introduction and Background

Introduction

The Office of the City Auditor conducted this post-election audit of candidates receiving public financing for the 2014 City Council elections as required by the Limited Public Financing Act (Act). The purpose of the audit was to determine whether the Public Ethics Commission (PEC) established adequate systems to ensure that candidates complied with the requirements of the Act.

For the 2014 election, the City Council appropriated \$155,000 from the Election Campaign Fund. The Election Campaign Fund is a special revenue fund to pay for public campaign financing and administrative costs associated with the Act. The PEC received \$11,625 to administer the program and \$143,375 was available for candidate reimbursements. Eight candidates who qualified for public campaign financing each received \$17,921.¹

Background

In December 1999, the City Council adopted the Limited Public Financing Act of the City of Oakland and later modified the Act in 2010. The Public Ethics Commission, a board composed of Oakland residents, oversees compliance with the Act. Starting in 2015, Commissioners are either appointed by the Mayor, City Attorney, City Auditor or selected by the PEC as a whole. The PEC has two staff: an Executive Director and a part-time Program Analyst who assist the Commissioners with their work.

In November 2014, Oakland voters passed Measure CC, which amended Oakland Charter Section 603. The Measure provides the PEC greater independence and enforcement authority, including the power to conduct investigations and audits.

The Act provides public funding for election campaigns for the following purposes:

- To ensure that everyone who is interested has an equal opportunity to participate.
- To even the playing field among participants.
- To reduce the pressure on candidates to raise more money than is necessary to communicate reasonably with voters.
- To encourage competition in elections.
- To allow candidates to spend less time on fundraising.
- To promote public discussion of important issues.
- To help preserve public trust in government and elections.

¹See Appendix A for list of participating candidates.

Audit Results and Other Considerations

Audit Results: The Public Ethics Commission's systems and internal controls are sufficient to ensure that candidates comply with the Act's requirements.

We identified no significant control weaknesses that require remediation to correct. We reviewed the internal controls, the recordkeeping practices, and processes that the PEC Executive Director put into place to administer this program. We also reviewed the recommendations from the prior audit and found they are all substantially resolved.

Candidates who receive public funding must confirm their understanding of the requirements of the Act and provide certain documentation for purposes of determining their eligibility to participate in the program:

- Certification that the candidate will appear on the ballot and acceptance of the voluntary expenditure ceiling.
- Submission of two forms to the PEC that indicate the candidate has agreed to participate in the program and understands what is required of them.
- Participation in training held by the PEC.
- Reporting campaign contributions and expenses to the PEC.

In addition, the Act also requires the following:

- Contributions from the candidates' personal funds are limited to 10 percent of the expenditure ceiling.
- Candidates may only use public funds for specific types of campaign expenses.
- The candidates' reimbursement requests must include sufficient documentation, such as copies of invoices and samples of campaign materials purchased with public funds. For the November 2014 election, candidates were required to return any surplus campaign funds to the Election Campaign Fund by January 31, 2015.

Other Considerations: Recommendation to revise the Municipal Code

Based on our review of the program and the Act, we recommend revising two sections of the Limited Public Financing Act. We identified the relevant Municipal Code sections and our recommended revisions below.

Audit Results and Other Considerations

Recommendation 1: Given the positive results of this and prior audits, as well as the level of internal controls put into place by the Executive Director, we recommend that the PEC work with the City Attorney to revise the Municipal Code so that regular post-election audits are no longer required.

Municipal Code 3.13.100 (C) directs the City Auditor to conduct mandatory post-election audits of all candidates receiving public financing. The PEC has implemented and maintained strong controls over the program. In our current year's audit, we found the PEC continued to develop and implement strong systems and internal controls to manage candidates' compliance with the requirements of the Act. The recommendations from the prior audits are all substantially resolved. In addition, the amendments made to the structure of the Public Ethics Commission through Measure CC approved by the voters in November 2014 further strengthen the program's internal controls.

The City of Oakland's charter provides the City Auditor with authority to conduct surveys, reviews and audits deemed to be in the public interest, and allows the City Auditor to audit the books, accounts, money and securities of all departments and agencies of the City.

Recommendation 2: The deadline for the candidates to return surplus funds should be revised to better correspond with the State's final campaign disclosure deadline.

Municipal Code Section 3.13.150 (A) requires that surplus campaign funds be returned to the Election Campaign Fund within 31 calendar days of the semi-annual reporting period after the election. For the November 2014 election, this date was January 31, 2015. However, candidates are not required to submit their final campaign disclosure forms to the State until January 31. The PEC's staff uses this disclosure form to determine whether the candidate has any surplus funds that need to be returned to the City. From a practical standpoint, the PEC may not have sufficient information to determine whether candidates have any surplus funds until after January 31 following the November election date.

Statement of Compliance, Scope, Objective & Methodology

Statement of Compliance with Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the audit's findings and conclusions based on the audit's objectives. We believe that the evidence obtained provides a reasonable basis for the audit's findings and conclusions based on the audit objectives.

Audit Scope and Objectives

Our objective was to determine whether the Public Ethics Commission developed and implemented adequate systems to ensure that candidates who received public funds complied with the requirements of the Limited Public Financing Act. The scope of this audit included all candidates that accepted public financing for the November 4, 2014 City Council elections (Appendix A).

Methodology

In conducting the audit, we:

- Reviewed the requirements of the Act.
- Reviewed and assessed the PEC's policies and procedures.
- Tested whether PEC staff adhered to policies and procedures.
- Reviewed candidates' records to determine whether candidates complied with various requirements of the Act.
- Examined candidate reimbursements to determine if they were consistent with the requirements of the Act and were properly documented.
- Reviewed and assessed whether PEC staff addressed the recommendations from the 2012 post-election audit issued in 2014.

Appendix A

List of candidates participating in the Limited Public Financing program for the November 2014 election:

- Kevin Blackburn, City Council District 2
- Jill Broadhurst, City Council District 4
- Desley Brooks, City Council District 6
- Anne Campbell-Washington, City Council District 4
- Abel Guillen, City Council District 2
- Dana King, City Council District 2
- Shereda Nosakhare, City Council District 6
- Andrew Park, City Council District 2

Public Ethics Commission Response

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CITY OF OAKLAND



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Public Ethics Commission

May 6, 2015

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Dear Auditor Roberts,

Thank you for your audit of the Public Ethics Commission's administration of the Limited Public Financing Act program for the 2014 election.

We appreciate your review and recommendations for this program, which has evolved and advanced over time, including in response to your office's recommendations in the last few years. We are pleased that the results of the audit indicate that Commission staff's "systems and internal controls are sufficient to ensure that candidates comply with the Act's requirements." Staff has made numerous adjustments to the program over the past few years in order to maintain strict controls over the distribution of public funds and to maximize candidate utilization of the program and available funds.

We further appreciate your additional suggestions for minor amendments to the law based on your observations of the Act and its implementation. Upon the public release of your report, the full Commission will review the audit and your recommendations regarding potential amendments to the Limited Public Financing Act, which would require approval by the City Council.

Many thanks to you and your office for your continued cooperation and support of the Commission's efforts to monitor and enhance the Limited Public Financing Act program.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jenna Whitman".

Jenna Whitman
Chairman
Public Ethics Commission