



CITY OF OAKLAND
Office of the City Auditor

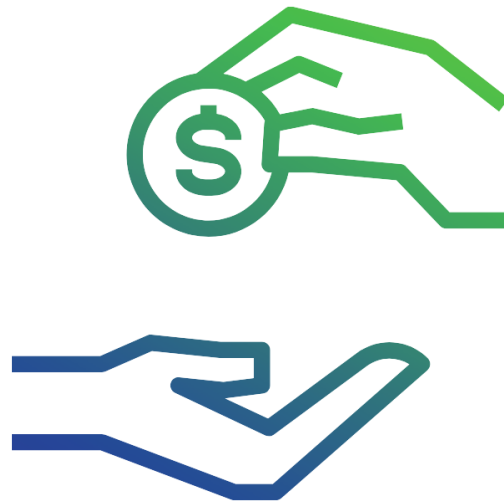
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Limited Public Financing Act
November 2018 Election

May 22, 2019

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May 22, 2019

Whitney Barazoto, Executive Director
Public Ethics Commission
City of Oakland
1 Frank Ogawa Plaza, 11TH Floor
Oakland, California 94612

RE: LIMITED PUBLIC FINANCING ACT (LPFA) – NOVEMBER 2018 ELECTION AUDIT

Dear Director Barazoto:

The Office of the City Auditor completed an audit of the Limited Public Financing Program (Program) as mandated by the Oakland Municipal Code (Municipal Code). The objective of the audit was to determine whether candidates who received public financing during the November 2018 election cycle complied with the objectives established in Municipal Code Section 3.13 (LPFA).

The PEC's overall systems and internal controls are adequate to ensure proper administration of the Program. All candidates were properly deemed eligible for the Program and all expenditure reimbursements were appropriate. The audit identified minor issues related to candidates' calculating surplus funds and depositing reimbursement checks. The PEC can address these findings with simple updates to the training materials, campaign e-filing system, and its quality assurance program.

I want to express our appreciation to the Public Ethics Commission's management and staff for their cooperation during this audit and their commitment to fully implementing all the recommendations.

Sincerely,

COURTNEY A. RUBY, CPA
City Auditor

Table of Contents

Executive Summary	1
Introduction and Background	3
Audit Results	5
Conclusion	7
Objective, Scope and Methodology	8
Statement of Compliance with Auditing Standards	9
Appendix A	10
Public Ethics Commission's Response	12

Executive Summary

OVERVIEW

The Office of the City Auditor conducted a mandated post-election audit of the Limited Public Financing Act (LPFA, Act or Program) administered by the Public Ethics Commission (PEC).

BACKGROUND

The PEC, through its City administrative staff, manages and administers the City's LPFA Program. The PEC is a governance board, composed of Oakland residents, that oversees compliance with the Act.

The Act provides funding for district city council campaigns. For the November 2018 election, participants received \$176,489 in public financing.

OBJECTIVE

The objective of the audit was to determine whether candidates who received public financing during the November 2018 election cycle complied with the objectives established in Municipal Code Section 3.13 (LPFA).

WHY THIS AUDIT MATTERS

The audit provides reasonable assurance that taxpayer dollars are being spent as intended by the voters, and recommends ways to strengthen the PEC's internal control environment.

KEY FINDINGS

1. Minor changes can improve controls for calculating a campaign's surplus funds.
2. Three candidates did not deposit reimbursement checks within the three-day timeframe required by the Act.

RECOMMENDATIONS

PEC staff/management should:

1. Highlight the importance of reconciling campaign financial statements as part of the Program training and provide instructions on how to reconcile periodic statements to the final statements.

Executive Summary

2. Work with the City's campaign e-filing vendor to create a system control that automatically adds up each numerical field in the campaign financial statement and verifies it against the final campaign statement.
3. Verify and document the surplus fund calculation in the participant's file when candidates do not submit the form.
4. Recommend that City Council amend the LPFA to provide candidates more time to deposit reimbursement checks.

Introduction and Background

Introduction

The Office of the City Auditor conducted a post-election mandated audit of the Limited Public Financing Act (LPFA, Act or Program). The objective of the audit was to determine whether candidates who received public financing during the November 2018 election cycle complied with the objectives established in Municipal Code Section 3.13 (LPFA).

The PEC's City staff manages and administers the Program. The PEC board oversees compliance of the LPFA. The board is composed of seven Oakland residents (also known as Commissioners); the Mayor, City Attorney, and City Auditor each appoint one Commissioner, and the remaining four are selected by the PEC through a public recruitment process.

For the November 2018 election, \$183,459 was available to participants¹, of which \$176,489 was claimed. Oakland City Council (Council) appropriated \$155,000 to the November 2018 Election Campaign Fund, and an additional \$43,335 was carried over from the previous election. The PEC received 7.5%, or \$11,625, of funds appropriated for administrative costs.

Fifteen candidates ran for Council and qualified to appear on the ballot, but only ten qualified for public campaign financing, each eligible to receive up to \$18,345. Of the five candidates who did not receive public campaign financing, two chose not to participate, and three were deemed ineligible.

Background

Council adopted the LPFA in December 1999 to provide public campaign funding for elected city offices. The Act provides funding for campaigns to:

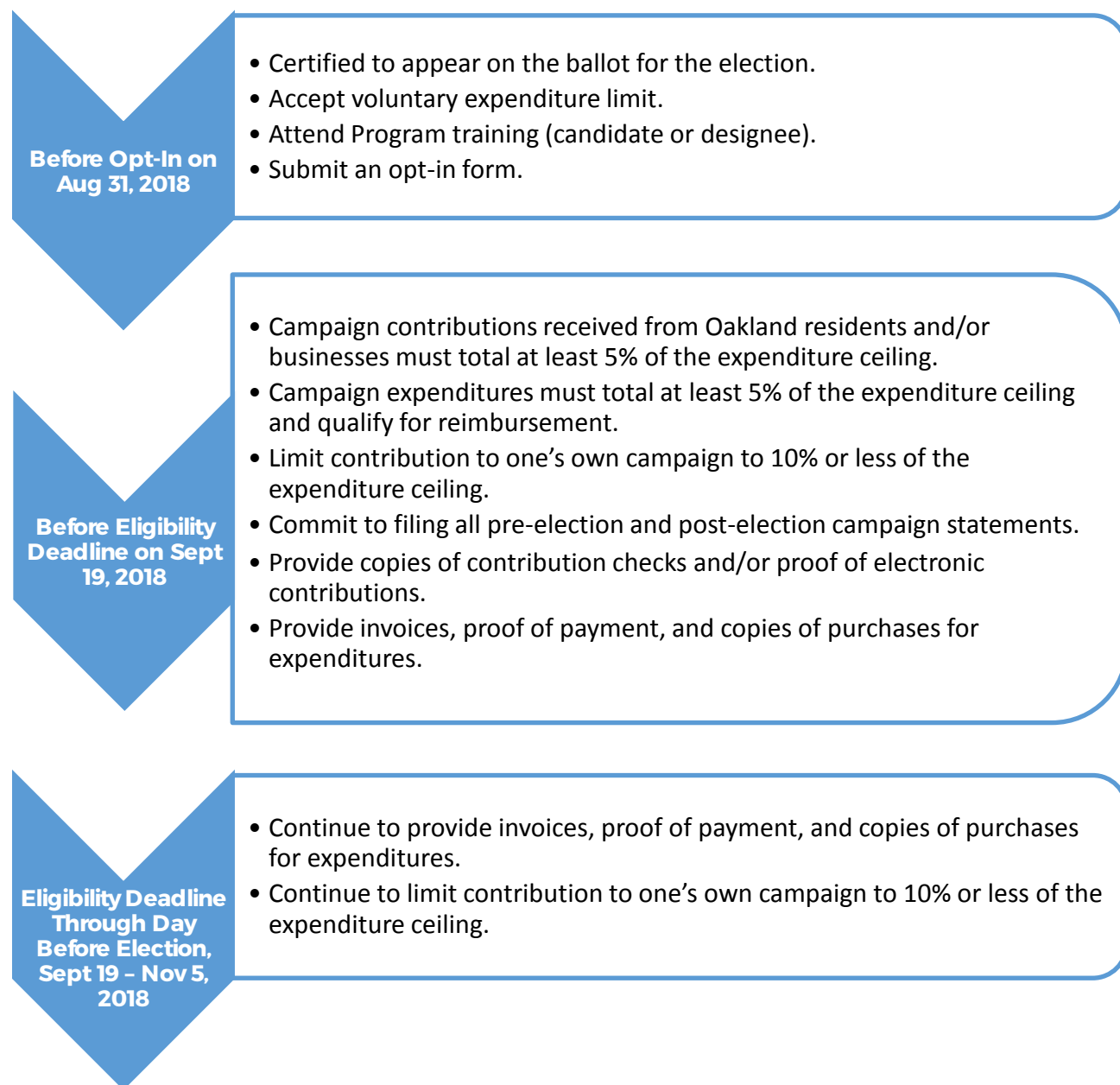
- Ensure equal opportunity to participate,
- Even the funding base among participants,
- Encourage competition in elections,
- Allow candidates to spend less time on fundraising,
- Reduce the pressure on candidates to raise enough money to effectively communicate with voters,
- Promote public discussion of important issues, and
- Help preserve public trust in government and elections.

¹ Participants are City Council candidates who have opted into the LPFA Program.

Introduction and Background

Requirements

Candidates must meet multiple requirements to participate and qualify for Program funding. These requirements include accepting the voluntary expenditure ceiling (expenditure ceiling) early in the campaign season, adhering to timelines, and providing required documentation. Expenditure ceilings vary slightly depending on a candidate's district (see Appendix A). The following exhibit outlines Program requirements and their respective deadlines:



Audit Results

The PEC's overall systems and internal controls are adequate to ensure proper administration of the Program. All candidates were properly deemed eligible for the Program, and all expenditure reimbursements were appropriate. The audit identified minor issues related to candidates' calculating surplus funds and depositing reimbursement checks. The PEC can address these findings with simple updates to the training materials, campaign e-filing system, and its quality assurance program.

Finding 1. Minor changes can improve controls for calculating a campaign's surplus funds

Throughout the election, candidates are required by the State of California (State) to submit campaign financial statements to meet financial disclosure obligations. After the election, candidates also use these statements to calculate the campaign's surplus funds, if any.

A surplus fund exists if the total amount of contributions (excluding the amount of public financing) exceeds the total financial obligations of the candidate's campaign committee².

The audit found campaign financial statements were not reconciled by candidates as expected, and surplus fund calculations were not always submitted to the PEC in accordance with Program requirements.

Campaign financial statements do not reconcile

Monetary contributions for each statement period should reconcile to the total contributions received on the last statement to ensure all figures are correct. However, 6 out of 10 candidates submitted financial statements in which the total of the periodic statements did not reconcile to the final statement. Discrepancies ranged from \$100 - \$4,550.

As a result, one participant incorrectly calculated and overpaid the City by approximately \$150, by basing the calculation off an inaccurate total contribution amount. PEC staff notified the participant and is working to resolve this issue.

Accurate financial statements are not only important for calculating surplus funds, but also because the State has the right to audit a candidate's statements and may recommend enforcement action.

The candidates are responsible for submitting their campaign financial statements to the State. The PEC is not responsible for ensuring that financial statements are accurate.

² If the amount calculated is positive, the participant must return a portion of the surplus funds; if negative, participants do not owe money to the City.

Audit Results

Four Program participants did not submit a surplus fund calculation form

After the election, participants are required to calculate their campaign's surplus funds; however, 4 out of 10 participants did not submit a surplus fund calculation form. Although these participants did not owe any money to the City, the participants should perform the calculation using the provided form, and submit it to the PEC for verification.

Although the participants are not penalized for not submitting a surplus fund calculation, it does create additional work for PEC staff.

According to the PEC, staff performed the calculation for the four participants who did not submit a surplus calculation form, but the calculation was not documented in the participant's file.

Recommendations 1-3:

PEC staff should:

1. Highlight the importance of reconciling campaign financial statements as part of the Program training and provide instructions on how to reconcile periodic statements to the final statements.
2. Work with the vendor for the City's campaign e-filing system to create a system control that automatically adds up each numerical field in the campaign financial statement and verifies it against the final campaign statement.
3. Verify and document the surplus fund calculation in the participant's file when the candidates do not submit the form.

Finding 2. Three participants did not deposit reimbursement checks within the three-day timeframe required by the Act

The Act requires candidates to deposit reimbursement checks into the campaign's checking account within three days of receiving them. However, 3 out of 10 candidates did not deposit the checks in the required three-day timeframe. The candidates deposited these checks between 5 and 17 days after receipt.

Although candidates should deposit their reimbursement checks within a reasonable timeframe, the three-day time frame does not seem reasonable.

Recommendation 4:

PEC management should recommend that City Council amend the LPFA to provide candidates more time to deposit reimbursement checks.

Conclusion

The audit recommends PEC staff and management: (1) highlight the importance of reconciling financial statements as part of the Program training, (2) work with the City's campaign e-filing system vendor to create a system control that automatically calculates numerical fields, (3) document surplus fund calculations and (4) recommend City Council change the three-day deposit requirement for reimbursement checks.

PEC staff has acknowledged these findings and recommendations, and has a plan to implement procedural improvements.

Audit Objective, Scope and Methodology

Objective

The objective of the audit was to determine whether candidates who received public financing during the November 2018 election cycle complied with the objectives established in Municipal Code 3.13 (LPFA).

Scope

The scope of this audit included all candidates that received public financing for the November 6, 2018 City Council elections (Appendix A).

Methodology

In conducting the audit, we:

- Reviewed the requirements of the Act,
- Performed a walkthrough of Program procedures and interviewed PEC staff to identify risks and key internal controls to assess whether the PEC properly administered the Program,
- Tested and reported on the adequacy of internal controls,
- Reviewed and assessed the PEC staff's policies and procedures, and the candidate handbook,
- Reviewed and tested candidates' records to determine whether candidates complied with eligibility, reimbursement, and close out requirements of the Act to validate the adequacy of the overall internal control environment, and
- Reviewed and assessed whether PEC staff addressed the recommendations from the 2016 post-election audit issued in 2017.

Statement of Compliance with 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.

Appendix A

The following are the Voluntary Expenditure Ceilings for 2018 by district:

- District 2 - \$142,000
 - District 4 - \$136,000
 - District 6 - \$136,000
-

List of candidates participating in the Limited Public Financing Program for the November 2018 election:

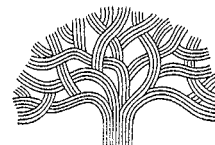
- | | |
|-----------------------------------|---------------------------------|
| • Nikki Fortunato Bas, District 2 | • Charlie Michelson, District 4 |
| • Abel Guillen, District 2 | • Joseph Tanios, District 4 |
| • Pamela Harris, District 4 | • Sheng Thao, District 4 |
| • Francis Matt Hummel, District 4 | • Natasha Middleton, District 6 |
| • Nayeli Maxson, District 4 | • Loren Taylor, District 6 |



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Public Ethics Commission's Response

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Public Ethics Commission

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May 8, 2019

Courtney A. Ruby
City Auditor
City of Oakland
1 Frank Ogawa Plaza, 4th Floor
Oakland, CA 94612

Dear Auditor Ruby,

Thank you for your audit of the Public Ethics Commission's administration of the Limited Public Financing Act (LPFA) program for the 2018 election.

As always, we appreciate your review and recommendations for how we can improve our administration of the LPFA program. We are pleased that the results of the audit indicate that "the PEC's overall systems and internal controls are adequate to ensure proper administration of the Program. All candidates were properly deemed eligible for the Program, and all expenditure reimbursements were appropriate." Thanks to your office's recommendations over the years, Commission staff has made ongoing adjustments to the program 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 updates to program training materials, the campaign e-filing system, and documentation, and we will incorporate these into our program work going forward.

Upon the public release of your report, the full Commission will review the audit. We invite you to join us at a public meeting to present your findings and engage in discussion with Commissioners. Our next public meeting is scheduled for Monday, June 3, beginning at 6:30 p.m. in Hearing Room 1.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Whitney Barazoto", with a long horizontal flourish extending to the right.

Whitney Barazoto
Executive Director

	City Auditor’s Recommendations	Management Action Plan	Responsible Party	Target Date to Complete
1	Highlight the importance of reconciling campaign financial statements as part of the Program training and provide instructions on how to reconcile periodic statements to the final statements.	PEC staff will add this item to the LPFA training in August 2020.	Jelani Killings	Aug. 1, 2020
2	Work with the City’s campaign e-filing vendor to create a system control that automatically adds up each numerical field in the campaign financial statement and verifies it against the final campaign statement.	The City’s campaign e-filing vendor, Netfile, already automates the calculation of total monetary contributions received across multiple filings in a comprehensive database for each filer. However, if a campaign enters changes into the database after the form for the relevant reporting period has been filed, and they fail to file an amendment with the PEC to reflect the change, then the statements available to the public appear to not reconcile. Instead, PEC staff will incorporate a process to review each statement filed by participating LPF candidates to determine whether the current statement being filed reconciles with the prior statement. If the subsequent statement does not reconcile to the prior one, staff will request amendments by the campaign committee at that time, rather than at the end of the year for multiple statements.	Jelani Killings	Aug. 1, 2020 through January 31, 2021



**CITY OF
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Office of the City Auditor

**LPFA – November 2018 Election Audit
Management’s Response**

3	Verify and document the surplus fund calculation in the participant's file when candidates do not submit the form.	PEC staff will make a note of staff's review and determination as to whether any surplus funds exist for each participating campaign committee. The target date provided here is the first day following the relevant campaign reporting deadline.	Jelani Killings	Feb. 1, 2021
4	Recommend that City Council amend the LPFA to provide candidates more time to deposit reimbursement checks.	Upon the next set of amendments proposed to Council for changes to the LPFA, staff will include this recommendation.	Whitney Barazoto	Dec. 31, 2019