

# Open and Accountable Elections Program

## Issue Overview

In a budget note included in the FY 2017-18 Adopted Budget, Council asked CBO to provide recommendations on the staffing needs, funding levels, and the appropriate location of the new Open and Accountable Elections (OAE) program. Specifically, the budget note reads: “The City’s public matching campaign finance program is to be implemented in time for the 2020 election. Council directs the City Budget Office to conduct an analysis of the staffing and operational needs of the program and report back to Council with recommended funding levels for FY 2017-18 and beyond. CBO is also directed to make a recommendation as to the appropriate location of this function.”

## Executive Summary with Recommendations

### *Methodology*

In assessing the staffing and operational needs, determining recommended funding levels, and advising on the appropriate location of the OAE program, CBO took the following steps and utilized the following sources of information:

- Consultations with other jurisdictions of similar size and having similar programs
- Examination of City Code language for the program to assess tasks required
- Interviews with the Auditor’s Office that operated the old Campaign Finance program and the Commissioner’s Office that designed the new program
- Consideration of lessons learned from two evaluations of the old Campaign Finance program

### *Location*

CBO believes that the best place to house Portland’s program is in the City Auditor’s office. First, elections related work is already conducted by that office, and the public contribution matching program would need to rely on and coordinate with the existing elections program. Housing the program elsewhere may create unnecessary costs and administrative duplication. Second, although the office may not be considered “independent” when it comes to the election of the City Auditor position itself, the work of the office is qualitatively different from that of the Mayor and Council offices, performing a function that requires a great deal of independence and transparency. Third, the Auditor’s Office administered Portland’s prior public campaign financing program. While CBO believes that the Auditor’s

office is the right place to house this program, our understanding is that the Auditor is opposed to taking on this new function. As an independently elected official, the Auditor cannot be directed to accept and run this program. CBO therefore explores additional options below.

### *Staffing Needs*

It is not possible to provide an exact estimate of workload for the new program because it is not known how much the system will be utilized and by how many candidates. However, lessons can be learned from other jurisdictions and from the workload and history of Portland's prior public finance program, keeping in mind key differences between the programs. While various informal estimates have suggested that between two and three FTEs would be needed to run a program, comparable jurisdictions require only one FTE year-round along with seasonal staffing during peak election periods. As a new program, it is probably reasonable to start with two staff, along with resources for the hiring of seasonal staff, but CBO recommends that this arrangement be re-evaluated after the first election cycle. Based on the experience of other jurisdictions, there may be significant downtime for at least one of the two FTEs during non-election periods once systems are in place and policies and procedures are well-established.

### *Funding Levels*

As with workload, estimating needed funding levels is challenging given the unknown utilization of the program. Over the six-year period of the old public campaign financing program, an average of \$292,607 was disbursed to candidates each year, although the amount varied greatly from year to year depending on the type of election, number of offices involved, number of incumbents attempting to stay in office, and the number of candidates. Key changes in design between the old and new programs may result in lower amounts disbursed to candidates and hence fewer resources needed. CBO believes that the \$250,000 allocated for FY 2017-18 is sufficient for staffing and materials & services costs, and the amount can be increased to \$350,000 in FY 2018-19. CBO recommends that the full \$1.2 million be allocated to the program in FY 2019-20. Continuous re-evaluation will be needed based on actual experience to determine if the \$1.2 million is sufficient.

## Detailed Analysis & Report

### **Methodology**

CBO began with research on other local jurisdictions of similar size that have a public elections program and contacted them to gain an understanding of their staffing needs and program locations within their particular governmental structures. Programmatic details from these jurisdictions are included in Appendix II.

CBO then examined the City Code pertaining to the new Public Elections program. While the Code describes the new program and provides a good understanding of the required activities and tasks, it is challenging to assess the staffing need based on this information, since it is ultimately unknown how many candidates will participate in the new program during future elections. A list of the required tasks is provided in Appendix I.

CBO met with representatives from the Auditor's Office, one of whom worked on the prior public campaign financing program, to assess that program's workload and staffing needs while it was in operation (2006 to 2010). CBO also consulted with representatives from Commissioner Fritz's office to gain an understanding of differences between the old public campaign financing program and the OAE program. These representatives from the Commissioner's office played instrumental roles in crafting the language in the City Code pertaining to the new program and had done their own research as to potential staffing needs. Key points from these interviews are included in Appendix III.

Finally, CBO consulted two evaluations of the older Campaign Finance program, one conducted by the City's own Citizen Campaign Commission in 2009 and another by the Center for Government Studies, a nonprofit formerly based in Los Angeles, in 2010. Lessons pertaining to workload and fund adequacy from these are provided in Appendix IV.

## **Recommendations**

### ***Location***

For several reasons, CBO believes that the best place to house Portland's program is in the City Auditor's office. First, elections related work is already conducted by that office, and the OAE program would need to rely on and coordinate with the existing Elections program. Consultations with other cities reveal that smaller municipalities mostly house their programs in the office that works on other elections related issues. Staff would directly benefit from the experience and knowledge of the Auditor's Office, particularly in regard to elections law, and as a result should be able to get the OAE program up-and-running more quickly than if they are located outside of the Auditor's office. Without the supervision of someone with elections expertise, more experience, qualifications, and potentially a higher classification may be needed if staff are working outside of the Auditor's Office.

Second, although the office may not be considered "independent" when it comes to the election of the City Auditor position itself, the work of the office is qualitatively different from that of the Mayor and Council offices, not being legislative, and performing a function that requires a great deal of independence and transparency. The code passed by Council also calls for the creation of a Public Campaign Finance Commission which will provide guidance and recommendations to the director of the program. This commission would provide oversight to the program even if the program is housed in the Office of the City Auditor. One of the key themes noted by some of the cities contacted by CBO was that oversight of the program by a body that was viewed as being more independent was the most important facet. For example, in a larger city like San Francisco, the program is housed in an independent ethics commission.

Third, the code passed by Council discusses the use of hearings officers for appeals and reviews of decisions made by the program, and the Office of the City Auditor already has a hearings program.

Finally, the Auditor's Office has experience operating a similar program in the past.

Potential conflicts of interest arising from the financing of candidates running for the Auditor's position itself can be mitigated by whatever measures the current Elections program already implements to manage other conflicts of interest during an election for that position. Another solution may be to remove the election of the Auditor's position from the OAE program itself.

If the program is not located in the Office of the City Auditor, other locations could include the CAO's office within the Office of Management and Finance or the Office of Neighborhood Involvement. At least one of the jurisdictions contacted by CBO staffs its program in the City Manager's office. The City can also pursue discussions with Multnomah County to have that jurisdiction manage the program, although the County has indicated that it has no experience operating a campaign finance program but only has experience with more prosaic tasks such as certifying signatures.

### *Staffing Needs*

In terms of workload, most of the programs administered by cities of similar size to Portland require 1.0 FTE, although the work is highly seasonal with more than two FTE needed during an election season and very little to no work related to the program at other times. One jurisdiction utilizes a college intern to manage the paperwork and an outside accounting firm to manage the actual filing and confirmations of qualification for matching funds.

When the City's prior public campaign financing program was in operation, two staff worked significantly more than 40 hours per week during the peak election season, and the City Auditor also spent significant time on the program in a decision-making capacity. Staff from the Auditor's Office believe that if the workload could be spread evenly throughout the year, OAE would require two to three FTE.

However, it should be noted that the prior public campaign financing program was built from scratch, without any precedents. The Auditor's Office also had to revise it significantly after the first election cycle. In contrast, OAE is based on programs that have already been implemented, and we heard from some staff that operating the new program may require fewer resources. Based on discussions with other jurisdictions whose programs the new Public Elections program mimics, these staff believe that two FTEs, along with seasonal workers, are needed to run the program.

It is not possible to provide an accurate estimate of workload for the new program because it is not known how much the system would be utilized and by how many candidates. However, CBO did examine workload during the three election cycles during which the prior public campaign financing program was in operation (see Appendix III for details). Of note is the 2008 election, which involved an election for the Mayor's position and a heavy utilization of the system, while there was limited utilization in 2006 (3 certified candidates) and 2010 (1 certified candidate).

In 2008, of the 27 candidates appearing on the ballot, 14 filed a Declaration of Intent to Participate in the Campaign Finance Fund. Ultimately, seven candidates in three races submitted requests for certification along with the requisite Qualifying Contributions. All seven were certified by the Auditor, although one was subsequently decertified. Six Commissioner candidates qualified for public funding, and all stated that they would not have run without public campaign financing. The 2008 election costs were atypical – it is a rare occurrence to have four of the six elected positions on the ballot during the same year with several open seats. The special election also attracted a number of candidates to fill that open seat. This situation might be indicative of a possible maximum workload.

Workload can also be measured by the number of qualifying contributions. Over 52,000 Qualifying Contribution forms<sup>1</sup> were issued to the seven candidates who qualified and the other nine participating candidates who did not qualify during the 2007-08 election cycle. During the May 2008 Primary Election Qualifying Period<sup>2</sup>, the total number of \$5 Qualifying Contributions collected by certified candidates was 11,787. During the 2008 elections, it took an average of about 16 days for the Auditor's Office to issue a Final Determination Letter<sup>3</sup> after receipt of the Request for Certification<sup>4</sup>. Of the 11,787 Qualifying Contributions submitted to the Auditor for verification in the 2007-08 Qualifying Period, 8,391, or 71.2%, were submitted in January. On average, the period between Request for Certification and the issuance of an Initial Determination Letter took 7.4 business days. The period between the Initial Determination Letter and the Final Determination Letter<sup>5</sup> took an average of 8.1 business days.

The Auditor's Office and Commissioner's Office staff we spoke to are mostly in agreement that the program needs between two and three FTE. However, CBO believes that because of the highly seasonal nature of the work there will be significant downtime for at least one employee in this scenario, and once the program is established it seems likely that it could operate with one FTE and resources to enable hiring of seasonal staff during peak election periods. Because the program will have significant start-up activity designing and creating new systems, materials, and trainings, as well as having to staff the commission for the first time, the City may want to one permanent and one limited term FTE at the start, and re-evaluate after one full election cycle.

### *Funding Levels*

As with workload, estimating needed funding levels can be challenging when it is unknown what the utilization of the program will be, and the only helpful information comes from utilization of a prior program that is somewhat different. The table below shows that only \$389,490 of public funds were distributed to candidates during the 2006 election cycle. The amount distributed during the 2010 cycle was even less, at \$141,300. However, the amount distributed was more than \$1.2 million during the 2008 cycle. The following table shows the amounts distributed by fiscal year.

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<sup>1</sup> During the qualifying period, candidates seeking public financing must obtain contributions of exactly \$5 from persons who are registered to vote in Portland. In order for a donation to count toward a candidate's total, the donor must complete and sign a form affirming that he or she is registered to vote in Portland, has contributed exactly \$5 to the candidate, supports allocating public funds to the candidate, and has not received anything of value in exchange for his or her signature and contribution.

<sup>2</sup> A four-months-and-a-half period that ends four months before the primary election during which candidates seeking to participate in the program must collect a significant number of \$5 contributions from voters registered in Portland.

<sup>3</sup> The Auditor must issue an Initial Determination Letter to the candidate no later than ten business days after the candidate files the Request for Certification. This letter states whether the candidate has been granted or denied certification. If the candidate is denied certification, the letter shall state the reasons the candidate has not been certified and list the actions, if any, the candidate may take to become certified. The candidate then has ten business days to take the appropriate corrective action described in the Initial Determination Letter. Once the candidate takes corrective actions and submits appropriate documentation to the Auditor, the Auditor has ten business days to issue a Final Determination Letter.

<sup>4</sup> See footnote 3 above.

<sup>5</sup> See footnote 3 above.

<b>Fiscal Year</b>	<b>Amount</b>
FY 2005-06	\$389,490
FY 2006-07	\$0
FY 2007-08	\$826,825
FY 2008-09	\$398,025
FY 2009-10	\$141,300
FY 2010-11	\$0
<b>Average</b>	<b>\$292,607</b>

*Sources: Citizen Campaign Commission’s Second Biennial Report to the City Council and Citizens of Portland (April 2009) and the Center for Governmental Studies’ Public Campaign Financing in Portland: Should “Voter-Owned Elections” Survive? (October 2010)*

Another consideration is the maximum limit on public funds available to a candidate. Under the prior public campaign financing program, the maximum available to a mayoral candidate, considering both the initial grant and matching funds available for both the primary and general elections, was \$900,000, while a candidate for auditor or commissioner could receive up to \$800,000. The maximum available to a candidate under the new OAE program is lower, at \$760,000 for a mayoral candidate and \$440,000 for a candidate for auditor or commissioner.

Furthermore, the threshold to qualify for public funds is higher under the new program, as candidates need to reach out to more persons to gather more contributions of smaller donations, a deliberate design change from the prior program. This increase in difficulty to qualify may lead to a lower amount of City funds actually disbursed to candidates.

For the program to be ready for the 2020 election, enough resources need to be in the Public Elections Fund in FY 2019-20, since the Code states that the Primary Election Matching Period starts July 1<sup>st</sup> of the year prior to the election (2.16.010 U), and a candidate cannot file a notice of intent to participate in the program before that date (2.16.040). What should be considered is that the 2020 election will include a race for the Mayor’s office, and the race for this office will bring out more candidates who may want to participate in the Public Elections program, similar to what occurred during the 2008 election.

Although the program has a dedicated funding stream of \$1.2 million each year, only \$250,000 was actually allocated to the program in FY 2017-18. If the City decides that 2.0 FTEs should be hired to staff the program, these resources can be used to hire a Program Manager and a Program Coordinator. At maximum salary (\$95,472 and \$90,792, respectively) and including a 50% addition for benefits, and assuming a start date of November 1, total FY 2017-18 personnel costs would be about \$186,000. This would still leave almost \$64,000 for materials and services. If \$350,000 is allocated for FY 2018-19, after paying the two staff persons, this would leave about \$70,000 that can be used for materials and services and for hiring seasonal staff to ramp up the program.<sup>6</sup> Not included in this discussion are costs for software that may make signature and residence verification easier, which is beyond the scope of the

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<sup>6</sup> An average of \$41,101 was spent each year in Materials and Services during the six years of the prior program’s operations, not counting the amounts spent on the candidates.

current analysis.<sup>7</sup> Based on usage during the 2008 election, \$850,000 may be needed for the candidates in FY 2019-20 and \$400,000 in FY 2020-21. See table below for a summary of the above figures.

<b>Fiscal Year</b>	<b>Program Expenses*</b>	<b>Amount for Candidates</b>	<b>Total Needed</b>	<b>Allocated Budget</b>	<b>Projected Ending Fund Balance</b>
FY 2017-18	\$250,000	\$0	\$250,000	\$250,000	\$0
FY 2018-19	\$350,000	\$0	\$350,000	\$1,200,000	\$850,000
FY 2019-20 (primary in	\$350,000	\$850,000	\$1,200,000	\$1,200,000	\$850,000
FY 2020-21 (general in November)	\$350,000	\$400,000	\$750,000	\$1,200,000	\$1,300,000

\*Staffing and materials & services

CBO believes that the program’s current allocation of \$1.2 million per year is more than adequate and recommends a continuous evaluation of the resources that may be needed, especially after the conclusion of the 2020 election. As some years will have less activity, the fund can build balances if it is under-utilized. Furthermore, the City can increase the amount available to the program in any given year through contingency draws in the event of oversubscription. While CBO has relied upon the 2008 election as an indicator of program utilization for this analysis, utilization may be higher in the current political environment.

Every Voice, a nonprofit based in Washington, D.C. that promotes citizen participation in politics, has costed out two scenarios for how much public matching funds may be needed considering the City’s model of \$6 of public funds matching every \$1 of donations on the first \$50 of donations. These scenarios assume that each candidate for a commissioner’s office has a donor base of 600 persons, while a mayoral candidate would have four times as many donors, at 2,400. The organization’s high participation scenario assumes that an average of four candidates for each commissioner’s election and two candidates for the Mayor’s office would participate. In this high utilization scenario, the City would need an average of \$1,080,000 in matching funds each year. The medium participation scenario, in contrast, assumes an average of three participants for each commissioner’s election (and again, two candidates for the Mayor’s office), resulting in the need for an average of \$900,000 in matching funds each year. CBO notes that if program expenses are \$350,000 each year, and \$900,000 are needed for the candidates, the total of \$1,250,000 needed each year accords fairly well with the OAE program’s current annual allocation of \$1.2 million.

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<sup>7</sup> Research on other jurisdictions’ programs indicate that in addition to matching funds, personnel costs, and associated overhead, a miscellaneous budget for printing, receipt books, and if utilized, software specifically designed for the program is necessary.

## Appendices

### *Appendix I – Activities and Tasks of the New Program from the City Code*

Certification of candidates within 10 business days after receipt of all required documentation (for contested elections)

- Filed for office by petition
- Minimums in allowable contributions, minimums in number of matchable donors, after filing a notice of intent to participate in program
- Verify that notice of intent to participate are filed by established deadlines
- Verify that candidates meet limits and other rules regarding seed money contributions and in-kind contributions

Verify that certified candidates are only accepting allowable contributions, public contribution matching from the City, seed money, and in-kind contributions

- Totals meet limits established for the specific office for the specific election type (primary, general, etc.)
- Verify that participants are not accepting contributions from entities unauthorized in the code, including labor organizations, PACs, etc.
- Verify that participants are not accepting contributions more than \$250 from an individual
- Verify that conditions exist or not for the removal of certain contribution limits, as described in the code

Verifications of allowable and matchable contributions

- Meet minimum and maximum limits
- Donor age and residency requirements
- Donor is having contribution matched for a single candidate
- Meet deadlines established for each specific election type (primary, general, etc.), as well as collected no earlier than allowed for general and special runoff elections

Disbursement of funds to certified candidates

- Ensure that public match equal \$6 for each dollar of the first \$50 of allowable contributions, and no match after the first \$50
- Total public contribution payable meet maximum limits established for the specific office, for the specific election type (primary, general, etc.)
- Meet regulations regarding seed money, in-kind contributions, and other rules

- Happen in the frequency established for each election type (primary, general, etc.)
- Public contributions must be disbursed on the next distribution date after public contribution matching is authorized

#### Verifications of expenditures after receipt of documentation from participants

- From allowable, matching, seed, and in-kind contributions
- For candidates who qualify for general or special runoff elections, unspent funds may be used after certification of primary or special nominating election results
- Meet established rules, e.g., not used for person purposes; to pay loans, debts, or penalties; for non-bona fide consulting purposes; for out-of-state travel; to pay family members, etc.

#### Handle violations, revocations of certification, and repayment of funds

- Investigation and enforcement procedures for misuse of public funds and other alleged violations
- Ensure that participating candidates are following other rules, including those regarding loans, transfers of funds, other campaign finance entities, use of personal funds, in-kind contributions, seed moneys, etc.
- When necessary, calculate and send notices of proposed civil penalty to violating candidates, persons, or political committees
- Collect and verify that penalties are not paid from a candidate's publicly funded campaign account
- Oversee repayment of funds from candidates against whom a civil penalty has been imposed
- Oversee return of the correct proportioned amount of unspent funds within 15 days from certified candidate after s/he is no longer a candidate for a covered office
- Oversee return of public contribution plus interest from a participating candidate who withdraws from program

#### Establish and recruit for the Public Campaign Finance Commission and assist the Commission to ensure that it can fulfill its duties

- Assist with the appointment of hearings officers recommended by the Commission to handle appeals of determinations adversely affecting persons or political committees
- Receive and process written requests for hearings within the specified timeframe, including issuing receipts and notifying other candidates; set up hearings?

#### Conduct mandatory trainings to potential participants

## *Appendix II – Information from Other Jurisdictions*

Attempts were made to contact the Campaign Finance Institute (CFI), a non-profit think tank for campaign finance policy. CFI's original research is written to meet peer-reviewed standards and is published in academic journals as well as in forms regularly used by the media and policy makers. The organization did not respond to CBO's queries, but CBO consulted its 2015 report "Citizen Funding for Elections: What do we know? What are the effects? What are the options?" to gain a broad overview and a list of jurisdictions that have implemented a program.

Using the list in CFI's report, CBO attempted to contact, by email and by phone, municipalities comparable to Portland that have implemented a program. The population sizes of these cities ranged from 147% of Portland's – Austin, TX - to 66% of Portland's – Oakland, CA. Preference was given to cities in the western half of the country and to cities that have a matching program versus some other form, such as using vouchers or grants. Information, in whatever form, quality, and quantity that the municipality was willing to provide, was gathered from Oakland, CA; Long Beach, CA; Tucson, AZ; Seattle, WA; and Albuquerque, NM. The Sacramento, CA, program has not been funded since FY 2010-11, while San Francisco and Austin did not respond to multiple requests for information.

The following questions were asked, but the answers provided varied between municipalities in terms of quantity and quality:

- Which bureau or agency is your program located, and why was that the best choice?
- How many FTEs are needed to run the program, and what are their titles and duties?
- What additional funding for materials and services are needed outside of the matching funds?
- What works well with your program's structure and what needs improvement?

### **Matching Programs**

**Oakland, CA** (66% of Portland's population) (1:1 match for first \$100 per donor)

Oakland has a limited program, with limited funds, that only applies to "regular" City Council members and does not apply to the office of the Mayor, Auditor, Attorney, and the single at-large Council member (all these offices are elected).

The program is headed by an independent Public Ethics Commission, although it is housed in the City Administrator's office for administrative purposes. The City Administrator actually does not have authority over the program, only the Public Ethics Commission does.

The program is staffed by one staff person, who has other responsibilities throughout the year. The staff person spends maybe 20% to 25% of her/his time on the program throughout the year, although

between June and December, this person spends perhaps 50% of her/his time on the program. This administrator prepares the forms, handles the receipts, copies of checks, as well as performs trainings and outreach. The executive director of the Commission approves what this analyst prepares, and this person's staff time is very minimal. The City Controller prepares the checks, and this staff person's time on the program is also very minimal.

The only costs for materials and services are for copies of training materials, standard office space, etc. Training is a big key – early outreach on rules, for example.

#### **Long Beach, CA** (75% of Portland's population) (\$1 public match for \$2 private)

Long Beach's program is housed in the City Clerk Department's Elections Bureau. Typically, during the election cycle a college intern is at the office managing the paperwork. An outside accounting firm manages the actual filing and confirms if what is reported qualifies for matching funds reimbursement. The budget for the outside accounting firm is approximately \$25,000 to confirm qualifying amounts.

#### **Tucson, AZ** (84% of Portland's population) (1:1 match)

The City Clerk is designated as the program's administrator. The City Clerk is appointed by the Mayor and Council. Since the City Clerk runs the city's elections, it makes sense for the program to be held there, according to program staff. In addition to the Clerk, 1.5 FTE are needed during the election season, but only 0.75 FTE is needed off season. Printing has been a significant cost in the past, but now everything is online. Audits are done in-house by the 1.5 FTE. Only 10%-15% of time is spent on educating potential candidates. Staff does not necessarily have to be well-versed in elections before getting hired, but they must be trained. Challenges include needing more IT staff to handle updates to software needed as a result of changes to State election statutes.

#### **San Francisco** (137% of Portland's population) (Partial grant, 2:1 match for the initial contributions, then 1:1 match)

*The following information was provided by San Francisco to the City Auditor's Office in November 2016 and is included verbatim here:*

We spoke about the following seven positions: Campaign Finance Officer, Assistant Deputy Director, four Auditors, and IT Officer. Assuring the effective administration of the City's public financing program, in fact, relies on the work of a variety of positions at the Commission. Below, is more information on how these positions relate to the administration of the public financing program. I also mention below the Commission's enforcement staff. While all the positions described below are FTEs in the Commission's budget, they are not necessarily involved full-time with the public financing program. As you noted, in addition to the FTEs mentioned below, the Commission has used temporary staff persons to assist with its office-wide operations, especially given staff turnover and vacancies in recent years.

The Campaign Finance Officer position provides support for educating candidates about the program, assisting candidates with their campaign disclosure filings, and ensuring timely public access to those reports.

*Education and Outreach.* The Ethics Commission's education and outreach on the public financing program is included as part of mandatory training required of all candidates for City Elective Office and their treasurers. These in person and online sessions have generally been conducted by the Commission's Assistant Deputy Director, who oversees the audit and matching funds program working closely with the Campaign Finance Officer. This work has also included providing advice and guidance to candidates about the program, and preparing and keeping current all program guides, instructions and forms.

*Reviews of Candidate Eligibility and Matching Funds Claims.* Verifying candidate eligibility and matching funds claims is a process conducted by Commission auditors. During the current election cycle, for example, auditors assist with these reviews and disbursement determinations in addition to their ongoing duties to conduct audits of committees and lobbyists under City law. The Assistant Deputy Director provides oversight for this work, including responding to any questions or appeals regarding claims or qualifying documents submitted.

*Ceiling Limit Determinations and Adjustments.* Based on reports that are filed during an election cycle, the spending limits of participating candidates must be adjusted to account for increases in third-party spending that affects their races. Reviewing third-party spending reports and determining when "IEC" spending levels must be adjusted is a process also conducted by Commission auditors. During the current election cycle, for example, one auditor has primary responsibility to assist on a daily, part-time basis with this process. The Assistant Deputy Director provides oversight for this work.

*Use of Technology.* The SF Ethics Commission has also involved other staff over time in the administration of the public financing program. The Commission has one full-time IT position. That position has responsibility to for all aspects of the Commission's technology use and online presence, including development of online filing methods, web development, and social media use. This position was instrumental in working with the Commission's audit staff to help develop an online submission system for candidates to use in requesting their matching funds claims.

*Audits.* All candidates who receive public financing are subject to mandatory audit by the Ethics Commission following the election. This program is overseen by the Commission's Assistant Deputy Director.

*Enforcement.* As with any program administered by the Ethics Commission, staff from the Enforcement Division may also be engaged as needed in ensuring the effectiveness of the program. Through their work, Enforcement staff also help ensure committees are fully complying with program requirements. This work may include assessment of late fees and imposition of City forfeiture requirements (that is, impermissible contributions that committees may receive that are required under the law to be turned over to the City, apart from any fines or penalties that may be assessed). Enforcement staff also handle complaints and pursue investigations of alleged

violations as necessary, including material findings contained in Commission's audit reports of publicly financed candidates.

In general, the following factors are among those that contribute to the amount of time the staff must devote in any given election year to the administration of the public financing program:

- number and type of candidates involved in an election (that is, whether Mayoral candidates are also participating, and how much familiarity or experience candidates have with the program, or with City and state campaign finance requirements generally)
- level of campaign activity of participating candidates
- level of spending by third-parties affecting these candidates
- number of claims submitted by eligible candidates

In an election year with significant participation in the public financing program, the equivalent of four full-time auditors have been needed to administer the program. For context, in the City and County of San Francisco, the job classification for an Auditor with the Ethics Commission has a salary range of roughly \$76,000 to \$93,000, with approximately \$35,000 per position in associated fringe benefits.

**Sacramento, CA** (78% of Portland's population) (1:1 match up to \$250 per donor)

The Campaign Reform Fund has not been funded since FY 2010-11.

### Voucher Programs

**Seattle** (108% of Portland's population) (Four \$25 vouchers to registered voters, who may give them to participating candidates)

Seattle's public financing program is housed in its Ethics and Elections Commission, for two reasons primarily: 1) the commission is an independent non-partisan agency, answerable to neither the executive nor the legislative branches; 2) it already enforces Seattle's Campaign Finance Code, which enforces Seattle's campaign contribution limit and makes sure that all contributions received and expenditures made by campaigns are timely and accurately reported. The program has 3.5 FTE to implement it, but it is not known how many are actually needed since the program is still in its beginnings. In addition to the director, there are two communications staff and 0.5 FTE for administration. The voucher program requires a lot of staff time to process the 2 million vouchers, mail them out, and take them back in. The current staff are limited term. Their next step is to develop an online system. The program has spent \$800K to get it started. Extensive outreach and education is necessary, including translation into 14 languages. The budget needs extensive funds for mailing and printing.

## Lump-Sum Grant Programs

**Albuquerque, NM** (88% of Portland's population) (Full public grant after privately raised seed money and qualifying contributions)

Albuquerque's program is housed with the City Clerk, an independent agency. Six employees work in the clerk's office, with no additional FTEs added when the public matching program was implemented. These six employees have many different duties not related to the matching program. During years when there are elections, during the busy campaign season months – roughly 3 months of the year - the six employees each work about two full days per week on this particular program. During the rest of the year, they do little, if anything, for this program. Education and outreach are done by the City Clerk. The only additional costs are minimal, for receipt books.

## Partial Grants Programs

**Austin** (147% of Portland's population) (Partial grants for runoff election only)

*The City of Austin did not respond to CBO's many attempts to contact it.*

*Appendix III – Key Points from Interviews with Staff from the City Auditor’s Office and the Commissioner’s Office that Designed the New Program*

**Auditor’s Office**

When the old Campaign Finance program was in operation, two staff worked significantly more than 40 hours per week during the peak election season.

The City Auditor himself (Gary Blackmer at the time) also spent significant time on the program in a decision-making capacity; the program was new, and many situations were new to all involved, requiring judgement calls. Because of this, staff also had to consult with the Attorney’s Office for legal advice.

Auditor staff noted that oversight of the program starts before candidates apply to be certified because seed moneys and in-kind contributions have to be verified to determine if they meet the program’s requirements.

Three different, and potentially conflicting, roles were fulfilled by staff: 1) providing technical assistance and training to candidates, 2) enforcement of the regulations, and 3) managing the independent commission, which required significant time and attention. One representative of the Auditor’s Office believed strongly that technical assistance/training should not be provided by the same body as the enforcement responsibilities, as these are roles whose approaches are in conflict.

If the workload could be spread evenly throughout the year and not be solely concentrated during the busy election season, the program would require upwards of two FTEs and may require up to three FTEs, if the work that the Auditor performed him- or herself is concluded.

Care should be taken to not sacrifice the quality of the verification work by not spending enough on staffing.

Staff compared the program to that of San Francisco’s, which requires a staff of seven FTEs, although that city is different in population size and frequency of elections.

**Commissioner’s Office**

The old Campaign Finance program had to build a program from scratch, without any precedents, and also had to rebuild it significantly after the first election cycle, so a major portion of the workload was actually creating the program and not just operating it. In contrast, the Commissioner’s office wrote the code for the new program based on programs that were known to be successful, including those from Los Angeles, New York City, and a local jurisdiction in Maine. Thus, the Commissioner’s office believes that operating the new program will require less resources than the old one did.

Technologies and software now exist which may make signature and residence verification easier, which will also reduce workload. In addition, the City can pursue an IGA with Multnomah County to perform such functions.

In regards to fund disbursements to candidates, the new program requires a higher frequency of disbursements than the old one which disbursed funds in a single grant, so this may add slightly more work.

The new system forces candidates to do outreach to more residents to gather more small donations, thus making it more difficult for candidates to qualify. This may have an effect on how much City funds are actually disbursed to the candidates.

Based on discussions with other jurisdictions whose programs the new Public Elections program mimics, staff from the Commissioner's Office believe that two FTEs, along with some seasonal workers, are needed to run the program.

#### *Appendix IV – Lessons Pertaining to Workload and Fund Adequacy from Evaluations*

*The following information is mostly from the Citizen Campaign Commission’s Second Biennial Report to the City Council and Citizens of Portland, issued in April 2009, but also contains information from the Center for Governmental Studies’ report Public Campaign Financing in Portland: Should “Voter-Owned Elections” Survive?, issued in October 2010.*

In the 2008 election cycle, the one that utilized the most public funds out of the three cycles during which the old Campaign Finance program was in operation, three of the five Council seats were up for election. Of the 27 candidates appearing on the ballot, 14 filed a Declaration of Intent to Participate in the Campaign Finance Fund. Ultimately, seven candidates in three races submitted requests for certification along with the requisite Qualifying Contributions. All seven were certified by the Auditor. Although one Mayoral candidate was certified, three opponents successfully appealed the Auditor’s certification determination. That year, six Commissioner candidates qualified for public funding, and all stated that they would not have run without public campaign financing.

In the May primary election, candidates in three positions (none of whom were participating in the Campaign Finance Fund program) received more than 50% of the vote and thus won outright without the need for a runoff election. No candidate received a majority in the Commissioner No. 1 race, which required a runoff in November between two Certified Candidates.

Special elections are infrequent occurrences. In the 30 years prior to 2008, there were only 4 resignations. Then came the resignations of Sten and Blackmer. In 2008, Comm. Erik Sten resigned, triggering special elections for the vacant Commissioner, Position No. 1. No candidates in this race requested certification for public funds under the Campaign Finance Fund. In 2009, Auditor Gary Blackmer resigned, triggering special elections for the vacancy. However, again no candidates opted to qualify for public funds.

<b>Election</b>	<b>Number of Certified Candidates</b>	<b>Public Campaign Funds Distributed to Candidates</b>
May 2006 Primary	3	\$389,490
November 2006 General	No runoff	\$0
May 2008 Primary	6 (7 originally, with 1 decertified later)	\$826,825
November 2008 General	2	\$398,025
May 2010 Primary	1	\$141,300
November 2010 General	No runoff	\$0

City Council allocated \$648,000 in FY 2007-08 and \$320,000 in FY 2008-09 to maintain an adequate fund balance for the expenses of future campaigns. The 2008 election costs were atypical – it is a rare occurrence to have four of the six elected positions on the ballot during the same year with several open seats. The special election also attracted a number of candidates to fill that open seat.

Over 52,000 3-part Qualifying Contribution forms were issued to the seven candidates who qualified and the other nine participating candidates who did not qualify during the 2007-08 election cycle. During the May 2008 Primary Election Qualifying Period, the total number of \$5 Qualifying Contributions collected by certified candidates was 11,787. Participating candidates were then required to enter 1,500 qualifying \$5 contributions for a Mayoral candidate, or 1,000 for a City Council or Auditor candidate, into the State ORESTAR system. A recommendation was made to raise the required number of Qualifying Contributions by 10% for each of the races in the 2010 election cycle, as well as a recommendation to continue to collect data on the numbers of contributions that candidates personally solicit themselves, as monitoring/policing this activity would be very difficult for the Auditor's Office staff at that time.

None of the Certified Candidates in the 2008 elections were certified with the Initial Determination Letter. The Auditor's office workload was greater in the 2008 elections with the new requirement that \$5 Qualifying Contributions come from registered voters, as well as with the many other verification steps that were made of Qualifying Contribution and ORESTAR reporting information. During the 2008 elections, it took an average of about 16 days for the Auditor's Office to issue a Final Determination Letter after receipt of the Request for Certification. Of the 11,787 Qualifying Contributions submitted to the Auditor for verification in the 2007-08 Qualifying Period, 8,391 , or 71.2%, were submitted in January. On average, the period between Request for Certification and the issuance of an Initial Determination Letter took 7.4 business days, with the Auditor's Office not exceeding the required deadline of 10 business days for any candidate. The period between the Initial Determination Letter and the Final Determination Letter took an average of 8.1 business days.

During the period of the campaigns, numerous issues were raised by both participating and nonparticipating candidates. Personnel in the Auditor's Office were tasked with responding to these issues on a daily basis. In addition, they had to continually review reports of campaign receipts and expenditures to determine the accuracy of reporting and compliance with City Code. Their role, however, became investigatory in nature regarding potential violations noted in their review of receipts and expenditure reports.

In 2006, a participating candidate made some improper spending decision which resulted in the candidate's disqualification, penalties, and demands for the return of funds over and above the amount that was returned in the spring of that year. In addition, the Auditor successfully pursued a criminal conviction of two persons for fraudulent activities related to the Campaign Finance program. No specific cases of fraud were alleged or identified through the precautions instituted for the 2008 election cycle, although minor financial issues arose during the qualifying process that did not involve public funds, and only one significant issue arose regarding public funds expenditures.

Once a candidate is certified, his/her expenditures are limited by City Code, including such limitations such as the payment of salaries or payments to individuals providing services to the campaign, compensated at the fair market value of such services. During the 2008 campaign, one candidate made a large payment to a campaign manager that appeared to violate this provision. It appeared that the large

payment might represent compensation for services provided, but not paid, during the pre-certification period. Further information gleaned by the Auditor's Office, however, revealed that there was no violation.

The City Code was amended after the 2006 elections to require that participating candidates or a member of their campaign staff attend Auditor's Office training on the Campaign Finance Fund. Over the course of the primary and General Elections periods of 2007 and 2008, the Auditor's Office issued a series of memoranda, directed toward specific candidates or all candidates, answering their questions, explaining new administrative rules, and reminding candidates about campaign finance rules. All materials were made available at the City Auditor's website and were also available in hard-copy form at the Auditor's Office. A further recommendation included requiring training attendees to take and pass an exam at the end of the training.