

February 25, 2019

The Honorable City Council
c/o Holly Wolcott, City Clerk
200 North Spring Street
City Hall – 3rd Floor
Los Angeles CA 90012

Re: Amendments to the Matching Funds Program [REVISED]
Council File No. 12-1269-S5

ACTION REQUIRED BY APRIL 20, 2019

Dear Councilmembers:

On February 19, 2019, the Ethics Commission unanimously approved recommendations to amend two of the qualification criteria for the matching funds program (the aggregate contribution threshold and the debate/town hall requirement) and make technical corrections. The Ethics Commission urges you to adopt the approved amendments, which are specified below on pages 5 through 9. The amendments are intended to apply to City elections that occur after the 2019 special election in City Council District 12.

The Ethics Commission's recommendations affect both the Los Angeles Municipal Code (LAMC) and regulations in the Los Angeles Administrative Code (LAAC). The Los Angeles City Charter (Charter) establishes specific procedures for regulations adopted by the Ethics Commission. The regulations are subject to City Council approval but cannot be modified. Charter §703(a). In addition, a public hearing must be held and action to approve or disapprove must be taken within 60 days of the date the Ethics Commission adopts the recommendations. Charter § 703(b). The 60-day deadline for action on the approved LAAC amendments on page 7 is ***April 20, 2019***.

A. Aggregate Contribution Threshold

In February 2018, the Ethics Commission undertook a substantive review of the campaign finance laws and recommended a number of amendments to the matching funds program, which provides limited public funding to help qualified City candidates pay for their campaigns. Charter § 471. The City Council adopted the recommendations with two modifications, and those changes became effective on January 28, 2019. *See* Ordinance Nos. 185799, 185923.

One of the modifications reduced the *per-contributor maximum* (the limit on the amount of money from a single contributor that a candidate can use to qualify for and receive matching funds). The other modification reduced the *aggregate contribution threshold* (the total dollar

amount of contributions that a candidate must obtain to qualify for matching funds) for City Council candidates only. The City Council asked the Ethics Commission to consider and report on the modification to the aggregate contribution threshold.

1. Background

To qualify for matching funds, a candidate must obtain a threshold dollar amount of contributions. The amount varies depending on which office the candidate seeks. As of January 28, 2019, the thresholds are \$20,000 for City Council candidates, \$75,000 for City Attorney and Controller candidates, and \$150,000 for Mayoral candidates. LAMC § 49.7.23(C)(1)(a).

The amount per contributor that may be used toward that threshold is capped. *Id.* From the program's inception in 1993 until January 28, 2019, this per-contributor maximum had been \$250 for City Council candidates and \$500 for Citywide candidates. In August 2018, the Ethics Commission recommended a comprehensive package of amendments to the matching funds program, which did not include a change to the per-contributor maximums. However, in response to public comment and a communication from Councilmembers Buscaino and Ryu, the City Council did reduce the per-contributor maximum, in an effort to give more value to smaller contributions. *Id.* The per-contributor maximums are now one-seventh of the per-person contribution limit for the office the candidate seeks. The current per-contributor maximums are, therefore, \$114 for City Council candidates and \$214 for Citywide candidates.

Each component of the matching funds program is interdependent with the other program components, and a change in one can dramatically affect another. The change to the per-contributor maximum was made in isolation, without a corresponding change in the aggregate contribution threshold. As a result, qualifying for matching funds was made significantly more difficult. When the per-contributor maximum is reduced by more than half, with no compensating adjustment in the aggregate contribution threshold, the minimum number of contributions required to reach the aggregate contribution thresholds is more than doubled. City Council candidates, for example, would have to obtain a minimum of 219 contributions to reach an aggregate contribution threshold of \$25,000, as opposed to a minimum of 100 contributions in the program recommended by the Ethics Commission.

In an attempt to rectify this, Councilmember Bonin introduced an amending motion, which would return the aggregate contribution thresholds to the original number of minimum contributions required to qualify. *See* Attachment A. The City Council referred Councilmember Bonin's amending motion to the Ethics Commission for analysis. In the meantime, the City Council reduced the aggregate contribution threshold for City Council candidates to \$20,000. LAMC § 49.7.23(C)(1)(a)(i). That reduction requires a candidate to receive a minimum of 176 contributions to meet the aggregate contribution threshold.

2. Considerations

a. Trust Fund Sustainability

A key consideration regarding a reduction in the aggregate contribution threshold is how it will affect the Public Matching Funds Trust Fund (the trust fund), which houses the public money that is used to pay qualified City candidates. An appropriation must be made every year to the trust fund, and it is adjusted annually to reflect changes in the Consumer Price Index (CPI). Charter § 471(c). The appropriation this fiscal year is \$3,265,683. By the end of the current fiscal year, the trust fund balance is projected to be approximately \$19 million, minus any payments made for the June 4 special primary election in City Council District 12.

Reducing the aggregate contribution threshold is likely to result in more candidates who qualify for public funds. This, in turn, will affect the trust fund balance. To determine whether the trust fund can sustain lower aggregate contribution thresholds, Ethics Commission staff made projections about appropriations and payouts through the 2030 elections. The projections were based on data from every City election from 2007 through 2017 and made several assumptions based on that historic data: 1) The average number of candidates who met the relevant contribution threshold in each scenario will qualify for matching funds; 2) In primary elections, half of all qualifying candidates will receive the maximum amount of matching funds and half will receive 50 percent of the maximum; 3) Every open seat race will go to a general election, and both candidates in every general election will receive maximum matching funds; and 4) No incumbent race will go to a general election. Finally, all relevant numbers were adjusted for CPI where required by law.

Based on these assumptions, the trust fund balance is projected to be just over \$5 million after the 2030 elections, which is more than sufficient to support the reductions in the amending motion. *See* Attachment B. The Ethics Commission is confident in the reasonableness of the projections. They take into consideration reliable data and assumptions, and other balancing factors are also at play. For example, while the program may allow more candidates to qualify, it will likely be more challenging to receive maximum funding. This is because more contributions will be required to reach maximum funding, even at the new 6:1 match rate, because of the reduced per-contributor maximums. However, as noted at the top of page 5, future reevaluation will be necessary.

b. Program Goals

Another key consideration is the goals of the matching funds program. Those goals include promoting public discussion of important issues by helping candidates raise enough money to communicate their views, encouraging competition for public office by reducing the financial advantage of incumbents, and reducing the need for excessive fundraising. Charter §§ 471(a)(2)(A), (B), (F).

It is essential to these important goals that the matching funds program be attractive to candidates and actually infuse money into the campaign process. The program must also ensure

the proper stewardship of public resources. To that end, its qualification criteria are a series of ways candidates demonstrate that their receipt of matching funds is a responsible use of public money. The qualification criteria appropriately impose a level of rigor on candidates, but they should not be unattainable for all but a select few.

Until last month, City Council candidates had to obtain the equivalent of 100 contributions of \$250 to meet the aggregate contribution threshold. City Attorney and Controller candidates had to obtain the equivalent of 150 contributions of \$500, and Mayoral candidates had to obtain the equivalent of 300 contributions of \$500. As the program now stands, City Council candidates must obtain the equivalent of 176 contributions of \$114, City Attorney and Controller candidates must obtain the equivalent of 350 contributions of \$214, and Mayoral candidates must obtain the equivalent of 701 contributions of \$214. This is an increase of 76 to 134 percent in the number of contributions required to qualify for matching funds.

The following three tables identify the aggregate contribution thresholds that are reflected in the original matching funds program, in the current program, and in the recommended program. They also indicate the corresponding minimum number of contributions required to reach the minimum dollar amounts.

City Council	Aggregate Contribution Threshold	
	Minimum Amount	Minimum Number
Original	\$25,000	100
Current	\$20,000	176
Recommended (amending motion)	\$11,400	100

City Attorney / Controller	Aggregate Contribution Threshold	
	Minimum Amount	Minimum Number
Original	\$75,000	150
Current	\$75,000	350
Recommended (amending motion)	\$32,100	150

Mayor	Aggregate Contribution Threshold	
	Minimum Amount	Minimum Number
Original	\$150,000	300
Current	\$150,000	701
Recommended (amending motion)	\$64,200	300

c. *Caveats*

It is important to keep in mind that the new matching funds program is just that: new. As a result, actual data regarding participation rates, max-out rates, or any other number associated with the new program does not exist. More precise data will be available after the 2022 elections, and it may show that assumptions based on the different entry points and parameters in the previous program must be updated. Therefore, it will be important to reevaluate the trust fund's sustainability after having experienced at least one full four-year election cycle.

It is also important to keep in mind that the program has an effect not only on candidates but also on Ethics Commission staff. When a candidate submits a claim for matching funds, the Ethics Commission has four business days to process the claim, evaluate the legitimacy of every contribution identified in the claim, and determine the amount of matching funds the candidate is entitled to based on that claim. LAAC § 24.34(d)(1)(C). When the per-contributor maximum is reduced, more contributions are required to both meet the aggregate contribution threshold and receive maximum funds. In addition, an audit is mandatory for every committee controlled by a candidate who receives matching funds. Charter § 702(d); LAAC § 24.41. As a result, increases to both temporary and permanent staff may be necessary to comply with the administrative obligations associated with the program.

3. Approved Amendments

The Ethics Commission has always supported a matching funds program that encourages broad participation in the electoral process and carefully safeguards the sustainability of the trust fund. Reducing the aggregate contribution thresholds will help to ensure that the matching funds program remains attractive and accessible to candidates.

After evaluating the trust fund in light of the new laws and the assumptions made in the projections, the Ethics Commission believes that the trust fund will remain viable if the program returns to the minimum number of contributions that existed in the original program. Doing so is expected to infuse into City campaigns more of the funds that the voters have set aside for that purpose without threatening the trust fund balance. Therefore, the Ethics Commission urges adoption of the following approved amendments to the Campaign Finance Ordinance (CFO).

LAMC § 49.7.23(C)(1).

PARTICIPATION AND QUALIFICATION REQUIREMENTS.

1. The candidate and the candidates' controlled committee received qualified contributions that meet the following criteria:
 - a. The contributions meet or exceed the following aggregate amounts:
 - i. ~~\$20,000~~ or City Council candidates, an amount equal to 100 times the maximum per-contributor amount in Section 49.7.27;
 - ii. ~~\$75,000~~ or City Attorney and Controller candidates, an amount equal to 150 times the maximum per-contributor amount in Section 49.7.27;

- iii. ~~\$150,000~~ For Mayoral candidates, an amount equal to 300 times the maximum per-contributor amount in Section 49.7.27.

~~For each contributor, the maximum that may be counted toward these thresholds is one-seventh of the per-person City campaign contribution limit that applies under Section 49.7.3(B)(2)(a) or 49.7.3(B)(2)(b) to the elected City office that the candidate seeks, rounded to the nearest dollar.~~
Loans, pledges, and non-monetary contributions do not count toward the thresholds.

B. Debate / Town Hall Meeting

Another qualification criteria for the matching funds program is participating in a debate or town hall meeting. This requirement was recently modified, and the Ethics Commission has approved further amendments to provide clarity.

1. Background

Since 1993, candidates have had to agree to participate in debates with opponents to qualify for matching funds. They did not have to actually participate in a debate, because an opponent could easily deny a candidate matching funds by refusing to debate. The Ethics Commission recommended, and the City Council adopted, a change that would require a candidate to actually participate in a debate with opponents or conduct a town hall meeting at which opponents and the public can ask the candidate questions. LAMC § 49.7.23(C)(6); LAAC §§ 24.31(b)(11); 24.34(a)(5). The town hall meeting was adopted as an alternative to the preferred debate, to continue to safeguard against a candidate not qualifying for matching funds simply because no opponent agreed to debate.

2. Considerations

Public comment provided to the City Council, after the Ethics Commission transmitted its recommendations, raised questions about whether a town hall meeting was always an option instead of a debate and also about whether a town hall meeting could become simply another campaign rally.

3. Approved Amendments

The Ethics Commission approved amendments to provide clarification regarding the availability and character of a town hall meeting. The amendments specify that a debate is required for matching funds candidates, unless it is not an option because all opponents refuse to debate. When that occurs, a candidate may substitute a town hall meeting for a debate.

The approved amendments also modify the definitions of both “debate” and “town hall meeting” to specify that they must last for at least 60 minutes. Finally, the amendments modify the definition of “town hall meeting” to clarify that a majority of the meeting must be focused on

a question-and-answer session, during which the candidate must respond to questions from attendees. The approved amendments include the changes identified below, which affect one section of the CFO and three sections of the LAAC regulations.

LAMC § 49.7.23(C)(6).
PARTICIPATION AND QUALIFICATION REQUIREMENTS.

The candidate has either participated in a debate with one or more opponents or if no opponent agrees to debate, conducted a town hall meeting with the public.

LAAC § 24.31(b)(4).
PROCEDURAL REGULATIONS FOR THE PUBLIC MATCHING FUNDS PROGRAM.

“Debate” means a discussion between two or more candidates who have qualified to appear on a ballot for elected City office that lasts at least 60 minutes, is moderated by an independent third party, and attended by is open to the public.

LAAC § 24.31(b)(11).
PROCEDURAL REGULATIONS FOR THE PUBLIC MATCHING FUNDS PROGRAM.

“Town Hall Meeting” means an event conducted by a participating candidate, at which the public is able to ask the candidate questions, and which is open to the public, the media, and other candidates, lasts at least 60 minutes, and at which a majority of the time is focused on the participating candidate responding to questions posed by attendees.

LAAC § 24.32(a)(3)(B).
ACCEPTING AND QUALIFYING FOR MATCHING FUNDS.

The candidate understands that the candidate must either participate in a debate with one or more opponents or if no opponent agrees to debate, conduct a town hall meeting;

C. Technical Amendments

In any policy review, the inevitable close scrutiny of existing laws is likely to reveal language that should be corrected or clarified. This review follows suit, and the Ethics Commission approved technical amendments to three sections of the CFO.

1. Proper Citation

City law regulates virtually every financial aspect of running a campaign for elected office. Loans and credit are among those financial aspects, and a section of the CFO addresses them specifically. One of the provisions in that section states that winning candidates may not repay personal loans they made to their campaigns beyond the personal loan limit for matching funds candidates. However, the section incorrectly refers to a qualification criteria about appearing on the ballot, rather than to the qualification criteria that limits personal loans. The Ethics Commission approved the following correction.

**LAMC § 49.7.9(E).
LOANS AND CREDIT.**

Following an election, candidates who are elected to the offices they sought during that election may not repay personal loans to themselves from their controlled committees for elected City office in excess of the limitations on personal funds in Section 49.7.23(C)(45).

2. Filing Deadline

The CFO requires all candidates to file information with the Ethics Commission about their electronic media, including email addresses, web sites, and social media accounts. The requirement specifies that amendments must be filed within 10 days of any change in the original information, but it does not specify when the original filing must be submitted. To reflect the actual practice that has been in effect since this section was adopted, and to ensure consistency with the deadline for several other candidate filings, the Ethics Commission approved the following amendment. *See, e.g.*, Charter §§ 470(c)(2), (g).

**LAMC § 49.7.15(A).
COMMITTEE INFORMATION.**

In addition to the information required by state law, every person identified in Subsection C shall file with the Ethics Commission, concurrently with the filing of the Declaration of Intent to Solicit and Receive Contributions, every non-governmental email address, Web site, and social media account the person maintains to communicate regarding City elections.

3. Expenditure Ceiling

The CFO lists all of the qualification criteria that apply to candidates who want to receive matching funds. One of the criteria is that the candidate may not spend more than the expenditure ceiling for the candidate's race. The matching funds regulations make this clear by specifying that a request for qualification must state that the candidate "has not made and will not make expenditures in excess of the expenditure ceilings" LAAC § 24.32(a)(3)(C).

However, the way the CFO currently refers to that requirement is that a candidate must simply “agree[] in writing not to exceed” the expenditure ceiling.

To reflect the matching funds regulations, the existing language for other qualification criteria, and the actual practice that has been in effect since the inception of the matching funds program, the Ethics Commission approved the following amendment. *See, e.g.*, LAMC §§ 49.7.23(C)(5), (C)(10), (C)(11).

**LAMC § 49.7.23(C)(7).
PARTICIPATION AND QUALIFICATION REQUIREMENTS.**

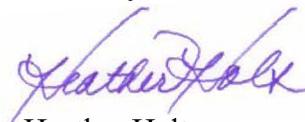
The candidate ~~agrees in writing~~ does not ~~to~~ exceed the applicable expenditure ceiling.

D. Conclusion

The Ethics Commission approved several amendments to the matching funds program, which reduce the aggregate contribution threshold to the amounts identified in the amending motion, clarify the debate and town hall meeting requirement, and make technical corrections. The approved amendments are intended to apply to elections that occur after the 2019 special election in City Council District 12, and the Ethics Commission urges you to adopt them.

Action on the LAAC amendments identified on page 7 must be taken by **April 20, 2019**. Charter § 703(b). We would be happy to discuss any of the recommendations with you at any time. If you have questions, please do not hesitate to contact me or Policy Director Tyler Joseph.

Sincerely,



Heather Holt
Executive Director

Attachments

- A Amending Motion*
- B Trust Fund Projection*

MOTION

I MOVE that the matter of the Rules, Elections, and Intergovernmental Relations Committee Report and Ordinance First Consideration relative to revisions to the Regulations of the City Ethics Commission concerning matching funds, Item No. 1 on today's Council Agenda (CF's 12-1269-S5 and 15-1088-S1), BE AMENDED to adopt the following in lieu of Recommendation 3 (a) of the Report:

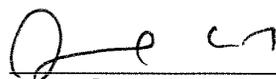
Recommendation 3 (a) Relative to LAMC Section 49.7.23 (C)(1)(a) regarding Participation and Qualification requirements, and qualified contributions received by the candidate that exceed the following aggregate amounts: (i) 100 times the maximum per contributor that receives matching funds per Section 49.7.27 for City Council candidates, (ii) 150 times the maximum per contributor that receives matching funds per Section 49.7.27 for City Attorney and Controller candidates, and (iii) 300 times the maximum per contributor that receives matching funds per Section 49.7.27 for Mayoral candidates, and tie these amounts to the Consumer Price Index.

- i. Strike the language stating that the first \$500 of each contribution counts toward the threshold for Citywide candidates, and the first \$250, of each contribution counts toward the threshold for City Council candidates.
- ii. Add language stating: For each contributor, the maximum that may be counted toward these thresholds is one-seventh of the per-person City campaign contribution limit that applies under Section 49.7.3(B)(2)(a) or Section 49.7.3(B)(2)(b) to the elected City office that the candidate seeks, rounded to the nearest dollar.

PRESENTED BY:


 MIKE BONIN
 Councilmember, 11th District

SECONDED BY:




October 5, 2018



ORIGINAL

City Elections 2020 – 2030
Projected Matching Funds Payments and Trust Fund Balance
 • All Qualifying Thresholds Reduced by 54-57% (Bonin Motion) •

Seat	Threshold	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Council	\$11,400	\$3,440,000	\$1,148,000	\$3,192,000	\$1,206,000	\$3,362,500	\$1,268,500	\$5,836,500	\$1,331,000	\$4,681,500	\$1,400,000	\$3,894,500
Controller	\$32,100	\$0	\$0	\$1,680,000	\$0	\$0	\$0	\$742,500	\$0	\$0	\$0	\$2,047,000
Att'y	\$32,100	\$0	\$0	\$1,930,000	\$0	\$0	\$0	\$834,000	\$0	\$0	\$0	\$2,353,000
Mayor	\$64,200	\$0	\$0	\$5,486,000	\$0	\$0	\$0	\$3,090,000	\$0	\$0	\$0	\$6,684,500
		2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Starting Balance		\$19,378,163	\$19,285,488	\$21,568,496	\$12,797,279	\$15,195,982	\$15,528,303	\$18,046,994	\$11,425,865	\$14,073,783	\$13,470,673	\$16,251,023
Appropriation		\$3,347,325	\$3,431,008	\$3,516,783	\$3,604,703	\$3,694,821	\$3,787,191	\$3,881,871	\$3,978,918	\$4,078,391	\$4,180,350	\$4,284,859
Total Disbursements		\$3,440,000	\$1,148,000	\$12,288,000	\$1,206,000	\$3,362,500	\$1,268,500	\$10,503,000	\$1,331,000	\$4,681,500	\$1,400,000	\$14,979,000
Ending Balance		\$19,285,488	\$21,568,496	\$12,797,279	\$15,195,982	\$15,528,303	\$18,046,994	\$11,425,865	\$14,073,783	\$13,470,673	\$16,251,023	\$5,556,883

Assumptions:

- The number of qualifying candidates is the average number of candidates for each seat who met the relevant contribution threshold in each City election from 2007 to 2017.
- Half of the qualifying candidates receive the maximum matching funds, and half receive 50% of the maximum.
- Both candidates in a runoff election receive the maximum matching funds.
- Every open seat race (assuming two terms for Citywide candidates and three terms for City Council candidates) goes to a runoff.
- No incumbent race goes to a runoff.
- The trust fund appropriation and the maximum per-candidate funding are adjusted annually for CPI.