

**San Francisco  
Ethics Commission**



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# **Report on**

# **San Francisco's Limited**

# **Public Financing Program**

**November 8, 2011 Mayoral Election**

**San Francisco Ethics Commission**

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# Report of the Mayoral Public Financing Program of 2011

This report is intended to satisfy the requirements set forth in Section 1.156 of the San Francisco Campaign and Governmental Conduct Code, which stipulate that the Ethics Commission produce a report following the November 2011 election stating:

- The amount of public funds disbursed to campaigns in the election;
- The number of candidates who received public funds;
- The number of nonparticipating candidates;
- The amount of qualified campaign expenditures made by all candidates in that election;
- The amount of independent expenditures made in connection with the election; and
- Other relevant information deemed useful by the Ethics Commission.

The data presented is based on information reported in campaign disclosure statements covering through December 31, 2011 and from the Commission's record of public funds disbursements.

## **I. Introduction**

San Francisco's public financing program for candidates for the Board of Supervisors was adopted through a ballot measure (Proposition O) in November 2000. In 2006, the program was extended to include Mayoral candidates as well. The San Francisco Ethics Commission ("Commission") administered the public financing program in elections for candidates for the Board of Supervisors in 2002, 2004, 2006, 2008 and 2010. Because no candidate for Mayor qualified for public funding in 2007, the Commission administered the public financing program in a Mayoral election for the first time in 2011.

With respect to the disbursement formula and expenditure ceilings, the program as it was implemented in the 2011, 2010 and 2008 elections was significantly different from the program that was administered in 2002, 2004, and 2006.<sup>1</sup> The public financing program provides candidates running for the Board of Supervisors or Mayor with partial public funding to fund their campaigns. The Commission developed the program with the intent that it would provide candidates a neutral source of additional funding, encourage more candidates to run for office, allow candidates to spend more time discussing the issues and spend less time fundraising, and encourage candidates to limit their spending.

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<sup>1</sup> See Appendix for a complete overview of the requirements of the public financing program as it was implemented in 2011.

## II. Mayoral Candidates on the November 8, 2011 Ballot and the Amount of Public Funds Disbursed in the November 8, 2011 Election

### A. Candidates Who Sought Office, Whether They Participated in the Public Financing Program and Whether They Were Elected to Office

In San Francisco, the Mayor's office is voted upon every four years. In January 2011, the Board of Supervisors filled the vacant Mayor's office with an appointee who ran as the incumbent Mayoral candidate in the November election. A total of 16 candidates for Mayor appeared on the November 2011 ballot and nine of these candidates qualified to receive public funds. The nine participants of the public financing program did not include the incumbent. The incumbent won the election.

Table 1 below lists candidates for Mayor whose names appeared on the November 8, 2011 ballot, indicates whether they participated in the public financing program, and identifies the candidate who was elected to office.

**Table 1: List of 2011 Mayoral Candidates, Whether They Participated in the Public Financing Program, and Whether They Were Elected to Office<sup>2</sup>**

Candidate	Participation Status (P=participating candidate; NP=non-participating candidate)	Whether candidate was elected or defeated
Jeff Adachi	NP	Defeated
Michela Alioto-Pier	P	Defeated
Cesar Ascarrunz	NP	Defeated
John Avalos	P	Defeated
Terry Baum	NP	Defeated
David Chiu	P	Defeated
Paul T. Currier*	NP	Defeated
Bevan Dufty	P	Defeated
Tony Hall	P	Defeated
Dennis Herrera	P	Defeated
Emil Lawrence*	NP	Defeated
Ed Lee	NP	Elected
Wilma Pang	NP	Defeated
Joanna Rees	P	Defeated
Phil Ting	P	Defeated
Leland Yee	P	Defeated
<b>Total</b>	<b>9 participating candidates; 7 non-participating candidates</b>	

<sup>2</sup> An asterisk (“\*”) indicates candidates who were not required to file electronic campaign statements (i.e., candidates who received less than \$5,000 in contributions). Staff believes that the electronic reports capture the information related to contributions and expenditures that is necessary to prepare this report. The cumulative amount of activity by any candidate who filed either Form 470 or 460 in paper form only should not exceed \$4,999.99, which is an amount staff believes will not skew the general information provided in this report. Accordingly, staff did not look to the content of the paper filings to prepare this report. Staff used the same process in gathering data for reports on public financing programs administered in past years.

B. The Amount of Public Funds Disbursed in 2011

A total of \$11,094,247 in the Election Campaign Fund was available for disbursement. On the 59<sup>th</sup> day before the election the Executive Director was required to calculate the Per Candidate Available Disbursement Limit. Prior to this date, eligible candidates could receive up to \$900,000 each. The Per Candidate Available Disbursement Limit was determined to be \$1,232,694. However, at the time that the Commission notified Mayoral candidates of the Per Candidate Available Disbursement Limit, the Commission also informed candidates of pending legislation that would have capped the disbursements at \$900,000 per candidate in response to the Supreme Court’s June 27, 2011 decision in *Arizona Free Enterprise Club’s Freedom Club PAC, et al. v. Bennett*.

The nine eligible candidates received a total of \$4,696,390 in public funds, an average of \$521,821 per candidate. Because the individual expenditure ceiling was raised for every publicly-financed candidate and the Per Candidate Available Disbursement Limit was greater than \$900,000, candidates were eligible to receive more than \$900,000 based on the amount of matching contributions raised; none of the nine publicly-financed candidates received more than \$900,000. The highest amount disbursed to any candidate was \$720,690.

Table 2 below provides a breakdown of the amount of public funds disbursed to each qualifying candidate. It also shows the amount of total funds (public plus private) that was available to all candidates, participating and non-participating.

**Table 2: Amount of Public Funds Disbursed as Compared to Total Funds Available to Candidates<sup>3</sup>**

Candidate	Amount of Public Funds Disbursed to Participating Candidates	Total Funds Available to Candidates (private funds plus public funds, if any)	Public Funds as a Percentage of Total Funds
Jeff Adachi	n/a	\$193,626	n/a
Michela Alioto-Pier	\$487,950	\$769,469	63%
Cesar Ascarrunz	n/a	\$49,529	n/a
John Avalos	\$461,479	\$694,144	66%
Terry Baum	n/a	\$49,093	n/a
David Chiu	\$572,050	\$1,241,874	46%
Bevan Dufty	\$682,108	\$1,408,061	48%
Tony Hall	\$428,056	\$591,763	72%
Dennis Herrera	\$720,690	\$1,551,721	46%
Ed Lee	n/a	\$1,592,436	n/a
Wilma Pang	n/a	\$7,453	n/a
Joanna Rees	\$492,480	\$946,417	52%
Phil Ting	\$312,564	\$501,292	62%
Leland Yee	\$539,014	\$1,375,558	39%
<b>Total</b>	<b>\$4,696,390</b>	<b>\$10,972,436</b>	<b>43%</b>

<sup>3</sup> Total funds in this table include total monetary contributions, loans, in-kind contributions, public funds and candidates’ personal funds used for campaign purposes.

Public grants represented 43 percent of the total funds (public and private) that were available to all candidates.

### III. Candidate Spending

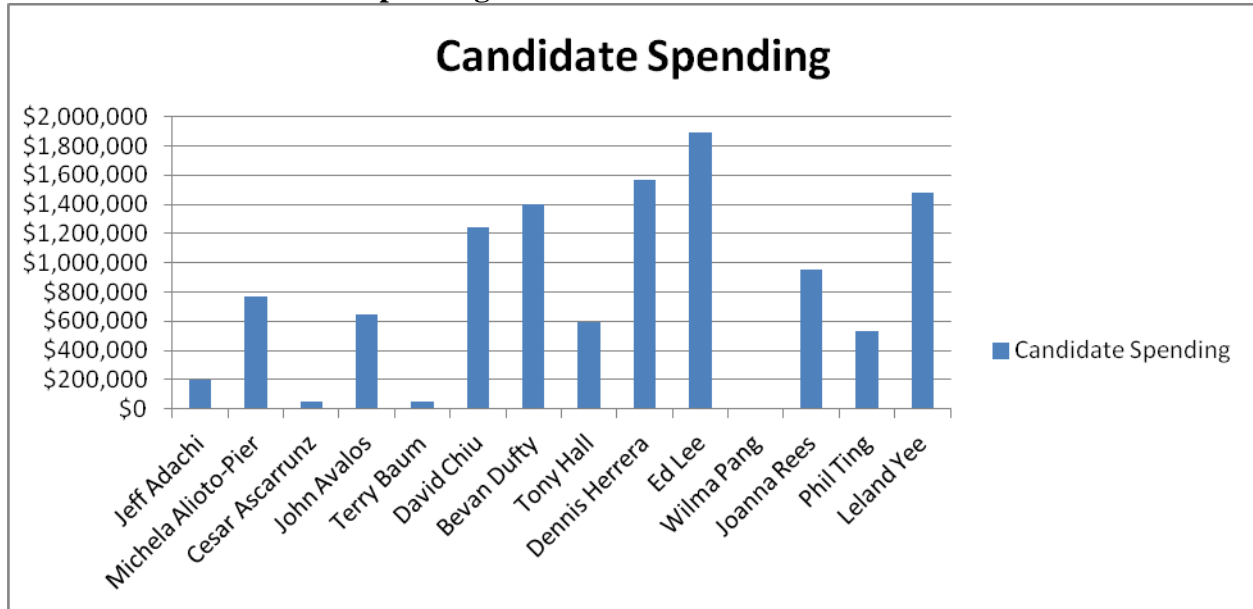
In the November 8, 2011 election, candidate spending totaled \$11,360,605. This figure does not include spending by non-candidates. Table 3 below lists the amounts spent by Mayoral candidates. The table also shows the highest level of a candidate's Individual Expenditure Ceiling, if the candidate were publicly financed. Publicly financed candidates were required to limit their expenditures to the amount of their Individual Expenditure Ceiling, which began at \$1,475,000 and was raised by the Commission based on the highest level of Total Supportive Funds of a publicly financed candidate's opponents plus the Total Opposition Spending against such publicly financed candidate. Expenditure data includes both paid expenditures and debt.

**Table 3: 2011 Candidate Spending**

Candidate	Highest Level of Candidate's Individual Expenditure Ceiling	Total Expenditures Incurred
Jeff Adachi	n/a	\$197,238
Michela Alioto-Pier	\$2,675,000	\$769,739
Cesar Ascarrunz	n/a	\$49,529
John Avalos	\$2,675,000	\$649,777
Terry Baum	n/a	\$49,093
David Chiu	\$2,675,000	\$1,240,919
Bevan Dufty	\$2,675,000	\$1,396,286
Tony Hall	\$2,675,000	\$595,825
Dennis Herrera	\$2,675,000	\$1,563,665
Ed Lee	n/a	\$1,888,968
Wilma Pang	n/a	\$7,453
Joanna Rees	\$2,675,000	\$948,523
Phil Ting	\$2,675,000	\$528,167
Leland Yee	\$2,675,000	\$1,475,423
	<b>Total</b>	<b>\$11,360,605</b>

The chart below shows spending by candidates in graphic form.

**Chart 1: 2011 Candidate Spending**



**IV. Spending by Third Parties**

In 2011, third parties were required to report independent expenditures, member communications, and electioneering communications on the Commission’s Third Party Disclosure Form. Third party spending regarding Mayoral candidates in the November 2011 election as disclosed on the Third Party Disclosure Form totaled \$2,569,035 (\$2,125,957 in supportive spending and \$443,078 in opposition spending).<sup>4</sup>

The table below summarizes the data reported on the Third Party Disclosure Form related to the candidates.

**Table 4: Third Party Spending in 2011**

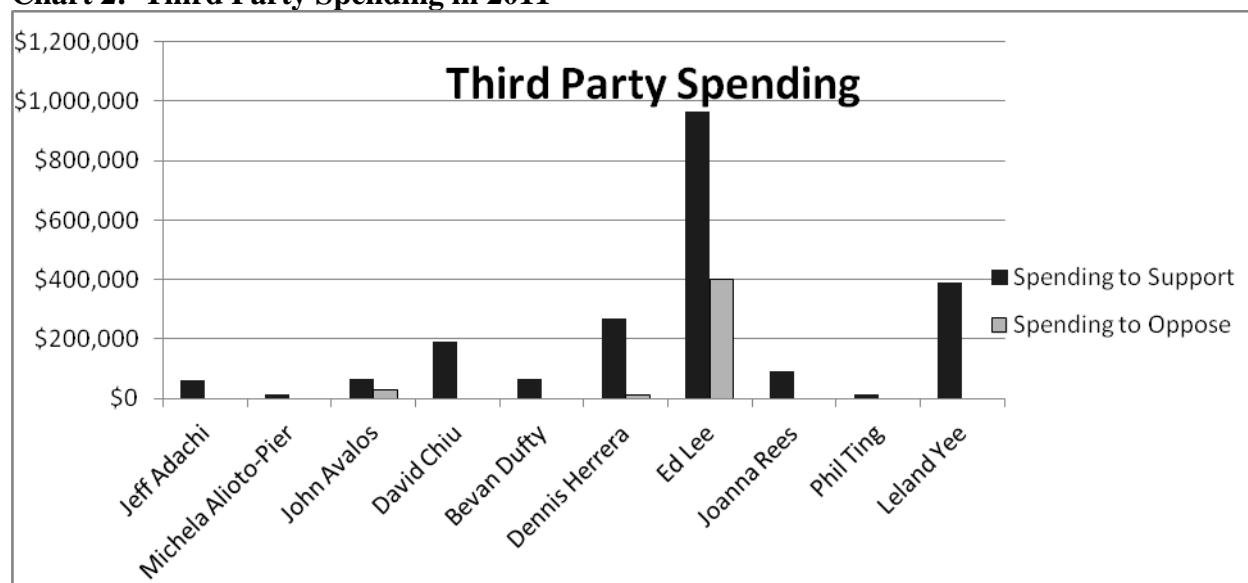
Affected Candidate	SFEC Third Party Disclosure Form	
	Spending to Support	Spending to Oppose
Jeff Adachi	\$63,007	
Michela Alioto-Pier	\$13,996	
Cesar Ascarrunz		
John Avalos	\$68,001	\$30,763
Terry Baum		
David Chiu	\$191,792	
Bevan Dufty	\$63,886	
Tony Hall		

<sup>4</sup> In past public financing reports, this section also included data that was reported on the FPPC Form 465. However, Form 465 data is not included here because the Form 465 requires disclosure of only independent expenditures whereas the Third Party Disclosure Form requires disclosure of independent expenditures as well as member communications and electioneering communications.

Dennis Herrera	\$266,987	\$10,172
Ed Lee	\$963,411	\$402,143
Wilma Pang		
Joanna Rees	\$92,083	
Phil Ting	\$13,342	
Leland Yee	\$389,662	
<b>Total Third Party Spending</b>	<b>\$2,126,167</b>	<b>\$443,078</b>

The chart below displays third party spending by candidates in graphic form.

**Chart 2: Third Party Spending in 2011**



## V. Public Financing at a Glance

As stated above, the November 2011 election was the first election in which one or more Mayoral candidates received public funding. Table 5 below summarizes the data from the 2011 public financing program.

**Table 5: Summary Data from the 2011 Election**

<b>Election Year</b>	<b>2011</b>
Amount of Public Funds Disbursed	\$4,696,390
Average Amount of Public Funds Disbursed	\$521,821
Percentage of Candidates who were Publicly Financed	56
Total Amount of Candidate Spending	\$11,360,605
Amount of Third Party Spending	\$2,569,035

## **APPENDIX: Overview of San Francisco's Limited Public Financing Program**

### **A. Introduction**

In 2011, San Francisco's limited public financing program for candidates running for Mayor provided eligible candidates up to \$900,000 (or up to the amount of the Per Candidate Available Disbursement Limit if the Per Candidate Available Disbursement Limit was greater than \$900,000). The total annual cost of the public financing program, including program administration, cannot exceed \$2.75 per year per resident of San Francisco.

### **B. Criteria and Conditions for Qualifying for Public Financing**

In order to qualify for public financing, a candidate for the November 2011 election was required to:

- seek election to the office of the Mayor and be eligible to hold office if elected;
- file *Form SFEC-142(a) Statement of Participation or Non-Participation* with the Ethics Commission indicating that he/she intends to participate in the Mayoral Public Financing Program;
- raise at least \$25,000 in qualifying contributions from at least 250 residents of the City in contribution amounts ranging from \$10 to \$100;
- agree to limit spending on his or her campaign to no more than his/her Individual Expenditure Ceiling of \$1,475,000 or as raised by the Ethics Commission;
- submit a declaration (*Form SFEC-142(b)-2*), a qualifying contributions list (*Form SFEC-142(c)-2*), and supporting documentation to the Ethics Commission to establish eligibility to receive public financing;
- be opposed by a candidate who has qualified for public financing or by a candidate who has received contributions or made expenditures that in the aggregate equal or exceed \$50,000;
- bear the burden of proving that each contribution relied upon to establish eligibility is a qualifying contribution and that all contributions received comply with the Campaign Finance Reform Ordinance ("CFRO");
- bear the burden of proving that expenditures made with public funds were used only for qualified campaign expenditures;
- not make payments to a contractor or vendor in return for the contractor or vendor making a campaign contribution to the candidate; and not make more than a total of 50 payments to a contractor or vendor who has made a contribution to the candidate;
- not accept any loans to the campaign from anyone except the candidate, and not loan more than \$15,000 of the candidate's own money to his/her campaign;
- agree to participate in at least three debates with opponents;
- have paid any outstanding fines owed to the City by the candidate or any of the candidate's campaign committees;
- have filed any outstanding statements, reports or forms owed to the City by the candidate or any of the candidate's campaign committees; and



- have no finding by a court within the past five years that the candidate knowingly, willfully or intentionally violated the CFRO or the campaign finance provisions of the Political Reform Act.

Candidates were prohibited from using public funds to pay administrative, civil, or criminal fines, or to pay for inaugural activities or officeholder expenses. Under the law, all qualified candidates are subject to a mandatory audit.

### C. Applying for Public Funds

In order to be certified by the Executive Director of the Ethics Commission as having met the requirements to receive public financing, candidates were required to submit, along with other items:

- 1) no later than August 12, 2011, the deadline for filing nomination papers, a *Statement of Participation or Non-Participation (Form SFEC-142(a))* indicating an intent to participate in the public financing program; and
- 2) beginning February 8 and no later than August 30, 2011, a *Declaration for Public Funds* along with a list of qualifying contributions (*Forms SFEC-142(b)-2 and SFEC-142(c)-2*) and other supporting material.

Candidates agreed to comply with all the eligibility requirements set forth above by signing and submitting the *Declaration for Public Funds*. On the accompanying list of qualifying contributions, candidates were required to include the contributor's full name, street address, occupation and employer if the contribution was \$100 or more; the total amount contributed; the amount of the contributor's qualifying contribution; the date the qualifying contribution was received; the date the qualifying contribution was deposited; and the deposit batch number. Supporting materials include photocopies of the written instruments used by the contributors to make the qualifying contributions, deposit receipts and other items such as evidence of San Francisco residency. Claims for additional public funds were required to be submitted in a similar manner.

### D. Formula for Disbursing Public Funds

Candidates who were certified as eligible to participate in the public financing program received a grant of \$50,000. After the initial payment of \$50,000, candidates were able to seek additional public funds based on the amount of matching contributions raised and documented in timely claims submitted to the Ethics Commission.<sup>1</sup> The maximum amount of additional public funds that candidates were able to receive was \$850,000.<sup>2</sup> After the initial payment of \$50,000, for each dollar of matching contributions up to the next \$100,000 that candidates raised, they received four dollars from the Election Campaign Fund. Thereafter, for each additional dollar of matching contributions raised,

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<sup>1</sup> A matching contribution is a contribution that is not a qualifying contribution or a loan, is made by an individual who is a resident of San Francisco (other than the candidate or the candidate's immediate family), is not received more than 18 months before the November election, and complies with all the requirements of the CFRO and its implementing regulations.

<sup>2</sup> The exact amount of funds available to each candidate may be less than or greater than \$900,000, depending on the Per Candidate Available Disbursement Limit. Please see Section E below.

candidates received one dollar of public funds until reaching the maximum. The maximum amount of public funds a candidate could have received until the Per Candidate Available Disbursement Limit was determined was \$900,000, as shown in the table below:

<b>Candidate raises</b>	<b>Election Campaign Fund pays</b>
\$25,000 in qualifying contributions	\$50,000 (initial payment)
Up to \$100,000 in matching contributions	Up to \$400,000 (4 to 1 match)
Up to \$450,000 in matching contributions	Up to \$450,000 (1 to 1 match)
<b><i>Total available to a qualified candidate</i></b>	<b><i>Up to \$900,000</i></b>

E. Per Candidate Available Disbursement Limit

The Per Candidate Available Disbursement Limit is the amount of public funds available to each candidate who has qualified to receive public funding. On the 59th day before the election, the Executive Director of the Ethics Commission divides the total amount of non-administrative funds in the Election Campaign Fund by the total number of qualified candidates. The result is the Per Candidate Available Disbursement Limit.

If the Per Candidate Available Disbursement Limit is less than or equal to \$900,000, candidates will have access to funds from the Election Campaign Fund on a first-come first-served basis up to a maximum of \$900,000. If the Per Candidate Available Disbursement Limit is greater than \$900,000, candidates will have access to the amount of the Per Candidate Available Disbursement Limit, but no candidate may receive public funds that would cause him or her to exceed his or her Individual Expenditure Ceiling. For the November 8, 2011 election, although the Per Candidate Available Disbursement Limit was \$1,232,694, no candidate reached this amount; the highest amount of public funds disbursed to a single candidate was \$720,690.

F. Campaign Spending Limits

To receive public funds, candidates were required to agree to limit their spending to the amount of the Individual Expenditure Ceiling, the expenditure ceiling that is established for each candidate for Mayor who is certified by the Ethics Commission as eligible to receive public funds. Each candidate's Individual Expenditure Ceiling starts at \$1,475,000 and may be raised under certain circumstances. The ceiling may be raised in \$100,000 increments if the highest level of Total Supportive Funds of a publicly financed candidate's opponents plus the Total Opposition Spending against such publicly financed candidate exceeds \$1,475,000 by at least \$100,000.

G. Additional Reporting Requirements for Participating and Non-Participating Candidates

All candidates for Mayor were required to file *Form SFEC-152(b)-1* if they received contributions, or made expenditures that equaled or exceeded \$50,000. These statements serve to inform the Commission of candidates' financial activities so that the Commission could determine whether a candidate who had applied for public financing

met the requirement of being opposed by a candidate who either qualified to receive public financing or received contributions or made expenditures of \$50,000 or more. If the Ethics Commission certified at least one candidate for Mayor as eligible to receive public funds, all candidates for Mayor were required to file *SFEC-152(b)-2* within 24 hours of receiving contributions or making expenditures that equaled or exceeded \$1,000,000. Thereafter, such candidates were required to file *Form SFE-152(b)-2* within 24 hours of each time that they received additional contributions or made additional expenditures that equaled or exceeded \$50,000.

#### H. Additional Reporting Requirements for Third Party Spending

In a race where the Ethics Commission had certified at least one candidate as eligible to receive public funds, any person who made \$5,000 or more in independent expenditures, electioneering communications, or member communications that clearly identified any candidate for Mayor, was required to file a statement within 24 hours of reaching or exceeding the threshold. These statements served to inform the Ethics Commission of Total Supportive Funds and Total Opposition Spending relating to candidates so that the Commission could determine whether the Individual Expenditure Ceiling of any candidate should be adjusted.