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### **Report on San Francisco's Limited Public Financing Program For the November 2015 Election**

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# Public Financing and the 2015 City Elections

Voluntary public financing programs are established with the intent to serve several goals, each designed to strengthen the link between candidates and their constituents by enhancing candidates' accountability to voters who elect them. Public financing is designed to offer candidates the opportunity to rely more on a neutral source of funding in their campaigns rather than on those who seek to effect a single or narrow range of issues. It aims to encourage limited spending so that candidates can spend less time fundraising and more time discussing issues important to their communities. By providing a limited source of public funds that leverages the importance of relatively small, individual contributors in election campaigns, public financing programs can help encourage new and diverse voices among both candidates and those whom they are elected to represent.

San Francisco's voluntary system of limited public financing for City offices was first enacted through Proposition O, a ballot measure approved by the voters in November 2000. Prop. O established public financing for candidates for the Board of Supervisors, and in 2006, the program was extended in City law to include Mayoral candidates, as well.

Following each election in which the Mayor or members of the Board of Supervisors are elected, the San Francisco Ethics Commission is required by Section 1.156 of the SF Campaign and Governmental Conduct Code to submit to the Mayor and Board a report on public financing in that election. The report is required to include data on the number of participating and non-participating candidates; the number of candidates who received public funding; the amount of public funds disbursed; the amount of qualified campaign expenditures made by all candidates; the amount of independent expenditures made in connection with the election; and any other relevant information the Commission may wish to include. Toward that end, the concluding section of this report provides brief historical data of the public financing program in City elections from 2002 through 2015. That section is intended to help provide an empirical context for further ongoing examination and analysis of the public financing program to maximize its effectiveness in City campaigns.

The data presented in this report for the November 3, 2015 election<sup>1</sup> is based on information reported in campaign disclosure statements covering the start of candidates' campaigns through December 31, 2015. It also includes information from disclosures filed by third-party spenders<sup>2</sup> and from Commission records of public funds disbursements to candidates who qualified to receive public funding in their campaigns.

## Overview of Program Elements

San Francisco's public financing system is funded through an Election Campaign Fund ("Fund") established by the City's Campaign Finance Reform Ordinance, or "CFRO." Under CFRO, the Fund receives a General Fund allocation based on a formula of \$2.75 per resident, up to a maximum Fund cap of \$7 million. Candidates who qualify for the program can receive a limited amount of public funds that match eligible contributions up to a maximum amount established under the law.

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<sup>1</sup> Since 2004, the City and County of San Francisco has used a ranked-choice voting system, with one ballot determining the outcome of voting, rather than holding a separate primary and runoff election.

<sup>2</sup> Third-party spending is as reported on independent expenditure statements filed within 90 days of the election.

To receive public funds for the campaigns, candidates must first demonstrate a base of financial support by raising a threshold number and amount of qualifying funds from City residents no earlier than 18 months before the date of the election. Candidates must also agree to a campaign spending cap, or “Individual Expenditure Ceiling,” may not accept loans from others, may accept only limited funds from themselves, and must agree to debate their opponents. Among other requirements to qualify for public funds, a candidate must also be opposed by a candidate who has also qualified for public financing, or by a candidate who has received contributions or made expenditures of a specific threshold amount.<sup>3</sup>

Once certified to appear on the ballot, candidates who are eligible for public financing receive an initial public funds grant. For a Supervisorial candidate, the grant amount is \$20,000, while for a Mayoral candidate the grant is \$100,000. Thereafter, these candidates may seek additional public funds based on the amount of matching contributions raised and documented in claims submitted to the Ethics Commission. After the initial grant for a Supervisorial candidate, for example, for each dollar of matching contributions up to the next \$50,000 raised, candidates may receive two dollars from the Election Campaign Fund. For each additional dollar of matching contributions raised thereafter, candidates may receive public funds on a one-to-one match until reaching the maximum amount for their race.

Under certain circumstances detailed in the law, the spending cap, or IEC, agreed to by participating candidates may be raised for a participating candidate due to independent, third-party spending to support or oppose a candidate in that race. This provision intends for candidates who otherwise agree to be bound by a spending cap in exchange for public funding to have the ability to respond when independent expenditures affect their campaign by spending beyond their initial limit.

In 2015, third parties were required to file public reports with the Ethics Commission during the 90-day period immediately preceding the election each time they made independent expenditures, member communications, or electioneering communications totaling \$1,000 or more per candidate. These reports are necessary to determine when a publicly financed candidate’s spending cap, or IEC, should be raised.

For a Supervisorial candidate, each candidate’s spending cap starts at \$250,000. That cap may be raised in \$10,000 increments, however, when the level of funds supporting a participating candidate’s opponent (“Total Supportive Funds”) plus any spending to oppose that participating candidate (“Total Opposition Spending”) exceeds \$250,000 by at least \$10,000. In those circumstances, the participating candidate may spend additional funds only up to that adjusted spending cap, or IEC level.

### **Background on the November 3, 2015 Election**

In the November 2015 election, just two races in which candidates could qualify for public financing appeared on the ballot: the office of Mayor and one seat on the Board of Supervisors. No candidate in the Mayoral race sought public financing. Consequently, this report discusses public financing only in connection with the one Supervisorial race in the 2015 election.

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<sup>3</sup> For more background on qualification criteria and other program elements, please see Appendix 1.

Three candidates appeared on the November 3, 2016, ballot in the race for Supervisor in District 3. One candidate, Julie Christensen, was an incumbent appointed in 2015 to serve in that office when the seat was vacated. Another, Aaron Peskin, had previously served on the Board of Supervisors in District 3, but was running as a non-incumbent. Both Christensen and Peskin sought and qualified for public financing. A third candidate, Wilma Pang, who elected to not participate in the program, did not raise or spend \$1,000 or more on her campaign, and therefore was not eligible to qualify for public funding.<sup>4</sup>

To be certified for public funding in the 2015 District 3 Supervisorial race, a non-incumbent candidate was required to raise eligible contributions of at least \$10,000 from at least 100 City residents, while the incumbent candidate was required to raise at least \$15,000 in qualifying contributions from at least 150 residents. Contribution amounts ranging from \$10 to \$100 are counted as a qualifying contribution.

Eligible non-incumbent candidates could qualify to receive up to \$155,000 in public funds, while qualified incumbents could receive slightly less, up to a maximum of \$152,500.<sup>5</sup> At the outset of the 2015 campaigns, a total of \$7,619,752 in the Election Campaign Fund was available for disbursement.

### *Candidate Fundraising*

Together, over the course of their 2015 campaigns, the two eligible candidates received \$307,500 in public funds, as both qualified to receive the maximum amount of public funds available for their campaign. Public funding in these two campaigns represented 29 percent these candidates' total funds in the District 3 race.

Table 1 below shows each District 3 candidate's status as a public funds participant or non-participant, the amount of total funds raised by each, and public funds disbursed to each qualifying candidate.

**Table 1 – Fundraising by Supervisorial Candidates on the 2015 Ballot**

<b>Candidate</b>	<b>Program Participant (P) or Non-Participant (NP)</b>	<b>Contributions Raised by Candidate</b>	<b>Public Funds Received</b>	<b>Total Funds</b>	<b>Public Funds as a Percentage of Total Funds</b>
Julie Christensen	P	\$315,239	\$152,500	\$467,739	33%
Aaron Peskin *	P	\$432,153	\$155,000	\$587,153	26%
Wilma Pang	NP	< \$1,000	n/a	< \$1,000	n/a
<i>Total</i>		\$747,392	\$307,500	\$1,054,892	29%

\*Candidate elected

<sup>4</sup> Candidates who raise and spend less than \$1,000 on their campaigns are not required to file detailed campaign statements. Detailed fundraising and spending figures for this candidate, therefore, are not included in this report.

<sup>5</sup> Unlike prior election cycles, the public financing program in 2015 no longer permitted a mechanism for candidates to receive additional public funding beyond this maximum when faced by a high spending opponent or by large third party spending.

*Candidate Spending*

As shown in Table 2, candidate spending in the 2015 District 3 race totaled \$1,075,617. Table 2 also shows the highest level to which each participating candidate’s spending cap, or Individual Expenditure Ceiling, was raised due to third-party spending in their race.

As previously noted, publicly financed candidates agree to limit their expenditures as part of qualifying to participate in the program. Participating candidates in the 2015 election agreed to limit their spending to \$250,000. Due to third party spending in the District 3 race, however, on August 18, 2015, that spending cap was raised for both candidates based on the highest level of Total Supportive Funds reported for their opponent plus the Total Opposition Spending reported against their own candidacy. During the 11 weeks that followed until the November 3 election, based on the language of current law, these candidates’ respective spending caps were required to be lifted more than 20 times each.

**Table 2 – Spending, and Spending Caps, of Supervisorial Candidates on the 2015 Ballot**

<b>Candidate</b>	<b>Total Expenditures</b> (includes both paid and incurred debt)	<b>Date on Which Spending Cap Was First Raised</b>	<b>Candidate Fundraising as of the Date Spending Cap Was First Raised</b>	<b>Highest Adjusted Spending Cap</b>	<b>Number of Times Spending Cap Required Adjustment</b>
Julie Christensen	\$480,791	8/18/15	\$250,000	\$920,000	21
Aaron Peskin	\$594,826	8/18/15	\$250,000	\$1,000,000	28
Total	\$1,075,617		n/a	n/a	

*Third-Party Spending*

In 2015, third-parties were required to file reports during the 90-day period immediately preceding the election each time they made independent expenditures, member communications, or electioneering communications totaling \$1,000 or more per candidate.

As Table 3 below shows, third-party spending to support or oppose the two participating Supervisorial candidates in the November 2015 election totaled \$1,037,259. Of this third party spending, \$642,073 (62 percent) was spending to support a candidate, while \$395,186 (38 percent) was spending to oppose a candidate. <sup>6</sup>

**Table 3 - Third Party Spending in District 3**

<b>Affected Candidate</b>	<b>Supportive Spending</b>	<b>Opposition Spending</b>	<b>Total Third Party Spending</b>
Julie Christensen	\$357,216	\$65,556	\$422,772
Aaron Peskin	\$284,857	\$329,630	\$614,487
			<u>\$1,037,259</u>

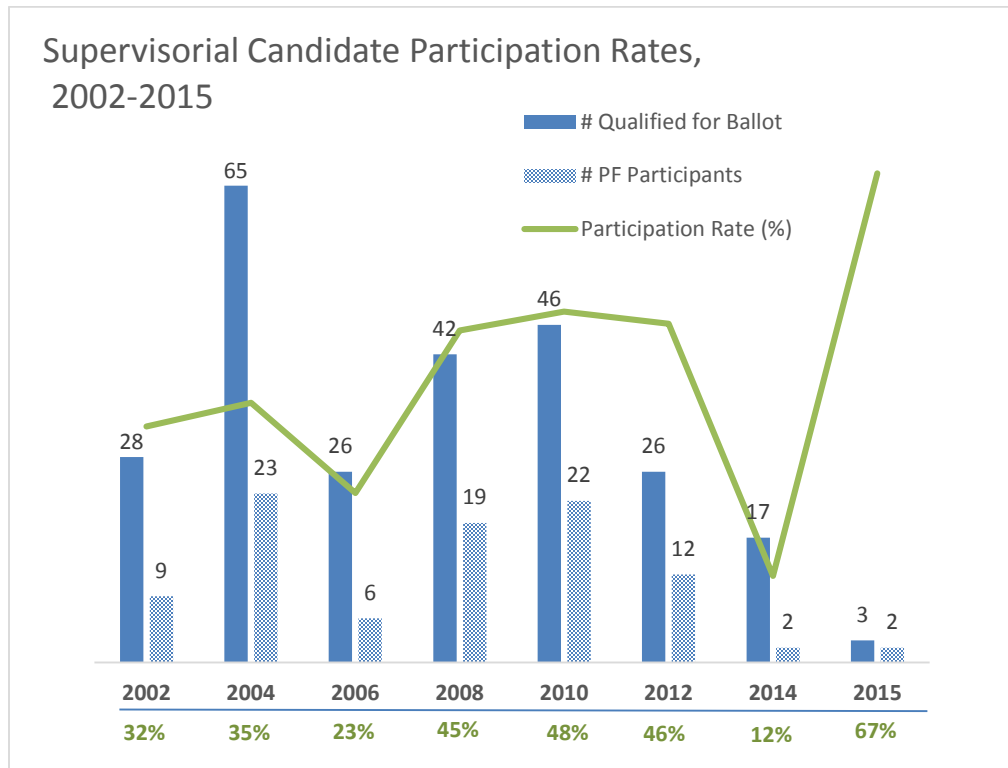
<sup>6</sup> This data was derived from FPPC Form 496 Late Independent Expenditure Report and S.F. Ethics Commission Form 162 Electioneering Communication Report and Form 163 Member Communication Report.

## Historical Overview and Context

Following its adoption in 2000, the City's public financing program was implemented with the 2002 Supervisorial election. Although the program was extended in 2006 to be available for Mayoral candidates, when the Mayoral program was first implemented in 2007, no candidate for Mayor qualified for public funding. The first election in which a Mayoral candidate received public financing was in the 2011 Mayoral race. For an overview of data for the public financing program in campaigns for the Board of Supervisors in City elections from 2002 through 2015, please see Appendix 2.

With the exception of 2015 when a single Supervisorial race was on the ballot, Supervisorial candidate participation rates in the public financing program in elections since 2002 have not exceeded 50 percent.

Chart 1 – Historical Supervisorial Candidate Participation Rates



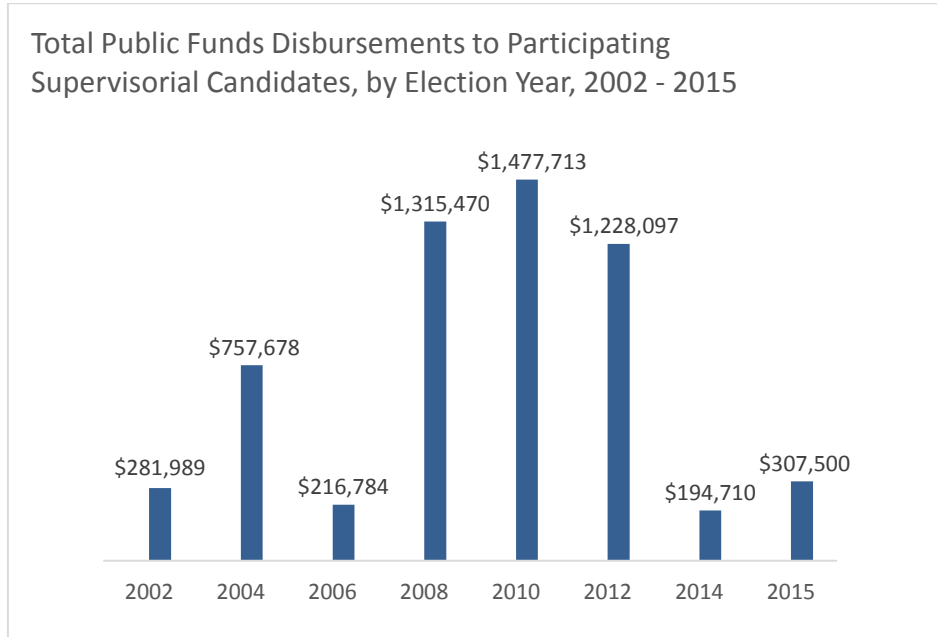
Understanding the full range of dynamics that contribute to candidates' decisions to participate or not can be challenging. Laws governing key elements of the program in the 2012, 2014, and 2015 elections were significantly different from prior years.<sup>7</sup> Significant provisions of the public financing program have changed over the years, such as the deadline for applying for public financing, the deadline for filing nomination papers, the maximum amount of public funds that participants could seek, whether they could receive greater than the initial amounts when a spending cap is raised, and the date on which they are able to receive the public funds for which they have qualified. In addition, in 2004 the City's election system of Ranked Choice Voting was

<sup>7</sup> For reference, Appendix 1 provides an overview of the program's requirements as it was implemented in 2015.

implemented, adding a new factor to the many that shape the strategies of candidates' campaigns and how they fund them.

From 2002 through 2015, total public funding disbursements for all participating Supervisorial candidates has ranged from a low of \$194,710 in the 2014 election to a high of over \$1.4 million in 2010.

Chart 2 – Total Disbursements, by Election



Since 2002, Supervisorial candidates who elected to participate in the program and qualified for public funding received, on average, the following amounts for their campaigns:

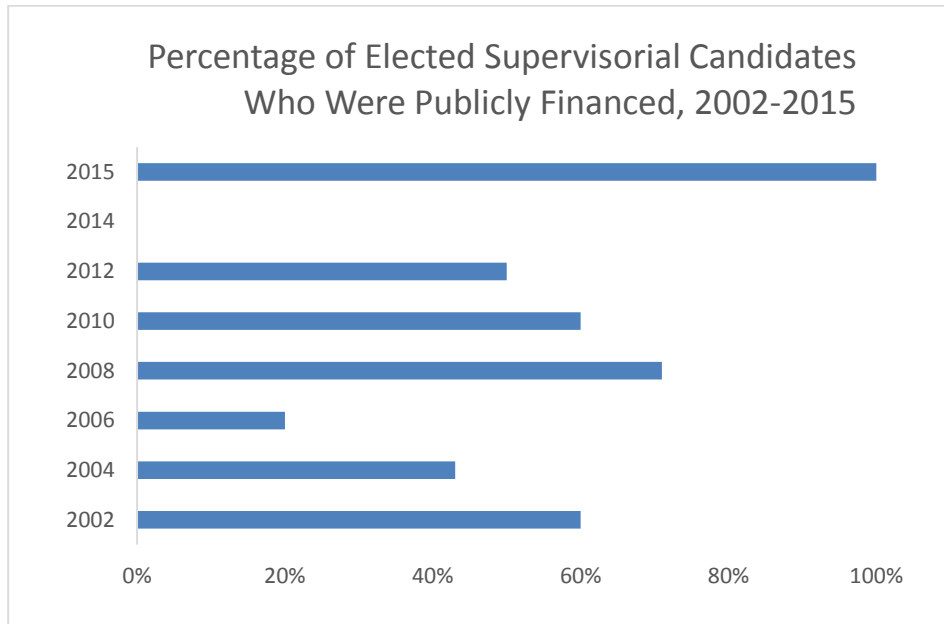
Table 4 – Average Candidate Disbursements, by Election

<b>Election Year</b>	<b>Average Amount Disbursed Per Supervisorial Candidate</b>
2002	\$31,332
2004	\$32,943
2006	\$36,131
2008	\$69,235
2010	\$67,169
2012	\$102,341
2014	\$97,355
2015	\$153,750

Based on data from the 2015 election and prior elections, participating Supervisorial candidates have generally been elected in open seat races where no incumbent is seeking re-election. Except for one race in 2012 and the District 3 race in 2015 -- both in which a Member of the Board of Supervisors who had been appointed earlier in the election year was seeking election to that seat -- incumbent candidates have won their elections regardless of whether they participated in public financing.

At the same time, in five of the last seven Supervisorial election years, 50 percent or more of those elected to a seat on the Board of Supervisors have done so with the benefit of limited public financing in their campaigns.

Chart 3 – Elected Supervisorial Candidates Who Received Public Financing



As noted earlier, the City’s public financing system is a voluntary system in which candidates elect to participate. Candidates must agree to limit their overall campaign spending as one of the conditions for receiving the benefit of public funding in their race. At the same time, the overall role of third-party spending in Supervisorial campaigns has continued to grow when compared to overall candidate spending in those elections, as Chart 4 illustrates.

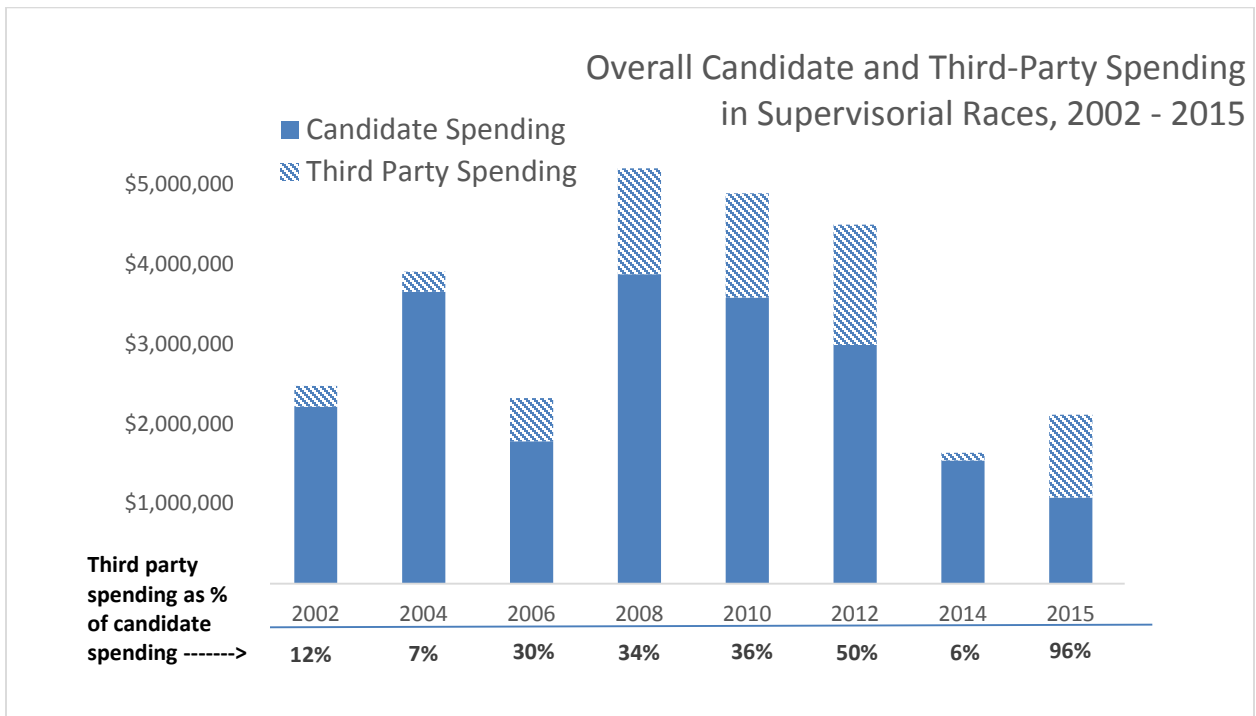
To enable participating candidates to respond when significant third-party spending occurs in their race, the public financing system provides a mechanism for raising a candidate’s spending cap, or “Individual Expenditure Ceiling.” The current mechanism provides that the cap is lifted for a participating candidate to an adjusted level based on funds spent to support his or her opponent plus funds spent to oppose that participating candidate, and only to that adjusted level and only in \$10,000 increments. Once additional third party spending reports are received at the Ethics Commission, those levels are adjusted again in additional \$10,000 increments.

In the 2015 District 3 Supervisorial race with just two participating candidates, both publicly financed candidates were affected by large third party spending. Both candidates’ spending caps were adjusted *more than 20 times each* in the 11-week span prior to the date of the election.

While this approach illustrates a process that may have been designed to provide a check against overly excessive fundraising and spending by publicly financed candidates based only on the *potential* of further large spending by third parties in their race, it is worth asking what recent experience shows, and what the practical results have been for participating candidates, including whether there are any unintended consequences. If the mechanics of a public financing program become overly complex, for example, for the benefit they provide, that could lead to a disincentive for candidates’ participation.



Chart 4 – Candidate and Third-Party Spending



A look at the nine Board of Supervisors races from 2010 to 2015 in which publicly financed candidates saw their spending caps, or IECs, raised due to third party spending may provide some insight. In those races, publicly financed candidates' total spending, on average, ended up exceeding their initial spending cap by approximately 49 percent. In terms of how close those candidates' spending came to the level of their last-adjusted spending cap, total spending by those candidates, on average, reached just under half (46 percent) of their adjusted IEC.

The experience of these nine races suggests that there may be some value in further assessing whether the current mechanics for publicly financed candidates to respond to third-party spending could be simplified. This may be one example of a provision that could be improved to help strengthen candidate participation in the future.

Other questions that may warrant more detailed analysis and discussion could include:

- Are there ways the public financing program should be strengthened to better balance its benefits for non-incumbent candidates?
- Do current timeframes for candidates to receive the public funding make sense?
- Should a different formula for the initial grant and/or rates of matching be examined to determine if they are currently maximizing the program's benefits to qualified candidates?

As with any public policy program, it is valuable to periodically assess what steps are needed to promote maximum effectiveness. We recommend that the Commission engage candidates, contributors and the public in further exploring these and other issues in the year ahead.

## APPENDIX 1: Overview of San Francisco's Limited Public Financing Program

### A. Introduction

In 2015, San Francisco's limited public financing program for candidates running for Board of Supervisors provided eligible candidates up to \$155,000 (or up to \$152,500 for incumbent candidates). 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 2015 election was required to:

- seek election to the office of the Board of Supervisors 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 Board of Supervisors Public Financing Program;
- raise at least \$10,000 (Non-Incumbents) or \$15,000 (Incumbents) in qualifying contributions from at least 100 residents (Non-Incumbents) or 150 residents (Incumbents) 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 \$250,000 or as raised by the Ethics Commission;
- submit a declaration (*Form SFEC-142(b)-1*), a qualifying contributions list (*Form SFEC-142(c)-1*), 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 \$10,000;
- 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 \$5,000 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 June 9, 2015, 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 3 and no later than August 25, 2015, a *Declaration for Public Funds* along with a list of qualifying contributions (*Forms SFEC-142(b)-1 and SFEC-142(c)-1*) 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 \$20,000. After the initial payment, 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>8</sup> After the initial payment of \$20,000, for each dollar of matching contributions up to the next \$50,000 that a candidate raises, he/she received two dollars from the Election Campaign Fund. Thereafter, for each additional dollar of matching contributions raised, a candidate received one dollar of public funds until reaching the maximum. The maximum amount of public funds a candidate could have received was \$155,000 (Non-Incumbents) or \$152,500 (Incumbents), as shown in the table below:

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<sup>8</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.

	Private Funds Raised by Non-Incumbents	Matching Public Funds	Private Funds Raised by Incumbents	Matching Public Funds
Initial	\$10,000	\$20,000	\$15,000	\$20,000
1:2	\$50,000	\$100,000	\$50,000	\$100,000
1:1	\$35,000	\$35,000	\$32,500	\$32,500
<b>Total</b>	<b>\$95,000</b>	<b>\$155,000</b>	<b>\$97,500</b>	<b>\$152,500</b>
<b>Total Public and Private Funds</b>	<b>\$250,000</b>		<b>\$250,000</b>	

E. 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 the Board of Supervisors who is certified by the Ethics Commission as eligible to receive public funds. Each candidate's Individual Expenditure Ceiling starts at \$250,000 and may be raised under certain circumstances. The ceiling may be raised in \$10,000 increments if the highest level of Total Supportive Funds of any opponent of a publicly financed candidate plus the Total Opposition Spending against such publicly financed candidate exceeds \$250,000 by at least \$10,000.

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

All candidates for the Board of Supervisors were required to file *Form SFEC-152(a)-1* if they received contributions, or made expenditures that equaled or exceeded \$10,000. 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 \$10,000 or more. If the Ethics Commission certified at least one candidate for the Board of Supervisors as eligible to receive public funds, all candidates running for office from the same district were required to file *SFEC-152(a)-2* within 24 hours of receiving contributions or making expenditures that equaled or exceeded \$100,000. Thereafter, such candidates were required to file *Form SFE-152(a)-2* within 24 hours of each time that they received additional contributions or made additional expenditures that equaled or exceeded \$10,000.

G. Additional Reporting Requirements for Third Party Spending

Third parties were required to report within 24 hours any spending of \$1,000 or more per candidate that occurred during the 90-day period preceding the election. In 2015, the 90-day period began on August 5.

Specifically, when a third party made independent expenditures of \$1,000 or more per candidate, it was required to file *FPPC Form 496 Late Independent Expenditure Report* and a copy of the communication. Similarly, when a third party made electioneering communications or member communications that totaled \$1,000 or more per candidate, it was required to file *SFEC Form 162 Electioneering Communication Report* or *SFEC Form 163 Member Communication Report*, respectively.

## APPENDIX 2: Overview of Data for the Public Financing Program

The table below provides summary data of the 2015 election as well as data from prior elections in which the offices of the Board of Supervisors appeared on the ballot.

Election Year	2002	2004	2006	2008	2010	2012	2014	2015
<b>Amount of Public Funds Disbursed</b>	\$281,989	\$757,678	\$216,784	\$1,315,470	\$1,477,713	\$1,228,097	\$194,710	\$307,500
<b>Average Amount of Public Funds Disbursed</b>	\$31,332	\$32,943	\$36,131	\$69,235	\$67,169	\$102,341	\$97,355	\$153,750
<b>Number of Candidates who Qualified for the Ballot</b>	28	65	26	42	46	26	17	3
<b>Number of Participating Candidates</b>	9	23	6	19	22	12	2	2
<b>Participating Candidates as % of All Candidates on Ballot</b>	32%	35%	23%	45%	48%	46%	12%	67%
<b>Number of Seats up for Election</b>	5	7	5	7	5	6	5	1
<b>Number of Contested Seats</b>	4	7	5	7	4	4	4	1
<b>Contested Seats as % of All Seats up for Election</b>	80%	100%	100%	100%	80%	67%	80%	100%
<b>Percentage of Elected Candidates who were Publicly Financed</b>	60%	43%	20%	71%	60%	50%	0%	100%
<b>Percentage of Incumbents Re-Elected</b>	100%	100%	100%	100%	100%	80%	100%	0%
<b>Total Amount of Candidate Spending</b>	\$2,213,316	\$3,654,616	\$1,781,148	\$3,875,551	\$3,581,175	\$2,987,290	\$1,542,741	\$1,075,617
<b>Amount of Third Party Spending<sup>9</sup></b>	\$261,906	\$251,201	\$543,063	\$1,324,241	\$1,305,460	\$1,507,057	\$96,610	\$1,037,259

<sup>9</sup> Figures obtained from San Francisco Ethics Commission forms that require the disclosure of independent expenditures, member communications and electioneering communications.