



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

NOREEN AMBROSE
CHAIR

July 20, 2020

By Electronic Mail Only

YVONNE LEE
VICE-CHAIR

The Honorable London Breed, Mayor
The Honorable Board of Supervisors
Attn: Angela Calvillo, Clerk of the Board

DAINA CHIU
COMMISSIONER

City and County of San Francisco
City Hall

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1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

LARRY BUSH
COMMISSIONER

Dear Mayor Breed and Honorable Board Members:

LEEANN PELHAM
EXECUTIVE DIRECTOR

This transmits for your information the Ethics Commission's report, *San Francisco's Limited Public Financing Program for the November 2019 Election*, which was issued at the Commission's July 10, 2020 Regular Meeting.

As you know, 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 the 2006 the program was extended in City law to include Mayoral candidates.

Section 1.156 of the San Francisco Campaign & Governmental Conduct Code requires a post-election report by the Ethics Commission on the use of public funds. 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; and the amount of independent expenditures made in connection with the election. The report may also provide any other relevant information the Commission may wish to include. For this report, the data presented is based on information reported in disclosure statements covering the start of candidates' campaigns through December 31, 2019.

As part of its mandate to periodically review the laws it administers and enforces, the Ethics Commission undertook a comprehensive review of the public financing program in two phases from July 2018 through October 2019. That review resulted in the enactment of two ordinances, three sets of regulation amendments, improved compliance materials, and refinements to the program's administrative processes. While some targeted provisions to strengthen the administration of the program took effect in time for the November 2019 election, changes to a number of fundamental features of the program were operative only beginning with the November 2020 election cycle. As a result, the Commission will seek to assess the effects of those programmatic changes in its future reports.

Please feel free to contact me or Senior Policy and Legislative Affairs Counsel Pat Ford if you have any questions about the report or would like any further information from our office.

Sincerely,

LeeAnn Pelham

LeeAnn Pelham
Executive Director



**ETHICS COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**Report on
San Francisco's Public Campaign Financing Program
November 5, 2019 Election**

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June 30, 2020

Patrick Ford
Senior Policy and Legislative Affairs Counsel

I. Introduction

The Campaign and Governmental Conduct Code requires that “[f]ollowing each election at which the Mayor or members of the Board of Supervisors are elected, the Ethics Commission shall submit a report to the Mayor and Board of Supervisors” that provides certain information about the use of the public financing program in that election.¹ In the November 5, 2019 election, voters selected candidates for the offices of Mayor and District 5 Supervisor. The Ethics Commission prepared this report for the Mayor and Board of Supervisors to provide information about the operation of the public financing program in both of these races.

The data presented in this report is based on information reported in campaign disclosure statements covering the start of candidates’ campaigns through December 31, 2019, the last date for which information is available at the time of writing. The report also includes information from disclosures filed by independent committees and from Commission records of public funds disbursements to participating candidates who qualified to receive public funds.

II. Program Goals and Overview

San Francisco’s voluntary program of limited public campaign financing for City candidates was first established by 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 expanded to include Mayoral candidates.

A. Program Goals

The City’s public campaign financing program serves many important public policy goals. The program seeks to ensure that candidates with a demonstrated level of community support can secure sufficient resources to mount a viable campaign. In doing so, public financing reduces candidates’ dependence on private contributions and encourages candidates to spend less on their campaigns, both of which lessen the potential for and appearance of undue influence by contributors and serves to improve the public’s trust in local government. Public financing also seeks to enable candidates to spend less time fundraising and more time interacting with voters and engaging in discussions on important issues. The program also enables some candidates who might not otherwise be able to fund a viable campaign to do so. This enhances the diversity of the field of candidates running for elective office. The availability of public matching funds also encourages citizens to be more politically active by incentivizing and empowering small-dollar contributions. By supporting candidates who have community support, public financing can also lead to more competitive races, which is important in ensuring quality representation of constituents.

B. Program Overview

San Francisco’s public financing system is funded through the Election Campaign Fund (the “Fund”) established by the City’s Campaign Finance Reform Ordinance (“CFRO”). Under CFRO, the Fund receives a General Fund appropriation of \$2.75 per resident each fiscal year.² When a special election is held to fill a vacancy for the office of Mayor or Supervisor, CFRO may require additional appropriations into the

¹ Campaign & Gov. Conduct Code § 1.156.

² *Id.* at § 1.138(b).

Fund to ensure that sufficient funds are available to allow for the program's effectiveness in that election.³ Additional appropriations may occur before a regularly scheduled election, as well, if the fund's balance does not meet prescribed statutory minimums.⁴ At the outset of the FY20 fiscal year on July 1, 2019, the fund held approximately \$11,462,800.

Eligibility and Program Qualification

To establish eligibility to receive public financing, candidates must demonstrate a base of community support by raising a minimum number and total amount of contributions from City residents. To be certified for public funding in the 2019 election, a non-incumbent supervisorial candidate was required to raise contributions of at least \$10,000 from at least 100 City residents, while an incumbent candidate was required to raise at least \$15,000 in qualifying contributions from at least 150 residents. A non-incumbent mayoral candidate was required to raise contributions totaling \$50,000 from at least 500 residents, and an incumbent was required to raise \$75,000 from at least 750 residents. Only contributions of \$10 to \$100 counted as qualifying contributions. These qualifying contributions had to be received by the candidate no earlier than eighteen months before the date of the election. Candidates had to abide by a campaign spending limit, could not accept loans from others, could contribute only a limited amount of their own funds to their campaigns, and had to agree to debate their opponents. Finally, in order to qualify, a candidate had to be opposed by another candidate who had received contributions or made expenditures over a certain amount.

Public Funds Provided

Once certified as eligible for the program, candidates receive an initial grant. In the 2019 election, Supervisorial candidates received an initial grant of \$20,000, while mayoral candidates received an initial grant of \$100,000.⁵ After receiving the initial grant, candidates received matching funds distributed at either a two-to-one or one-to-one ratio for every dollar of contributions received. For example, for each dollar of privately raised contributions up to \$50,000, a non-incumbent supervisorial candidate received two dollars from the fund, up to a maximum of \$100,000. For each additional dollar of contributions raised thereafter, the candidate received public funds on a one-to-one match until reaching the maximum amount, which is \$155,000 for non-incumbent supervisorial candidates. The maximum amount of public funds that a supervisorial candidate could receive was \$155,000 (non-incumbents) or \$152,500 (incumbents), and the maximum amount that a mayoral candidate could receive was \$975,000 (non-incumbents) or \$962,500 (incumbents).

Spending Limit Adjustments

Based on spending activity in the race, a candidate's spending limit (the Individual Expenditure Ceiling or "IEC") must be raised by the Ethics Commission. This provision intends for candidates who are bound by a spending limit to have the ability to respond when independent expenditures and opponent

³ *Id.* at § 1.138(b)(3)–(4).

⁴ *Id.* at § 1.154(b)(1)–(2). CFRO sets \$7.50 per resident, plus fifteen percent for administrative costs, as the minimum for a regularly scheduled mayoral election and \$1.50 per resident plus fifteen percent as the minimum for a regular supervisorial election.

⁵ As discussed in Section II.C, *supra*, the amounts of the initial grant and the matching ratio will be increased for the 2020 election.

fundraising exceed the candidate's initial IEC. Three factors may necessitate an increase to a candidate's spending limit: (1) contributions received by the candidate's best funded opponent, (2) independent expenditures in support of the candidate's best funded opponent, and (3) independent expenditures in opposition of the candidate. If these three factors, together, exceed the candidate's current spending limit by any amount, then the candidate's spending limit must be increased. Spending limits are adjusted daily on a candidate-by-candidate basis. The spending limits of supervisorial candidates are adjusted in increments of \$50,000, and the spending limits of mayoral candidates are adjusted in increments of at least \$250,000. In the 2019 election, each supervisorial candidate's IEC started at \$250,000.⁶

C. Ethics Commission's Review of the Public Financing Project

From July 2018 to October 2019, the Ethics Commission engaged in a comprehensive review of the City's public campaign finance program. The review was undertaken in two phases. The first phase, which began in June 2018 and concluded in early 2019, sought to deepen the program's impact without making significant changes to the program's basic features. The narrow and targeted nature of this phase was designed to enable quick implementation of those changes in order to be completed in time for the November 2019 election. The second phase, which took place during 2019, examined the more fundamental features of the program to strengthen the program's impact in future elections. The changes to the program brought about through Phase II were not in place for the November 2019 election. The first election for which the Phase II changes will be operative is the November 2020 election. Both phases of the review project are discussed below.

1. Phase I – Administrative Features

Phase I sought to identify features of the Program that created undue complexity, confusion, or requirements on participating candidates while not yielding a corresponding policy benefit. The goal was to identify ways in which the Program's effectiveness and workability could be improved to support broad candidate participation in the program and strengthen the program's impact on participating candidates.

The features of the Program addressed in Phase I were those that candidates and the Commission observed to be problematic for candidates during the June and November elections in 2018. Through formal appeals, public comment, questions, concerns and feedback, there was a clear indication that candidates, treasurers, and members of the public were experiencing some frustration with these aspects of the Program. Phase I responded to these concerns by analyzing these Program features and identifying ways to improve them while still maintaining the current structure and parameters of the Program. Staff endeavored to complete the Phase I improvements in time for them to be in place for the November 2019 election.

The improvements created through Phase I took multiple forms:

- (1) a set of revised regulations to provide greater clarity about various program rules and requirements, which the Commission approved at its regularly scheduled November 2018 meeting and which became operative in January 2019;

⁶ *Id.* at § 1.143 (as amended by [File No. 190287](#)). Beginning in the 2020 election, supervisorial candidates' IEC will begin at \$350,000, as discussed in Section II.C, supra.

- (2) reexamination of administrative aspects of the program to ensure that the program continues to perform in a predictable, efficient, and fair manner;
- (3) improvements to the written resources that are available to Program participants to provide more detailed information about how to qualify for the program and comply with its rules; and
- (4) an ordinance that would change certain procedural features of the program that are established by statute.

The Phase I ordinance was operative for the November 2019 election.⁷ The new program rules that were in effect for this election were:

- The deadline for the Statement of Participation was changed to three days after the deadline to file nomination papers (previously the deadline for both filings was the same day);
- The IEC adjustment mechanism was changed so that changes would be triggered when opponent financial activity exceeds a candidate's current IEC by any amount, rather than by a minimum dollar amount (previously \$10,000 for Board candidates and \$50,000 for Mayoral candidates);
- The IEC adjustment mechanism was changed so that adjustments would be done in larger increments; and
- Candidates were allowed to maintain all contributions in a single committee account (previously candidates had to maintain a separate account for funds that exceeded the candidate's current IEC). This change did not affect the amount of spending that a candidate could undertake.

2. Phase II – Core Program Features

Phase II analyzed the basic parameters of the Program, including, among other things, the total amount of public funding that candidates can qualify to receive, the requirements for qualifying for the Program, the ratio at which private contributions are matched with public money (both via an initial grant and subsequent contribution matching), the initial spending limit that applies to participants, and whether any alternative model of public financing, such as democracy vouchers, would be more effective. The goal of Phase II was to evaluate how well the program was achieving its policy goals and to identify adjustments that could be made to improve the program without increasing its overall cost.

The ordinance that was approved following Phase II was not in effect for the November 2019 election.⁸ Beginning with the November 2020 election, the new rules:

- Increase the total amount of public financing that a candidate can receive for Supervisorial candidates (from \$155,000 to \$255,000) and for Mayoral candidates (from \$975,000 to \$1,200,000);
- Increase the matching ratio for public funds from 2:1 to 6:1;
- Restrict the amount of a contribution that can be matched with public funds from \$500 to \$150; and
- Increase the initial Individual Expenditure Ceiling for Supervisorial candidates (from \$250,000 to \$350,000) and Mayoral candidates (\$1,475,000 to \$1,700,000).

⁷ [File No. 190287](#).

⁸ [File No. 190660](#).

III. Information Regarding the November 2019 Election

November 2019 was the regularly scheduled election for the office of Mayor. In addition, because of the vacancy created on the Board of Supervisors, District 5 by London Breed’s election as Mayor in June 2018, a special election to fill that Supervisorial vacancy was also held in November 2019.

A. Candidates

In the Mayoral race, six candidates appeared on the November ballot, but none of the candidates applied for public financing. In the race to represent District 5 on the Board of Supervisors, four candidates appeared on the ballot. Two of these candidates applied for public financing, and both were certified as eligible and received public funds.

Table 1 – Candidates in November 2019 Election

| Seat | Candidates on the Ballot | Candidates Applied for Public Financing | Candidates Received Public Financing |
|--------------|--------------------------|---|--------------------------------------|
| Mayor | 6 | 0 | 0 |
| District 8 | 4 | 2 | 2 |
| Total | 10 | 2 | 2 |

B. Candidate Fundraising, Public Financing, and Spending

Table 2 provides data regarding the spending, fundraising, and public funding levels for the candidates who appeared on the ballot for the Mayoral race. Adding together all candidates in the race, the candidates raised \$763,387 in contributions. The table provides each candidate’s total expenditures made in the race, which includes cash payments made, loans received, and unpaid debts incurred by the candidate’s committee. In the aggregate, candidates spent \$743,281 in the 2019 Mayor’s race.

Table 2 – Public Funds, Contributions, and Spending by Mayoral Candidates in the November 2019 Election

| Candidate Name | Public Funds | Contributions | Total Funds | Total Expenditures |
|------------------------|--------------|------------------|------------------|--------------------|
| London Breed* | - | \$623,729 | \$623,729 | \$630,049 |
| Ellen Lee Zhou | - | \$98,533 | \$98,533 | \$97,720 |
| Joel Ventrasca | - | \$32,880 | \$32,880 | \$7,432 |
| Paul Ybarra Robertson | - | \$8,245 | \$8,245 | \$8,080 |
| Wilma Pang** | - | - | - | - |
| Robert L. Jordan Jr.** | - | - | - | - |
| Total | \$0 | \$763,387 | \$763,387 | \$743,281 |

* Indicates candidate elected

** Indicates candidate did not report reaching \$2,000 in campaign activity and was therefore not required to file full campaign disclosure statements.

Table 3 provides data regarding the spending, fundraising, and public funding levels for the candidates who appeared on the ballot for the District 5 race. In total, two candidates received \$307,500 in public financing. Public financing represented roughly 31 percent of Vallie Brown’s total funds and 35 percent of Dean Preston’s total funds. Both candidates received the maximum amount of public funds available to them, which differed depending on the candidate’s status as an incumbent or non-incumbent. In total, the candidates in the District 5 race reported receiving \$939,929 in total funds (including public financing) and spending \$935,675.

Table 3 – Public Funds, Contributions, and Spending by D5 Candidates in the November 2019 Election

| Candidate Name | Public Funds | Contributions | Total Funds | Public Funds as % of Total Funds | Total Expenditures |
|-------------------|------------------|------------------|------------------|----------------------------------|--------------------|
| Dean Preston* | \$155,000 | \$288,221 | \$443,221 | 35.0% | \$437,825 |
| Vallie Brown | \$152,500 | \$344,208 | \$496,708 | 30.7% | \$497,850 |
| Ryan Lam** | - | - | - | - | - |
| Nomvula O'Meara** | - | - | - | - | - |
| Total | \$307,500 | \$632,429 | \$939,929 | | \$935,675 |

* Indicates candidate elected

** Indicates candidate did not report reaching \$2,000 in campaign activity and was therefore not required to file full campaign disclosure statements.

C. Candidate Spending Limits

Although candidates who receive public financing must agree to abide to a limit on their campaign’s expenditures, each candidate’s individual expenditure ceiling, or IEC, must be increased by the Ethics Commission if campaign activity in the race reaches a certain level. Table 4 indicates the number of IEC adjustments for each publicly financed candidate and the final level of each candidate’s spending limit. IECs were adjusted eleven times during the November 2019 election.

Table 4 – Spending Limit (IEC) Adjustments for Publicly Financed Candidates – November 2019

| Candidate | Date of First IEC Increase | Number of IEC Increases | Highest Adjusted IEC |
|-------------------|----------------------------|-------------------------|----------------------|
| Dean Preston (D5) | 9/30/2019 | 7 | \$750,000 |
| Vallie Brown (D5) | 9/30/2019 | 4 | \$550,000 |
| Total | | 11 | |

D. Third-Party Spending

During the 90 days immediately preceding an election, third-parties (i.e. individuals or groups that are not candidate committees) are required to file a report any time they make independent expenditures totaling \$1,000 or more or spend \$1,000 or more to distribute member communications or electioneering communications. Independent expenditures fund activity that expressly advocates for or against the election of a particular candidate. These expenditures are intended to affect the outcome of the election, so making information about them public serves an important transparency purpose.

A member communication is a communication that is distributed exclusively to “members, employees, shareholders, or families of members, employees, or shareholders of an organization, including a communication by a political party.”⁹ A group that makes a member communication has to file a report if the communication advocates for or against a candidate for City office. Like the disclosure of independent expenditures, disclosing member communications serves to inform voters about the origins of communications that seek to affect the outcome of a local election.

An electioneering communication is a communication that refers to a clearly identified candidate and is distributed within 90 days before an election. Electioneering communications, however, do not expressly advocate for the election or defeat of the candidate.¹⁰ Although electioneering communications do not contain express advocacy, they still have the potential to affect the outcome of an election by publicizing an identified candidate shortly before the election. Even without expressly advocating for the candidate’s election or defeat, electioneering communications can portray the candidate in a positive or negative light or simply build name recognition. Disclosing information about these communications therefore serves the same transparency interest as with independent expenditures and member communications.

Third party spending reports serve multiple purposes. They inform the public about the amount and the source of money that is being spent to influence the outcome of an election. Additionally, spending limit adjustments are based in part on third party activity, and the reports are the source of the necessary data for the Commission to increase candidates’ spending limits. Each of these three types of reports must be filed within twenty-four hours of the communication being distributed to give voters information about the communications shortly after they are distributed. During the November 2019 election, no third-party reports were filed in connection with the mayoral race, while forty-two reports were filed in connection with the District 5 race.

Using the data disclosed on third-party spending reports, Table 5 and the two following charts show the total amount of third-party spending to support or oppose candidates in the November 2019 election. Third parties spent \$363,126 in the race for District 5 Supervisor.

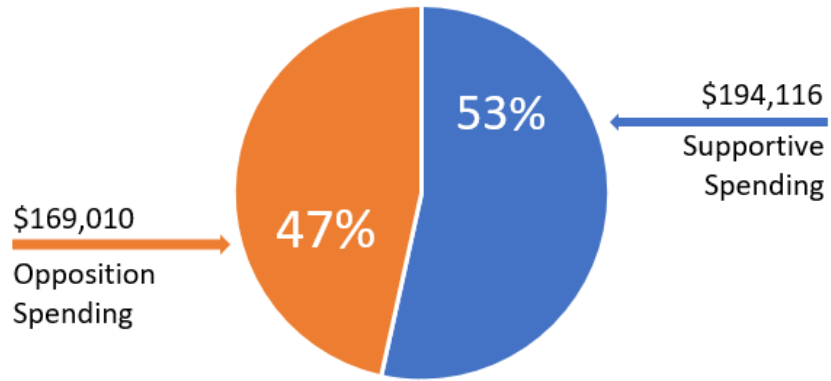
Table 5 – Third-Party Spending in November 2019 Election

| Affected Candidate | Supportive Spending | Opposition Spending | Total 3rd Party Spending |
|---------------------------|----------------------------|----------------------------|---------------------------------|
| Dean Preston | \$108,088 | \$169,010 | \$277,098 |
| Vallie Brown | \$86,028 | \$0 | \$86,028 |
| Ryan Lam | \$0 | \$0 | \$0 |
| Nomvula O'Meara | \$0 | \$0 | \$0 |
| Total | \$194,116 | \$169,010 | \$363,126 |

⁹ Cal. Gov. Code § 85703(c), as incorporated by Campaign & Gov. Conduct Code § 1.104.

¹⁰ Campaign & Gov. Conduct Code § 1.104.

Third-Party Spending in November 2019 Supervisory Election, by Type of Spending



Third-Party Spending on Candidates in November 2019 Supervisory Election

