

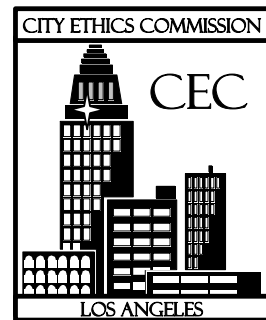
Public Matching Funds



◆◆◆ Los Angeles Administrative Code Section 24.5

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Prepared by



200 North Spring Street, 24th Floor
Los Angeles, CA 90012
(213) 978-1960
TTY (213) 978-2609
<http://ethics.lacity.org>

**Los Angeles Administrative Code § 24.5
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Public Matching Funds

Los Angeles Administrative Code, Chapter 5

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Sec. 24.5 Procedural Regulations for Administering the Public Matching Funds Program

- (a) **Scope.** This section sets forth the procedural requirements of the Los Angeles City Public Matching Funds Program.
- (b) **Definitions.** The following terms used in this section and in Los Angeles Municipal Code Section 49.7.1, *et seq.*, are defined below. Except as provided below, the definitions and provisions of the Political Reform Act of 1974, as amended, the regulations of the Fair Political Practices Commission, Los Angeles City Charter Sections 470, 471, and 609(e), and Los Angeles Municipal Code Section 49.7.1, *et seq.* govern the interpretation of these regulations.

“Authorized Agent” means any individual named on a written and signed list of individuals submitted by the candidate who are to receive contributions and make expenditures.

“Commission” means the City Ethics Commission or the staff of the Ethics Commission acting on the Commission’s behalf.

“Debate” means discussion between two or more candidates who have qualified to appear on a ballot for an elective City office that is moderated by an independent third party and that is attended by the public.

“Fund” means the Los Angeles City Public Matching Campaign Funds Trust Fund.

“General Election” means the City’s general municipal or special runoff election.

“Matchable Contributions” means campaign contributions received by a candidate who has qualified for public matching funds that are eligible to be matched with public matching funds.

“Participant” means a candidate who has filed a Statement of Acceptance or Rejection of Matching Funds stating his or her intent to participate in the Matching Funds Program and who has met all eligibility requirements to receive public matching funds.

“Primary Election” means the City’s primary nominating election and any special primary election.

“Controlled Campaign Committee” means the campaign committee, authorized by the candidate on that candidate’s Statement of Organization (California Fair Political Practices Commission Form 410), for the purpose of receiving contributions and making expenditures in connection with that candidate’s election to the office specified on his or her current Declaration of Intent to Receive and Solicit Contributions.

“Statement of Acceptance or Rejection of Matching Funds” means the statement filed by a candidate with the Ethics Commission stating that candidate’s intention to participate or decline participation in the City’s public matching funds program.

“Surplus Public Funds” means, for a participant who received public matching funds, the amount of unspent public matching funds after the candidate has withdrawn his or her candidacy, or after an election and after expenditures incurred in that election have been paid, which surplus funds are to be repaid to the Matching Campaign Funds Trust Fund.

“Qualified Campaign Expenditure” means the following:

- (1) Any expenditure made by a candidate for elective City office, or by a committee controlled by that candidate, for the purpose of influencing or attempting to influence the action of the voters for or against the election of any City candidate;
- (2) A non-monetary contribution provided at the request of or with the approval of the candidate, officeholder, or committee controlled by the candidate or officeholder;
- (3) “Qualified campaign expenditure” does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

“Treasurer” means the treasurer of the candidate’s Statement of Understanding and on the candidate’s California Fair Political Practices Commission Statement of Organization Form 410.

(c) Statement of Acceptance or Rejection of Matching Funds.

- (1) Regardless of whether a candidate elects to accept public matching funds, each candidate for elective City office must submit a Statement of Acceptance or Rejection of Matching Funds, as required by Los Angeles

Municipal Code Section 49.7.18 at the time that candidate files his or her Declaration of Intent to Become a Candidate pursuant to City Elections Code Section 321. Each candidate must provide the following information on his or her Statement of Acceptance or Rejection of Matching Funds:

- (A) the candidate's name, business address, and telephone number at which the candidate can be reached during regular business hours;
 - (B) the office the candidate is seeking;
 - (C) the election for which the statement is filed;
 - (D) whether or not the candidate elects to accept public matching funds.
- (2) Each candidate who elects to decline matching funds shall certify on his or her Statement of Acceptance or Rejection of Matching Funds that he or she understands that his or her rejection is effective for both the primary nominating and general municipal elections.
- (3) Each candidate who elects to accept matching funds must also certify the following on his or her Statement of Acceptance or Rejection of Matching Funds:
- (A) that he or she understands the requirements set forth in the City's Campaign Finance Ordinance (Los Angeles Municipal Code Section 49.7.1, *et seq.*) and understands that those requirements must be satisfied before the candidate may receive public funds; and
 - (B) that he or she agrees to participate in at least one debate with his or her opponent(s) in the primary election and two debates with his or her opponent in the general election, if applicable; and
 - (C) that the candidate has not made and agrees not to make any expenditures in excess of the expenditure limits of Los Angeles Municipal Code Section 49.7.13 unless those limits have been lifted as provided in Los Angeles Municipal Code Section 49.7.14; and
 - (D) that the candidate has not used and agrees not to use any personal funds for the election in excess of the applicable limits of Los Angeles Municipal Code Section 49.7.19 A 3; and
 - (E) that his or her acceptance of matching funds is effective for both the primary nominating and general municipal elections; and
 - (F) that if the candidate chooses to withdraw from participation in the matching funds program, he or she must do so within seven days

after the final filing date for filing a Declaration of Intention to Become a Candidate and only if another candidate for the same office rejects matching funds.

- (4) Each Statement of Acceptance or Rejection must be signed by the candidate and verified under penalty of perjury.
- (5) Any candidate who fails to file a Statement of Acceptance or Rejection of Matching Funds at the time that candidate files his or her Statement of Declaration of Intent to Become a Candidate may not participate in the Matching Funds Program.
- (6) Any candidate who files a statement electing to receive public matching funds and who then elects to decline matching funds within seven days after the final filing date for filing a Declaration of Intent to Become a Candidate must provide a written notice to that effect. That notice shall be signed by the candidate and received by the Commission by 5:00 p.m. of the last day to withdraw from participation in the matching funds program.

(d) Commission Determination of Eligibility.

- (1) No payments from the Fund shall be made to a participant unless the Commission staff has determined that the candidate has met all eligibility requirements contained in Los Angeles Municipal Code Section 49.7.1, *et seq.* and these regulations.
- (2) The Commission staff will notify the participant as to whether or not it determines that the candidate is eligible to receive public matching funds. Such notice shall be signed by the Executive Officer or by another Commission staff member authorized by the Executive Officer to do so.

(e) Participant Qualification For Ballot.

- (1) Any candidate who filed a Statement of Acceptance or Rejection of Matching Funds electing to participate in the Matching Funds Program who fails to qualify to have his or her name appear on the ballot or is not eligible to have write-in votes counted may not receive matching funds.
- (2) Any matching funds program participant who initially qualifies for the ballot but who is later disqualified from the ballot will be suspended from the Matching Funds Program at the time of that disqualification and will be ineligible to receive additional public matching funds. A disqualified participant will not be eligible to receive matching funds unless and until such time that the participant's disqualification is restored.

- (3) If a participant is disqualified from the ballot after receiving public matching funds, the participant may not thereafter spend public funds in his or her possession for any purpose other than the payment of qualified campaign expenditures incurred before the date of that participant's disqualification. All public funds in excess of such expenditures must be repaid to the Commission within 10 days of the date of the participant's disqualification.

(f) Payments for an Election.

- (1) A participant may submit a matching fund payment request as soon as the total amount claimed reaches \$10,000 or more until fourteen days preceding an election, at which time a participant may submit requests for payments of \$1,000 or more. Payments will be disbursed and available for receipt within three working days after receipt by the Commission. The Commission, however, will issue no matching funds payment to any participant in a primary election any earlier than the day the City Clerk certifies that the candidate's name will appear on the primary nominating ballot or that the candidate has qualified to have write-in votes counted.
- (2) No public matching fund payment will be issued to a participant in a runoff or general election any earlier than the day the City Clerk certifies that the candidate's name will appear on the general election ballot. Upon certification for the general election, each participating candidate will receive one-fifth of the amount of funds specified by Los Angeles Municipal Code Section 49.7.22, not subject to the matching funds requirements detailed in Los Angeles Municipal Code Section 49.7.21.
- (3) No request for public matching funds will be accepted by the Commission any later than three months after an election.
- (4) The Ethics Commission will issue a Matching Funds Payment Authorization Letter with supporting documents to the City Controller's Office certifying the amount of the matching funds payable to a participant. The Controller's Office will issue all such payments through the Paymaster's Office only to Ethics Commission staff. All checks issued pursuant to Authorization letters received by the Controller's Office by 2:00 p.m. on Monday through Friday will be available to Commission staff by noon of the next working day. Checks issued pursuant to Authorization Letters that are received after 2:00 p.m. on Friday will be available for Commission staff by noon on the following Tuesday. Matching fund payments will be disbursed at the Ethics Commission Office after 2:00 p.m. on the day such payments are issued from the Controller's Office.

(g) Allocation of Matching Funds.

- (1) No later than 7 days after the final day to decline participation in the matching funds program, the City Ethics Commission shall determine at a public meeting of the Commission whether, based on the number of participating candidates, the amount of money in the Fund is adequate to provide the maximum matching funds to the participants. If the Commission determines that the Fund may not be adequate it will approve a method for disbursing the funds on a pro rata basis consistent with the following principles:
 - (A) The Commission will establish lower maximum amounts of public matching funds available to each participant rather than changing the matching funds formula.
 - (B) A portion of the Fund will be reserved for disbursement in the general or runoff election.

In addition, no later than two weeks before the primary election, the City Ethics Commission at a public meeting of the Commission shall review the balance of the Fund. The Commission may adjust its previous estimates and raise the maximum amount of public matching funds available to participants. In no case, however, will the amount disbursed to the participants exceed the maximum amounts established in Los Angeles Municipal Code Section 49.7.22A.

- (2) No later than 7 days after the day the City Clerk certifies the candidates whose names will appear on the general election ballot, the City Ethics Commission shall determine at a public meeting of the Commission whether, based on the number of participating candidates, the amount of money in the Fund is adequate to provide the maximum matching funds to the participants. If the Commission determines that the Fund may not be adequate it will approve a method for disbursing the funds on a pro rata basis consistent with the following principle:
 - (A) The Commission will establish lower maximum amounts of public matching funds available to each participant rather than changing the matching funds formula.
- (3) These actions shall be approved by the Commission by resolution and shall not require the adoption of a regulation.

(h) Requesting Matching Funds Payments.

- (1) The Commission staff will review matching fund claim forms and, based on the review, the Executive Officer (or in his or her absence, the Deputy Director) shall certify the amount of matching funds payable to a participant filing a claim form. Copies of each certification shall be sent to the participant and to the Controller.
- (2) Upon certification of the amount of matching funds payable, the Commission staff will request the Controller to issue a matching funds payment in the amount certified. Payments will be drawn from the Matching Funds Campaign Trust Fund, made payable to the candidate, and returned to the Commission for distribution.
- (3) The Commission staff will release matching fund payments only to a participating candidate, or to that candidate's treasurer or authorized agent displaying proper identification, within three working days after the Commission receives the request for payment as required by Los Angeles Municipal Code Section 49.7.23, set forth in Subsections (f)(1) and (2) above.
- (4) Any candidate receiving a public matching funds payment, or any authorized agent receiving such a payment on the candidate's behalf, must sign a Matching Funds Payment Report on the date which he or she receives that payment. No matching fund payment will be issued without the signature of the candidate or the candidate's authorized agent on the report. Each Matching Funds Payment Report will contain the following information:
 - (A) the name of the participant;
 - (B) the office the participant is seeking;
 - (C) the date the Commission received the matching funds payment from the Controller;
 - (D) the amount of the certified matching funds payment;
 - (E) the name of the individual receiving the payment;
 - (F) the signature of the candidate or authorized agent receiving the payment;
 - (G) the date the individual received the payment; and
 - (H) a summary of all matching funds payments issued to the candidate to date.

(i) Matching Funds Claim Form.

- (1) To request matching fund payments, a participant in the matching funds program must file a Matching Funds Claim Form with the Commission, containing the following information:
 - (A) the participant's name, business address, and telephone number at which the participant may be reached during regular business hours;
 - (B) the office the participant is seeking;
 - (C) the election for which the Matching Funds Claim Form is filed;
 - (D) the name and identification number of the participant's controlled committee;
 - (E) the date of the claim; and
 - (F) the total amount of matching funds claimed.
- (2) **Matchable Contributions List.** Each participant must submit with his or her Matching Funds Claim Form the following detailed information regarding each contribution for which the candidate requests public matching funds:
 - (A) The list shall be alphabetical by the names of the contributors and shall contain the following for each contribution: the contributor's name, street address, occupation, employer, the date the contribution was received, the amount of the contribution, the cumulative amount of contributions received from the contributor for the same election and the cumulative amount of matching funds already received in the same election based on contributions from the contributor.
 - (B) If a contributor is self-employed, the list shall include the name, if any, of the contributor's business.
- (3) The participant must attach to the Matching Funds Claim Form a true and correct copy of each contributor check for which the participant requests matching funds. Participants may, at their discretion, provide copies of checks that omit any contributor information that is not required to be disclosed under Subsection (i)(2) above.
- (4) Both the candidate and treasurer must sign each Matching Fund Claim Form and must verify under penalty of perjury that it and all supporting documents are true and complete to the best of their knowledge, information and belief. The Commission will not accept any unverified claim forms.

- (5) The Commission will not accept illegible matching fund claims or supporting documents. The Commission will not accept any claims or supporting documents that contain information in other than ink.
- (k) Payment Is Not Final Determination.** A payment of public matching funds does not constitute the Commission's final determination of the amount for which a participant may qualify.
- (l) Returned Contributions Are Not Matchable.** A matchable contribution may not be claimed for any portion of a contribution that is returned to or not paid by the contributor. A request for matching funds that includes a claim for matching any contribution that was returned or not paid will be reduced by the amount returned or not paid.
- (m) Improper Use of Public Matching Funds.** The expenditure of public matching funds on other than qualified campaign expenditures shall constitute a misappropriation of these funds and shall constitute a violation of this section.
- (n) Additional Reviews and Post-Payment Audits.**
- (1) The Commission staff's eligibility and payment determinations are subject to post-payment audits and readjustment pursuant to the audit requirements otherwise established in Los Angeles Administrative Code Section 20.49.
 - (2) Upon amendment of any matching funds claim submitted by a participant, or on additional review by the Commission staff, the Commission staff may notify the participant that he or she qualifies for additional matching funds.
 - (3) Upon such amendment or additional review, the Commission staff may notify the participant that he or she received funds in excess of those eligible to be matched. In any such instance, the participant must refund the amount to the Ethics Commission within 10 days of such notice, or subsequent payments will be reduced by the amount of the overpayment. Candidates who do not refund public funds as may be required are subject to legal action for collection of public matching funds.
- (o) Matching Fund Claim Amendments.**
- (1) A participant may amend a previously submitted matching fund claim and any supporting documentation that accompanied that claim. The amendment must state the reason why an amendment is necessary and must itemize the data amended.

- (2) Commission staff will review each amendment to determine whether an adjustment in the matching fund payments to the participant is necessary.
 - (3) Any supplementary matching fund payment that may be necessary pursuant to an amendment will be disbursed within three working days after submission of the amendment and all supporting documentation required by the Commission.
 - (4) The Commission will accept only amended claim forms that conform to the requirements of Subsection (i) of this section.
- (p) Request for Review.** If the Commission staff determines that a candidate is ineligible to receive public matching funds or that any matching funds claimed by a participant are not payable, in whole or in part, the participant may submit to the Commission Executive Officer a written request for review of the determination. The request shall set forth in writing the reasons why the candidate believes that he or she is eligible or that a different amount of funds should be paid. The Executive Officer will review the request for payment and issue a determination within two working days.
- (q) Repayment of Public Matching Funds.**
- (1) The Commission staff will notify a participant in writing if he or she must repay any public funds.
 - (2) Participants returning public funds may return a full uncashed payment to the City Ethics Commission for deposit into the City's Public Matching Funds Trust Fund. A participant who returns any uncashed portion of a matching fund payment must make a check payable to the City Ethics Commission for deposit in the City's Public Matching Funds Trust Fund.
 - (3) **Disqualification Due to Fraudulent Acts.** A participant who has been disqualified from the ballot on the grounds that he or she committed fraudulent acts in order to obtain a place on the ballot, must reimburse the Commission in an amount equal to the total public matching funds paid to the participant. Payments required pursuant to this paragraph must be made within 10 days after the participant is disqualified.
- (r) Surplus Public Funds.**
- (1) A participant must pay to the Commission any surplus public matching funds remaining in the participant's possession no later than 30 days after the election or, if the candidate withdraws from the election, no later than 10 days after the participant withdraws his or her candidacy.

(s) Recordkeeping Requirements.

- (1) Nothing in this section shall be construed to modify any existing requirements otherwise established by law.
- (2) **Audits and Reviews.** Statements and forms filed pursuant to requirements of the Matching Funds Program are subject to desk and field audits by the Commission as authorized under Charter Section 702 (d)
- (3) **Best Efforts.** The participant must use his or her best efforts to obtain, maintain and, if requested, submit to the Commission the required information and shall keep a complete record of such efforts. With regard to the recordkeeping requirements for receipts, bills, and bank records, the participant will not be considered to have exercised best efforts unless he or she has made at least one written effort per transaction to obtain the documentation.
- (4) **Four-Year Retention Period.** The participant must retain all records and documents required to be kept under Government Code Section 91011 for four years after the date of the last election to which the records or documents relate.
- (5) **Custodian and Location.** A participant must notify the Commission in writing of any person other than the treasurer who is the custodian for the participant's records. In addition, the participant must notify the Commission in writing of the location of those records and documents and of any change of address.

(t) Failure to Comply. The failure of a participant, controlled committee of a participant or campaign treasurer to comply with the provisions of this section, and the failure of such person to provide full and accurate information required by this section, is unlawful, constitutes a violation of this section and is subject to the penalties and remedies set forth in Charter Section 706 and Los Angeles Municipal Code Section 49.7.28.

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