

CHAPTER 4 – PUBLIC MATCHING FUNDS

City law establishes a public matching funds program to help promote a stage for multiple voices in City elections and to help restore public trust in government. The program helps qualified candidates for City office pay for their campaigns without having to rely on large campaign contributions or excessive fundraising and expenditures.

A. PARTICIPATING IN THE MATCHING FUNDS PROGRAM

You must file a Form 20 with the Ethics Commission to state whether you agree or decline to participate in the matching funds program. The form may be filed any time after you file your Form 12, but it must be filed by the end of candidate filing week.

Your decision applies to both the primary election and the general election. If you decide not to participate in the program for the primary, you cannot change your mind and participate in the program for the general. LAMC § 49.7.23(A).

If you agree to participate and one of your opponents declines to participate, you have until 5:00 p.m. on February 26, 2019 (five business days after the end of candidate filing week) to withdraw from the program. LAMC § 49.7.22(C). An amended Form 20 must be filed to withdraw.

B. QUALIFYING FOR MATCHING FUNDS

After agreeing to participate in the program, you must meet certain qualification criteria in order to actually receive matching funds. If you participate in the program, you are required to abide by the program rules, whether or not you actually qualify for or receive funds.

The qualification criteria are as follows:

1. Be certified to appear on the ballot.
2. Be opposed by a candidate who is also certified to appear on the ballot.
3. File all required campaign statements.
4. Attend, along with your committee treasurer, an Ethics Commission training.
5. Either participate in a debate with one or more opponents or conduct a town hall meeting.
6. Receive qualifying contributions* of \$5 or more each from 100 individuals living in the council district.
7. Raise at least \$20,000 in qualifying contributions* from individuals residing in the City. Up to \$114 per contributor may be used toward this threshold.
8. Limit campaign spending to \$537,000 in the primary and \$448,000 in the general.
9. Limit contributions from your personal funds to \$34,800 in the primary and \$34,800 in the general.

** Qualifying contributions must be received from City residents, within the fundraising window, and after you have filed a Form 12. Qualifying contributions do not include contributions from you or your immediate family, loans, pledges, non-individual contributions, or non-monetary contributions. LAMC § 49.7.2(T).*

To be qualified, you must submit a "Matching Funds Request for Qualification or Claim for Payment" (Form 22) with proper supporting documentation, including the certification identified in Section F.2. LAAC § 24.32(b). The Ethics Commission will determine within four business days whether a claim meets all of the qualification requirements.

If you participate in the program but do not qualify in the primary, you may attempt to qualify in the general. LAMC § 49.7.23(B). If you qualify for matching funds in the primary, you automatically qualify for matching funds in the general.

C. EXPENDITURE LIMITS FOR PARTICIPATING CANDIDATES

Once you agree to participate in the program, you are required to abide by the expenditure ceiling, regardless of whether you actually request or receive public funds. LAMC § 49.7.22(B). The expenditure ceiling is based on the type of election. The 2019 elections ceilings are:

<u>Office</u>	<u>Primary Election</u>	<u>General Election</u>
City Council	\$537,000	\$448,000

1. ALL CAMPAIGN EXPENDITURES COUNT TOWARD THE CEILING

Expenditures include but are not limited to bookkeeping and administrative costs incurred before and after the campaign, accrued expenditures, and non-monetary (in-kind) contributions. The only exception is the filing fee paid to be certified to appear on the ballot. Public funds may not be used to violate any law, to pay fines or penalties, or to pay inauguration expenses.

2. YOUR EXPENDITURE CEILING MAY BE LIFTED

In very specific circumstances, your expenditure ceiling may be lifted:

- a. **A candidate in your race who is not participating in the program spends more than your expenditure ceiling.**

All candidates must notify the Ethics Commission in writing on the day they raise more than the expenditure ceiling and again on the day they spend more than the ceiling. LAMC § 49.7.26. You may send this notification via email.

- b. **Independent expenditure communications (IEs) to support or oppose a candidate in your race total more than the following amount:**

<u>Race</u>	<u>Total IEs</u>
City Council	\$86,000

An independent expenditure communication is a communication that expressly advocates the election or defeat of a clearly identified candidate or, taken as whole and in context, unambiguously urges a particular result in an election but is not authorized, distributed, paid for, or behested by the affected candidate or committee. LAMC § 49.7.2(L).

If either of those circumstances occurs, the Ethics Commission will lift the expenditure ceiling and notify all participating candidates that it no longer applies. You may not

exceed the expenditure ceiling until after you have received notice from the Ethics Commission that it has been lifted.

If you are elected to office and exceed the expenditure ceiling when it has not been lifted, you may not repay yourself the balance of any personal loan you made. The outstanding loan amount is considered a personal contribution to your campaign. LAMC § 49.7.9(F).

D. MAXIMUM FUNDING FOR A PARTICIPATING CANDIDATE

The amount of funding available to each qualified candidate is limited. LAMC § 49.7.29. The limits vary, based on the office sought and the type of election. For the 2019 elections, the maximum funding is:

<u>Office</u>	<u>Primary</u>	<u>General</u>
City Council	\$151,000	\$189,000

For each election, the Ethics Commission is required to evaluate the balance of the Public Matching Funds Trust Fund to determine what level of funding is available to eligible candidates. If the trust fund balance is insufficient to fully fund each qualified candidate, the Ethics Commission must approve a reduced maximum, based on a pro-rata analysis. LAMC § 49.7.30(C); LAAC § 24.33(d).

E. MATCHING FUNDS FORMULA

Up to \$114 per contributor (one-seventh of the \$800 per-person contribution limit) may be matched for a City Council candidate. LAMC § 49.7.27. All qualified contributions are matched at a 6-to-1 rate for both the primary election and the general election. LAMC § 49.7.27. The 6-to-1 match rate results in a payment of \$684 for a single qualified \$114 contribution.

The following cannot be matched (LAMC § 49.7.2(T)):

- Contributions from you.
- Contributions from your immediate family (spouse, dependent children).
- Contributions from non-individuals (businesses, unions, PACs, etc.).
- Contributions from individuals who do not reside within the City.
- Contributions received before they are allowed (*i.e.*, before you file a Form 12).
- Contributions received more than three months after the election.
- Loans, pledges, and non-monetary contributions.
- Returned contributions.
- Unpaid contributions (*i.e.*, bounced checks).

F. CLAIMING MATCHING FUNDS

You must submit a Form 22 in order to claim a payment of matching funds. Your request for qualification may also serve as your first claim for payment. The Ethics Commission staff processes every claim, to verify that you have met all the qualification requirements and certify the amount of matching funds you are eligible to receive. LAMC §§ 49.7.28, 49.7.30.

1. REQUIRED DOCUMENTATION

a. A list of all contributions for which matching funds are requested.

The following must be provided for every contribution (LAAC § 24.34(a)(8)):

- i. The contributor's name, residence address, occupation, and employer (or, if contributor is self-employed, the name of the contributor's business);
- ii. The contributor certification identified in Section 3.G.6;
- iii. The date the contribution was received;
- iv. The amount of the contribution;
- v. The date the candidate participated in a debate with one or more opponents or conducted a town hall meeting, along with a copy of the invitation to or announcement of the event;
- vi. The cumulative amount of contributions received from that contributor for the same election;
- vii. The portion of the contribution for which matching funds are claimed; and
- viii. The cumulative amount of matching funds already received for the same election based on contributions from that contributor.

b. The list and the supporting documentation must be submitted in alphabetical order, by contributor last name.

2. CERTIFICATION

You and your treasurer must sign the Form 22, to certify that all contributions are from City residents and have been deposited into the campaign checking account and that, to the best of your knowledge, all supporting documentation is true and complete.

3. TIMING

You may submit a Form 22 at any time before the election. The Ethics Commission staff will process your submissions as they are received, but will not issue you a check until you have been certified to appear on the ballot. LAAC § 24.32(b).

4. MINIMUM DOLLAR AMOUNT PER CLAIM

Each claim must represent a certain amount of matchable contributions. LAAC §§ 24.34(c)(2)(A)–(B).

- Up to 15 days before the election, a claim must represent at least \$10,000 in matchable contributions.
- During the 14 days immediately preceding the election, a claim must represent at least \$1,000 in matchable contributions.
- At any time, a claim may represent any amount in matchable contributions if it will result in you receiving a final payment for the maximum amount of matching funds available to you for that election.

5. COLLECTING MATCHING FUNDS PAYMENTS

Payments are available to pick up at the Ethics Commission's office within six business days after a request is submitted. LAAC § 24.34(f)(1). You will be notified when a payment is available. You must provide written notice of individuals who are authorized to pick up the payment, and they must present photographic identification to pick up payment.

6. SUBMITTING FALSE CLAIMS

Making a false claim is a misdemeanor, and all public funds received as a result of a false claim must be returned. In addition, a candidate who has been elected to office may be removed from office as a result of a false claim. LAMC § 49.7.28(D).

G. ADDITIONAL INFORMATION

1. USE OF MATCHING FUNDS

Matching funds may only be spent for purposes reasonably related to influencing the outcome of your race. Using the funds in any other way is a misappropriation of public money. LAAC § 24.38(a).

2. EXCESS PAYMENT

A payment of public funds is not a final determination of the amount you are qualified to receive. LAAC § 24.34(g). All payments are subject to post-payment audits and adjustments. If you receive more public funds than you are entitled to, you must refund the amount in excess to the Public Matching Funds Trust Fund within 10 days of notice. Candidates who do not refund excess public funds are subject to legal action for collection. LAAC § 24.36(d).

3. SURPLUS MATCHING FUNDS

Surplus matching funds (determined using the First-In, First-Out accounting method) are the amount of unspent public funds that you have after you have withdrawn your candidacy or an election has occurred and expenditures incurred in that election have been paid. You must repay all surplus public funds to the Public Matching Funds Trust Fund within 90 days after the election or, if you withdraw from the election, within 10 days after the withdrawal. LAAC § 24.36(b).

4. POST-ELECTION CONTRIBUTIONS

Contributions received after an election are eligible for matching funds if they were received (LAMC § 49.7.10(C); LAAC § 24.34(c)(3)):

- a. During the three months immediately following the election; and
- b. For the purpose of retiring debt that was incurred during the election.

H. KEY DATES FOR THE MATCHING FUNDS PROGRAM

Key Dates for Matching Funds Program

2019 Election

This schedule is intended only as a general guide to the deadlines established for the public matching funds program. For complete program requirements, see Charter § 471, LAMC §§ 49.7.1 *et seq.*, and LAAC §§ 24.31 *et seq.*

December 24, 2018 — Opening of the fundraising window. First day City Council candidates may file "Declaration of Acceptance or Rejection of Matching Funds."

February 19, 2019 (at 5:00 pm) — Last day to file "Declaration of Acceptance or Rejection of Matching Funds." *A candidate who fails to file by the deadline may not participate in the matching funds program.*

February 26, 2019 (at 5:00 pm) — Last day for a candidate who originally accepted matching funds to notify the Ethics Commission in writing that the candidate has chosen to withdraw from the program. Withdrawal is permitted only if another candidate has rejected matching funds.

April 7, 2019 — Last day for Ethics Commission to make a determination regarding whether the amount of money in the trust fund is adequate to provide maximum matching funds to all qualified participants in the primary elections.

May 21, 2019 — Last day for Ethics Commission to make a determination regarding whether the amount of money in the trust fund is adequate to restore maximum matching funds to all qualified participants in the primary elections (required only if the Ethics Commission pro-rates the maximum matching funds during the first determination).

May 21, 2019 — First day candidates may submit a matching funds claim (Form 22) representing at least \$1,000 in qualified contributions.

June 4, 2019 — PRIMARY ELECTION

August 12, 2019 — Within 40 days after the City Clerk certifies candidates for the general election, the Ethics Commission will make a determination regarding whether the amount of money in the trust fund is adequate to provide maximum matching funds to all qualified participants in the general elections.

August 13, 2019 — GENERAL ELECTION (if necessary)

September 4, 2019 — Last day Ethics Commission may accept matching funds claims (Form 22) for the primary election.

November 13, 2019 — Last day Ethics Commission may accept matching funds claims (Form 22) for the general election.