



2009 Campaign Finance Handbook



New York City Campaign Finance Board

IMPORTANT

This edition of the Candidate Handbook was written for the 2009 election cycle. For the 2013 elections, the expenditure limits, maximum public funds, threshold for borough president, bonus provisions, and disclosure statement deadlines have changed: please refer to the updated information on the following page. The 2013 Candidate Handbook, which is in development, will be distributed at a later date, and may reflect additional changes. Contact the Candidate Services Unit at (212) 306-7100 if you have any questions.

2013 LIMITS, REQUIREMENTS, AND PUBLIC FUNDS

CONTRIBUTION LIMITS

Mayor, Public Advocate & Comptroller	Borough President	City Council
\$4,950	\$3,850	\$2,750
<p>These limits are for the primary and general elections combined. Both monetary and “in-kind” contributions of goods/services are subject to these limits. All candidates are prohibited from accepting contributions from corporations, LLCs, and partnerships.</p>		

DOING BUSINESS CONTRIBUTION LIMITS

Mayor, Public Advocate & Comptroller	Borough President	City Council
\$400	\$320	\$250
<p>These “doing business” contribution limits are for the primary and general elections combined.</p>		

SPENDING LIMITS

	Mayor	Public Advocate & Comptroller	Borough President	City Council
2010–2012 (Out-Year)*	\$303,000	\$303,000	\$135,000	\$45,000
2013 Primary Election†	\$6,426,000	\$4,018,000	\$1,446,000	\$168,000
2013 General Election	\$6,426,000	\$4,018,000	\$1,446,000	\$168,000
<p>* Spending in excess of these amounts will be charged against the first limit applicable in 2013. † If no primary election is held, there is no primary election spending limit.</p>				

THRESHOLDS

	Mayor	Public Advocate & Comptroller	Borough President	City Council
Minimum Funds Raised	\$250,000	\$125,000	\$10,000–\$50,094*	\$5,000
No. of Contributors	1,000	500	100†	75‡
<p>Candidates must meet this two-part threshold, abide by the Program’s requirements, and face opposition on the ballot to qualify for public financing. Only the first \$175 of a contribution counts toward meeting the dollar amount threshold.</p> <p>* For borough president, the threshold dollar amount is based upon the number of persons living in each borough. The dollar amount for each borough is: Bronx, \$27,702; Brooklyn, \$50,094; Manhattan, \$31,717; Queens, \$44,614; and Staten Island, \$10,000. <i>Note: These amounts are based on the 2010 census and are rounded to the nearest dollar.</i></p> <p>† Must be borough residents. ‡ Must be district residents.</p>				

MAXIMUM PUBLIC FUNDS*

Mayor	Public Advocate & Comptroller	Borough President	City Council
\$3,534,300	\$2,209,900	\$795,300	\$92,400
<p>The Program matches each dollar a NYC resident gives, up to \$175, with six dollars in public funds, for a maximum of \$1,050 in public funds per contributor.</p> <p>* Per election, in election year. † Candidates who face minimal opposition will receive a reduced public funds payment.</p>			



DISCLOSURE STATEMENT DEADLINES – 2013 LIMITS

STATEMENT NUMBER	STATEMENT DUE DATE	DISCLOSURE PERIOD
1	7/15/2010	1/12/2010 – 7/11/2010
2	1/18/2011	7/12/2010 – 1/11/2011
3	7/15/2011	1/12/2011 – 7/11/2011
4	1/17/2012	7/12/2011 – 1/11/2012
5	7/16/2012	1/12/2012 – 7/11/2012
6	1/15/2013	7/12/2012 – 1/11/2013
7*	3/15/2013	1/12/2013 – 3/11/2013
8*	5/15/2013	3/12/2013 – 5/11/2013
	6/10/2013	Certification Deadline
9	7/15/2013	5/12/2013 – 7/11/2013
10	8/9/2013	7/12/2013 – 8/5/2013 (32 day pre-election)
11	8/30/2013	8/6/2013 – 8/26/2013 (11 day pre-election)
Daily Pre-Election	DAILY	8/27/2013 – 9/10/2013
	9/10/2013	Primary Election
12	9/20/2013	8/27/2013 – 9/16/2013 (10 day post-election)
13	10/4/2013	9/17/2013 – 9/30/2013 (32 day pre-election)
14	10/25/2013	10/1/2013 – 10/21/2013 (11 day pre-election)
Daily Pre-Election	DAILY	10/22/2013 – 11/5/2013
	11/5/2013	General Election
15	12/2/2013	10/22/2013 – 11/28/2013 (27 day post-election)
16†	1/15/2014	11/29/2013 – 1/11/2014

* Disclosure Statements 7 and 8 are filed only with the CFB. All other disclosure statements must be filed with **both** the CFB and New York State Board of Elections.

† All candidates (those in the primary and/or general elections) must file the last disclosure statement of the 2013 election cycle on January 15, 2014.

You must disclose all contributions in the disclosure statement due immediately after the contributions are received. If contributions are not disclosed for the disclosure period in which they were received, they will not be matched with public funds.

You must also disclose all expenditures for the disclosure period in which the expenses were incurred.



2009

Campaign Finance Handbook



New York City Campaign Finance Board



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Preface

The independent, nonpartisan New York City Campaign Finance Board (CFB) was established in 1988 as part of a series of ethics reforms designed to strengthen the integrity of municipal government. The CFB administers the Campaign Finance Program (the Program), the purpose of which is to reduce the influence of private money in politics and to increase opportunities for citizen participation. Today, 20 years after its inception, the Program is widely recognized as a model for local campaign finance reform.

Generally, candidates are divided into two classes: **participants** and **non-participants**. Participants are candidates who join the Program. By joining the Program, participants are eligible to have the first \$175 of a contribution from an individual **New York City resident** matched at a \$6-to-\$1 rate with public funds. They are, however, required to observe strict spending limits, among other requirements of joining the Program and accepting public funds. Non-participants are candidates who do not join the Program. In addition to not being eligible for matching public funds, non-participants do not have a spending limit and can contribute as much as they want to their own campaign. In 2005, 73% of the candidates on the ballot for the primary or general election were Program participants.

This handbook is to be used as a reference guide, a user manual for candidates running for City Council, borough president, public advocate, comptroller, or mayor. You should take time to read through this book at least once or twice to get a full understanding of the CFB's rules and requirements. The handbook will provide answers to common questions that arise throughout the election cycle. Each chapter contains comprehensive information on its topic. Although the authors of the handbook have tried to maintain brevity wherever possible, certain topics warranted sustained and detailed instructions.

Since the vast majority of campaigns will eventually join the Program, the handbook has been written under the assumption that you will become a Program participant. There is a section at the conclusion of each chapter that specifically addresses the requirements for non-participants as it relates to that chapter's topic.

Throughout the handbook, there are breaks in the text which highlight important information. These breaks are marked by the following symbols:

Compliance Alert

The red "Compliance Alert" break indicates information that is vital to your compliance with the CFB's rules and requirements. Please pay very close attention to these alerts. Non-compliance can result in penalties or the withholding of public funds.

Reminder

The blue “Reminder” break reminds you about important information. These include commonly asked questions that arise over the course of the election cycle.

This gray box addresses situations that could surface at some point during the campaign, even though it is not directly addressed in the text.

Q. *Why are specific questions italicized throughout the handbook?*

A. These are questions frequently asked by campaigns throughout the election cycle.

There is a lot to learn and a lot of work involved. If, after reading the handbook, you have any questions, please contact the Candidate Services Unit at (212) 306-7100. This department of the CFB and its candidate liaisons are available to answer any questions and concerns before, during, and after the election. Your campaign will be assigned a liaison who will act as the campaign’s primary advisor for everything related to compliance with the CFB’s rules and requirements.

In this chapter:

- I. New Legislation
- II. C-SMART



What's New and Different for the 2009 Election Cycle

Significant changes have taken place since the 2005 election cycle. On January 1, 2008, new legislation took effect, adding several new provisions to the law and changing some integral aspects of the Campaign Finance Program. The CFB also changed the look and feel of C-SMART, and added significant new functionality.

I. NEW LEGISLATION

Key changes to the Campaign Finance Act (the Act) are summarized below and will be expanded upon in their respective chapters (indicated in the parentheses).

Mandatory Trainings (Chapter I)

Candidates, treasurers, campaign managers, or individuals with significant managerial control over a campaign are required to attend at least one compliance and C-SMART training seminar during the election cycle.

“Doing Business” (Chapter II)

At the center of this legislation are the restrictions on contributions from individuals and entities engaged in business dealings with New York City. Such contributors are subject to lower contribution limits, which vary by office, and their contributions are not matched with public funds.

The names of those doing business with New York City are entered into a comprehensive public database. The “doing business database” was rolled out in three phases as the components of the database were completed by the City and certified by the CFB and the Department of Information Technology and Telecommunications (DoITT). If an individual’s name is included in the database, his/her contribution limit will be:

- ✦ \$400 to campaigns for mayor, public advocate, comptroller.
- ✦ \$320 to campaigns for borough president.
- ✦ \$250 to campaigns for City Council member.

Prohibited Contributions (Chapter II)

In addition to the existing ban on corporate contributions, campaigns are no longer allowed to accept contributions from limited liability companies (LLCs), limited liability partnerships (LLPs), and partnerships. The ban went into effect on January 1, 2008.

Intermediary (Chapter II)

The new legislation now defines an intermediary as a person or entity known to the candidate who solicits a contribution for the campaign **or** delivers a contribution to the campaign. The candidate him/herself, the treasurer, other campaign staff, spouses, domestic partners, parents, children, or siblings of the person making the contribution, fundraising agents, or hosts of any campaign-sponsored fundraiser are **not** considered intermediaries.

Exempt Expenditures (Chapter III)

Compliance costs will no longer be considered exempt from the spending limit. Exempt expenditures are now limited to expenditures for: (i) challenging or defending the validity of petitions or for canvassing or re-canvassing of election results; (ii) bringing or responding to any action, proceeding, claim, or suit before a court or administrative agency regarding the candidate's compliance with the Act or election law; (iii) responding to the CFB's post-election audit.

Matching Rate (Chapter VI)

Previously, the first \$250 contributed by an individual New York City resident was eligible to be matched at a rate of \$4-to-\$1. Now, the first **\$175** contributed by an individual New York City resident is eligible to be matched at a rate of \$6 in public funds for every \$1 contributed.

Draft Audit Report and Final Audit Reports (Chapter VII)

The new legislation outlines a timetable for the completion of the post-election audit reports. Provided the campaign responds in a timely manner to audit requests, the CFB will issue the Draft Audit Report (DAR) and Final Audit Reports (FAR) on a legally mandated timeframe (see page 105). The Act encourages candidates, their campaign managers, and treasurers to attend a Draft Audit Report training to qualify for receipt of the FAR on a shortened timeframe.

II. C-SMART

Following the 2005 elections, the CFB organized a series of focus groups with campaigns to get feedback about their experiences with C-SMART (Candidate Software for Managing and Reporting Transactions). The responses were the foundation for a redesign of the software that resulted in C-SMART 9.

The updated and modern design of C-SMART 9 provides users with a variety of new features such as fundraising and banking functions. The fundraising module helps campaigns organize events, develop contact lists, and record pledges. Further, it allows users to enter more detailed information about their contributors, including demographics, income, and education (any information collected in the fundraising module will not be submitted to the CFB). The banking function allows users to export and input data from their expenditures to Microsoft Money or QuickBooks to assist in writing checks and reconciling the user's account.

C-SMART 9 also generates a variety of letters and e-mails that can be sent to contributors. For example, a thank you letter can be generated expressing the campaign's gratitude for the contributor's support. If the campaign needs employer information from a contributor, a letter can be generated asking a contributor to submit employment information to the committee.

To meet the needs of larger campaigns, C-SMART 9 can now be networked on multiple computers. Finally, notes and Quickpost can focus the user's attention on important matters and facilitate fast and easy communication among members of the campaign.

These are only some of the changes that can be found in C-SMART 9. The Candidate Services Unit provides advance C-SMART training periodically throughout the election cycle for campaigns interested in learning more about the new features.

In this chapter:

- I. First Steps
- II. Working With the CFB
- III. General Information
- IV. Non-Participants
- V. Where to Find It

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Getting Started

Congratulations on taking the leap into New York City politics. Before hitting the campaign trail, you must complete several preliminary steps before your campaign can start raising and spending money.

I. FIRST STEPS

These steps include obtaining an Employer Identification Number, opening a committee with the Board of Elections (BOE), and opening a committee bank account, all of which must be completed before any fundraising can begin.

Obtain an Employer Identification Number

You must obtain an Employer Identification Number (EIN) from the Internal Revenue Service, even if the committee does not have employees. You can obtain an EIN by applying online on the IRS website, www.irs.gov, or by completing and submitting IRS Form SS-4. You may also call the IRS directly at (800) 829-4933.

A sample Application for Employer Identification Form (SS-4) can be found in the Appendix.

Open a Committee with the Boards of Elections

After obtaining an EIN, submit the following three forms to the New York City **and** New York State Boards of Elections:

- ❖ Committee Designation of Treasurer and Depository (Form CF-02)
- ❖ Committee Statement of Authorization or Non-Authorization (Form CF-03)
- ❖ Candidate Non-Expenditure Statement (Form CF-16)

These forms can be downloaded from the City BOE's website at www.vote.nyc.ny.us/candidates. Only submit originals to the City and State BOE, which means completing each form twice. Also, remember to get a Filer ID and PIN number from the State BOE; you will need these to submit disclosure statements to that agency. For more information about opening your committee, visit the City BOE's website, www.vote.nyc.ny.us, or call them at (212) 487-5300.

Open a Committee Bank Account

Once the committee is registered with the BOE, open a bank account in the committee's name with a local bank. If you ran for an office covered by the CFB in a previous election cycle, you must open a new bank account for the 2009 election cycle (see Example 1.1).

Reminder

Candidates who want to join the Program should have only one bank account for making deposits and disbursements for their campaign for each election cycle.

Helpful hints regarding bank accounts:

- 1) The bank must provide committees with the fronts and backs of canceled checks. A physical canceled check or a scanned image of the front and back of the canceled check is acceptable.
- 2) Committees should also acquire a debit card from the bank because it will make purchases and recordkeeping of purchases easier. Committees must have a bank account with check-writing privileges.
- 3) Preferably, the bank should provide itemized deposit slips. The deposit slips should include space for the campaign to indicate whether the amount deposited was in cash or by check.
- 4) Committees may open additional interest-bearing accounts, but deposits and disbursements should only be made from the primary bank account.

Reminder

If you wish to receive public matching funds, you must have only one committee open per election cycle (the 2009 election cycle extends from January 12, 2006 until January 11, 2010). If you ran for an office covered by the CFB in a past election, make sure the name of the new committee cannot be confused with your old one. Contact the Candidate Services Unit (CSU) for guidance if you would like to use an old committee name again.

Example 1.1

Julia Grande has decided to run for City Council against the incumbent Robert Paine. To get started, Julia must get an EIN from the IRS, authorize her committee with the New York City and New York State BOE by filing a CF-02, CF-03, and CF-16 form, and finally open a bank account in her committee's name, Grande for Council. These steps must be done before she can start raising and spending money.

Even though Robert Paine ran in the 2005 City Council elections and is the incumbent, he still has to follow the same steps as Julia Grande in order to open a new committee for the 2009 election. In other words, he still has to obtain a new EIN from the IRS, open a new committee with the City and State BOE, and establish a new bank account in the name of the new committee, Paine 2009.

II. WORKING WITH THE CFB

Once your committee is established and bank account is opened, you must register with the CFB.

Registering the Committee with the Campaign Finance Board

All candidates must register with the CFB by submitting a Filer Registration (FR). This form provides the CFB with basic information about the committee, such as the committee name, candidate, treasurer, bank account(s), liaison(s), and campaign manager. Like the forms submitted to the BOE, only FRs with original signatures from the candidate and the treasurer will be accepted. You will not be able to submit disclosure statements without submitting an FR.

After submitting the FR, you will receive C-SMART (Candidate Software for Reporting and Managing Transactions). C-SMART is the software candidates must use to record transactions, file disclosure statements, and maintain contributors' information. C-SMART also generates disclosure statements for both the City and State Boards of Elections that committees are required to file. It is distributed free to all campaigns.

The Filer Registration can be downloaded from the CFB's website, www.nyccfb.info.

Helpful hints for completing the FR:

- 1) Make sure it's legible! The CFB will not be able to process or accept illegible FRs. When opening the FR from the CFB's website, you can type the information onto the form from the computer. Doing this will ensure that the form is legible and can help the CFB process the form without delay.
- 2) It is not at all unusual for campaigns to have consultants, data entry assistants, and others who call the CFB regularly with campaign-specific compliance and C-SMART questions. To protect the campaign's privacy, anyone who will be in regular contact with the CFB, other than the candidate or the treasurer, must be listed as a liaison on the FR. The CFB **will not** accept phone calls or other types of inquiry, such as e-mails, from anyone not listed on the campaign's FR.

Reminder

Candidates do not have to declare their candidacy for an office in order to file the FR. The FR simply allows the committee to file disclosure statements with the CFB.

Joining the Campaign Finance Program

The Certification form allows candidates to join the Program and become eligible for public funds. Certifications must be filed by **June 10, 2009**. Filing a Certification means you agree to follow the rules and requirements of the Program and makes you eligible to have your contributions matched with public funds. It does not require candidates to run for office. If you submitted a Certification and then changed your mind, you can opt out of the Program but continue to run provided you file a Certification Rescission form prior to the June 10th deadline.

Reminder

While the Certification asks for the same information as the FR, it is important to remember that the FR and Certification serve two distinct purposes. The FR registers your committee with the CFB and allows you to file disclosure statements. **All** campaigns must submit a FR to the CFB. You file a Certification to voluntarily join the Campaign Finance Program.

The Certification form will be available in early 2009.

Helpful hints for completing the Certification:

- 1) Public funds disbursements will be made through direct deposit, so remember to provide accurate information on the Certification about the campaign's bank account, including the current balance, opening date (and closing date, if applicable), and attach a voided committee check (no starter checks) to the Certification.
- 2) Submit the Certification as soon as it becomes available in order to correct any errors or omissions before the due date. Incomplete Certifications cannot be processed.

III. GENERAL INFORMATION**Assistance and Trainings**

Upon submitting the FR, you are assigned a Candidate Services Unit (CSU) liaison, who is available to answer any questions about compliance and C-SMART. CSU also holds free compliance and C-SMART trainings throughout the 2009 election cycle. The candidate, treasurer, or someone with significant managerial control over a campaign is **required** to attend both seminars.

Training seminars are held at the CFB's office during the afternoon and evening hours. Refer to the CFB's website, www.nyccfb.info, for upcoming training seminars. To make a reservation for the training, call CSU at (212) 306-7100. Because of space and time constraints, CSU can only permit two individuals per campaign to attend a given training. More individuals may be allowed to attend if there is room. Individual trainings during business hours are available by appointment only.

Changes in Committee's Information

Changes to the committee's information require an amendment to the FR or Certification. It is your responsibility to tell the CFB of any such changes. The CFB may also request an amendment if it has reason to believe the information is not up-to-date. Be sure to contact CSU immediately if there are any changes to the information provided on the FR or Certification.

Terminating a Candidacy

If you terminate your candidacy, you must submit a Verification of Terminated Candidacy form in certain circumstances and you should contact CSU for assistance.

If the form is accepted by the CFB, your campaign only needs to file the next scheduled disclosure statement as your final one. However, you will be required to follow all other Program requirements, including recordkeeping, responding to CFB requests, participating in an audit, and paying penalties for violations.

There are also instances when the CFB will determine on its own that a candidacy is terminated. The CFB will notify your campaign of termination if it:

- ✦ Did not file ballot petitions
- ✦ Filed ballot petitions but was disqualified
- ✦ Did not submit a petition for payment after final disqualification from the ballot

If you intend to continue to run as a write-in candidate or submit a petition for public funds, you must notify the CFB within 10 days of receiving notice of termination. The CFB will then reverse the termination and you must continue submitting disclosure statements. If you run only as a write-in candidate, you are **not** eligible to receive public funds.

Audits and Public Disclosure

To make sure that all campaigns are playing by the rules and to safeguard the public fund, all campaigns will be audited throughout the election cycle. Audits begin as soon as your campaign submits its first disclosure statement and will continue well after the election is over (see Chapter VII).

One of the primary goals of the CFB is to provide public disclosure. Transactions from all campaigns since 1989 are published on the CFB's website through its Searchable Campaign Finance Database. The CFB will also publish the campaign's final audit report on the web.

IV. RUNNING AS A NON-PARTICIPANT

Candidates running as non-participants are:

- ✦ Allowed to have more than one authorized committee opened per election cycle.
- ✦ Allowed to have more than one **primary** bank account opened per election cycle.

V. WHERE TO FIND IT

Further explanation regarding the information presented in this chapter can be found through the following:

- ✦ EIN: please call the IRS at (800) 829-1040, or visit www.irs.gov
- ✦ BOE requirements: please call the City BOE at (212) 487-5300, or visit www.vote.nyc.ny.us
- ✦ Filer Registration: *CFB Rules, Chapter 1, rule 1-11*
- ✦ Early disclosure: *CFB Rules, Chapter 3, rule 3-02*
- ✦ Candidate Certification: *CFB Rules, Chapter 2, rule 2-01*
- ✦ Terminating a candidacy: *CFB Rules, Chapter 2, rule 2-09*
- ✦ Non-participation: *CFB Rules, Chapter 2, rule 2-11*



In this chapter:

- I. Contributors
- II. Contribution Limits
- III. Types of Contributions
- IV. Collecting Contributor Information
- V. Fundraisers and House Parties
- VI. Transfers
- VII. Loans
- VIII. Recordkeeping
- IX. Non-Participants
- X. Where to Find It

Contributions

Campaigns need money to function. While you and your campaign prepares for an endless schedule of fundraisers, mailings, and door-to-door meet-and-greets with potential contributors, you must be armed with knowledge of the following:

- * From whom you can receive contributions
- * What type of contributions you are allowed to accept
- * How much you are allowed to accept from a contributor
- * What information you need to collect from the contributor
- * What to do with the information you obtain from contributors

I. CONTRIBUTORS

Who can contribute to your campaign?

Acceptable Contributors

Individuals

The most obvious source of funding is the citizenry. Your campaign may accept contributions from individuals living within or outside of New York City.

In accordance with federal law, foreign nationals are prohibited from contributing unless they are permanent U.S. residents (such as green card holders) or naturalized citizens.

Contributions from individuals under 18 years of age are permitted under limited circumstances.

Before accepting a contribution from a minor, you must determine that:

- 1) The decision to contribute was made knowingly and voluntarily by the minor.
- 2) The contributed funds, goods, or services were owned and controlled exclusively by the minor and not by any other individual. For example, income earned by the minor would satisfy this requirement.
- 3) The contribution was not made from gifts given to the minor to provide funds for the contribution (This is known as a nominee contribution, and is illegal).

Do not accept contributions from minors unless these requirements are met. Contributions from minors **will not** be matched with public funds.

Political Committees

Political action committees (PACs), political party committees, political clubs, and candidate committees, collectively known as political committees, are allowed to contribute provided they **register** with the CFB prior to or within 10 days of making a contribution. Please visit the CFB's website for an up-to-date list of registered political committees before accepting a PAC contribution. Political Committee Registration forms are available on the CFB's website and in the Appendix.

Do not assume a political committee knows whether or not it is registered with the CFB. Often a political committee is registered with other city, state, and federal agencies, but not with the CFB, or it registered with the CFB in a previous election cycle. Political committees must register with the CFB for every election cycle.

Sole Proprietorships

The only types of businesses that may contribute after January 1, 2008 are sole proprietorships.

Campaign Vendors and Campaign Staff

Your campaign may accept contributions from an individual who is a vendor to the campaign or a principal in an entity that is a vendor to the campaign. Vendors include, but are not limited to, printing companies, food caterers, and individuals who do work for your campaign such as carrying petitions for field operations.

Contributions from full-time, salaried employees of the campaign are eligible to be matched, but contributions from consultants and temporary employees **cannot** be matched.

Prohibited Contributors

These are the contributors that cannot contribute to a campaign under any circumstance!

Nominee Contributors

Nominee contributions are contributions made in the name of one person using money from a different person or entity. In other words, if a contributor gives money to your campaign under his or her name **but** gets the money to make that contribution from another person or entity, the transaction would be considered a nominee contribution.

Compliance Alert

Nominee contributions are illegal. Accepting nominee contributions could result in the suspension of all public funds payments and even lead to criminal prosecution.

Anonymous Contributors

Contributions cannot be made anonymously. Anonymous contributions must be paid to the state comptroller for deposit in the general state treasury.

Methods for collecting contributor information is discussed later in this chapter.

Corporation, LLC, LLP, and Partnership Contributors

All contributions from corporations, LLCs, LLPs, and partnerships are prohibited. If your campaign receives a contribution from any one of these entities, immediately return the contribution to the contributor.

How to identify contributions from incorporated entities:

You can recognize corporate entities in New York State by these suffixes at the end of their name:

- ❖ Corp. (Corporation)
- ❖ Inc. (Incorporated)
- ❖ Ltd. (Limited)
- ❖ P.C. (Professional Corporation)

Reminder

Take advantage of the New York State Department of State’s database listing the names of every incorporated entity in New York State. Visit <http://www.dos.state.ny.us> to access this database.

Reminder

Mistakes happen. If your campaign accepts a prohibited contribution and either returns or refunds it before being notified by the CFB, there will be no penalty assessed. On the other hand, there will usually be a penalty if a prohibited contribution is returned only after the CFB notifies you.

II. CONTRIBUTION LIMITS

To avoid the appearance of undue influence by wealthy contributors, every campaign must observe the contribution limits for the office you are seeking (see Table 2.1). These contribution limits span the entire election cycle. In other words, contributors are not allowed to give \$2,750 for the primary election and another \$2,750 for the general election, as is the case with state and federal elections (see Example 2.1).

Table 2.1: 2009 Contribution Limits

Office	Contribution Limit
Mayor, Public Advocate, and Comptroller	\$4,950
Borough President	\$3,850
City Council	\$2,750

However, candidates are allowed to give up to three times the contribution limit to his/her own campaign (see Table 2.2).

Table 2.2: 2009 Contribution Limits for Candidates Giving to Their Own Campaigns

Office	Contribution Limit
Mayor, Public Advocate, and Comptroller	\$14,850
Borough President	\$11,550
City Council	\$8,250

Compliance Alert

In addition to the Campaign Finance Act's limits on contributions, New York State election law also has contribution limits. In most cases the limits under the Act are far lower than the state limits and therefore will be controlling. In rare instances, however, the state limit for a primary election may be lower. The lower limits apply to **all** candidates, regardless of whether they participate in the Program.

Reminder

If a contributor makes multiple contributions to your campaign, the contribution amounts will be added together to determine if the total exceeds the contribution limit.

Example 2.1

City Council candidate Paine receives a contribution of \$2,000 from a college friend in December 2008. This contributor can contribute only \$750 more to the campaign for the duration of the election cycle.

Contributions from Individuals or Entities Doing Business with the City

The names of individuals and entities engaged in certain types of business dealings with New York City are recorded in a computerized database maintained by the city, known as the “doing business database” or “DBDB”. Your campaign may not accept contributions from individuals whose names are in the DBDB in excess of the following limits:

Table 2.3: Doing Business Contribution Limits for the 2009 Election Cycle

Office	Contribution Limit
Mayor, Public Advocate, Comptroller	\$400
Borough President	\$320
City Council	\$250

In addition, doing business contributions will not be matched with public funds.

The doing business database and contribution limits went into effect in three phases, beginning in early 2008:

- 1) Contracts, concessions, franchises, and lobbyists — effective February 2, 2008.
- 2) Grants, economic development agreements, pension fund investment agreements, bidders and proposers, and senior managers associated with the entities covered in phase one and two — effective July 31, 2008.
- 3) Real property transactions and land use applications — effective December 3, 2008.

The doing business database is available to the general public at www.nyc.gov/bizsearch, or via a link on the CFB’s website.

Contributors who give in excess of the doing business limits must complete the Doing Business Contributor Form (see Example 2.2), which requests information about the contributor’s business dealings with the city. Contributors who have such business dealings are asked to provide the name of the city agency, the name of the entity engaged in the business dealings, and the relationship with the entity. The sample form on the next page (also in the Appendix) provides instructions with a detailed explanation of the doing business law. While it is not required to include the instructions with descriptions of the doing business categories, contributors may find it helpful to have that information in front of them when completing the form.

Doing Business Contributor Form

(only required for contributions in excess of \$ _____)

INSTRUCTIONS: There are now “doing business” contribution restrictions that cover persons who have had specific types of business dealings with the City of New York within the past 12 months. The law applies if you are doing the business yourself, or if you are a principal officer, principal owner, or senior manager of an entity or firm that does the business. The law may also apply to you even if you are just bidding or applying for business. The doing business contribution restrictions only apply to contributors listed in the City’s doing business database. If you would like more information, or to check if you are in the doing business database, please go to the Campaign Finance Board’s website, www.nycffb.info/candidates/candidates/doing_biz.htm. The following categories of business are covered*:

- **Lobbying:** Are a registered NYC lobbyist.
- **Contracts, Concessions & Franchises, and Grants:** Hold these totaling over \$100,000 (construction contracts over \$500,000), excluding emergency contracts and contracts awarded by competitive sealed bidding.
- **Bidders and Proposers:** Answer a bid or proposal request for any contract, concession, or franchise covered above.
- **Economic Development Agreements:** Receive a contract or agreement, including payments in lieu of taxes, City tax incentives, and City financing.
- **Pension Fund Investments:** Hold contracts or proposals for investment of pension funds or related services.
- **Real Property:** Are a party to sales, purchases, or leases of real property with or by the City, except public auction.
- **Land Use:** Make any application subject to Uniform Land Use Review Procedure (“ULURP”) or application for zoning change or special permit.

* The doing business contribution restrictions take effect in three phases: (1) contracts, concessions, franchises, and lobbyists—effective date February 2, 2008; (2) grants, economic development agreements, pension fund agreements, bidders and proposers, and senior managers associated with the entities covered in Phases 1 and 2—effective date July 31, 2008; (3) real property and land use—effective date December 3, 2008.

You will NOT be considered to have business dealings with the City merely because you pay real estate, income, or business taxes or receive a refund or rebate; work for the City; pay into or receive a City pension; drive a City taxi; hire a lobbyist; seek permits for your 1, 2, or 3 family home; apply for street activity permits including parades, processions, or street fairs; and other kinds of similar individual activities with the City.



Doing Business Contributor Form

[Committee Name]

For contributors exceeding \$ _____ , please complete the following:

Contributor’s Name _____
 Address _____
 City/State/Zip _____

Please indicate whether you have business dealings with the City:

Yes ___ No ___ Not Sure ___

If yes, please complete the information below:

City Agency/Agencies	Name and Address of Doing Business Entity	Business Category (for example, <i>Contracts</i>)	Relationship(s) (for example, <i>CEO</i>)

If a contributor has business dealings with the City as defined in the Campaign Finance Act, such contributor may contribute only up to \$250 for city council, \$320 for borough president and \$400 for mayor, comptroller or public advocate. Contributions from persons doing business with the City also will not be matched with public funds.

The doing business contribution restrictions only apply to contributors listed in the City’s doing business database. If you would like more information, or to check if you are in the City’s doing business database, please go to the Campaign Finance Board’s website, www.nycffb.info/candidates/candidates/doing_biz.htm.

Reminder

The doing business contribution restrictions apply only to individuals actually listed in the database, regardless of the information provided by the contributor on the form.

Reminder

Your campaign is required to ask contributors who give contributions in amounts greater than the doing business limits to complete a doing business contributor form about whether they have business dealings with the city, and you should also make follow-up attempts to get the form if a contributor does not respond to your initial request. You are required to keep records of your attempts to obtain completed forms, including records of instances where contributors refused to fill out the form.

Example 2.2

Sarah Wong is the CEO of a corporation that has an infrastructure contract with the City for over \$100,000. Because of her company's contract and her position with the company, her name will appear in the doing business database.

On July 1, 2008, she gives \$100 to Paine 2009. Sarah's contribution will not be matched. The committee is not required to ask her to complete the doing business contributor form because her contribution is under \$250 (remember, Robert Paine is running for City Council). However, on July 31, she gives an additional \$300 to Paine 2009. Because the total of her contributions exceeds \$250, the Paine campaign must ask Sarah to complete the doing business contributor form. Paine 2009 will also have to return or refund \$150 to Sarah because her combined contributions total \$400 (\$150 more than the doing business contribution limit for City Council candidates).

Reminder

The doing business contribution limits do not apply to contributions by a candidate to his or her own campaign nor to contributions that candidate receives from his/her spouse or domestic partner, siblings, children, grandchildren, aunts, uncles, cousins, nieces or nephews (whether related by blood or by marriage).

Contributions from Single Sources

In order for the contribution limit to be effective, the CFB aggregates contributions that are from a single source. Some of the factors the CFB takes into account when determining whether a contribution is from a single source include:

- ❖ The contributor makes decisions or establishes policy for the other entity, including determinations of who receives its contributions and the purposes of its expenditures.
- ❖ The contributor has the authority to hire, appoint, discipline, discharge, demote, remove, or otherwise influence other persons who make decisions or establish policies for the other entity.
- ❖ The contributor and the other entity reflect a similar contribution pattern.
- ❖ The contributor knows of and has acquiesced in public representations by the other entity that it is acting on the contributor's behalf or under its direction.

Example 2.3

A campaign receives a contribution from Joe Smith, the owner of Joe's Deli (a sole proprietorship) which is located near the campaign's headquarters. Initially, Joe contributes \$1,000 of his own money to the campaign. Two weeks later, Joe's Deli donates \$1,750 worth of food to the campaign. Because Joe owns Joe's Deli, these contributions are considered affiliated and the contribution amounts are considered to be from a single source—Joe. The \$1,000 monetary contribution and the \$1,750 in-kind contribution (which will be explained later) are added together and attributed to Joe for the purpose of the contribution limit. Joe cannot contribute any more money to the campaign because he has reached the \$2,750 contribution limit.

Q. *How do I know who or what to affiliate?*

- A. Any person who possesses significant managerial control over the day-to-day operations of the entity making the contribution may have his or her contributions affiliated. For example, Joe as the owner of Joe's Deli has the authority to make decisions regarding the business (see Example 2.3), so his contributions as an individual and as a sole proprietorship are aggregated.

Example 2.3 (continued)

A few days later, Mac, the butcher at Joe's Deli, makes a \$50 contribution to the campaign. His contribution will **not** be affiliated with the contributions from Joe or Joe's Deli since Mac does not have the authority to make decisions concerning that business.

Make sure that multiple contributions from affiliated sources do not exceed the contribution limit.

Labor organizations (such as a parent and affiliate union) **will not** be considered a single source contributor if your campaign demonstrates that the following four criteria are met by the contributors:

- 1) The labor organizations do not share a majority of members of their governing boards.
- 2) The labor organizations do not share a majority of the officers of their governing boards.
- 3) The labor organizations maintain separate accounts with different signatories.
- 4) The labor organizations make contributions from separate accounts.

Tips for Refunding Contributions:

- ⦿ All refunds must be issued with a certified bank check, not a regular committee check.
- ⦿ If any attempt to return a contribution to the contributor is unsuccessful, send the contribution to the public fund by making the refund check payable to the “**New York City Election Campaign Finance Fund.**”

III. TYPES OF CONTRIBUTIONS

A few fundamental questions have been answered: who can contribute, who cannot contribute, and how much one can contribute. Next is a discussion on *how* someone can contribute.

Monetary Contributions

Monetary contributions are the most common ways of giving to a campaign. These are contributions made by check, money order, cash, or credit card. All monetary contributions must be accepted and deposited into your campaign’s bank account within 10 business days of the contribution being made. All prohibited and over-the-limit contributions must be returned to the contributor within 10 business days after receipt.

Reminder

Only monetary contributions from individual New York City residents can be matched with public funds.

Compliance Alert

City Council Candidates Only: Check contributions received more than one year before the first covered election in which the candidate is seeking nomination or election (usually the Primary Election) must be accepted and deposited, or rejected and returned to a contributor, within 20 business days after receipt.

- Q. Today, my campaign received a check dated two weeks ago. Can we still accept it?*
- A. Yes! The clock starts the day your campaign **receives** the check. As soon as you receive a check, make sure it is not from a prohibited source or over the contribution limit, enter the transaction into C-SMART (the date received is the day the campaign received the check), make a photocopy of the front of the check, and deposit it into the committee’s bank account.

Checks

Checks are perhaps the easiest way for campaigns to receive and document contributions. There are, however, a few basic rules you must follow to avoid making some common mistakes with check contributions:

- ❖ Checks must be made payable to your committee.
- ❖ The date and amount of the contribution must be written clearly and legibly on the check.
- ❖ The account holder's name and address must appear on the upper left hand corner of the check.
- ❖ The check must be signed by the account holder.

Campaigns have an opportunity to receive additional public funds when it comes to contributions from joint checking accounts. Consider the following illustration showing two checks from a joint bank account:

Contribution from Thomas Henley

Jane and Thomas Henley 44-22 Roosevelt Avenue Jackson Heights, NY 11372	2304
	DATE <u>January 5, 2009</u>
Pay to the order of: <u>Paine 2009</u>	\$ 800.00
<u>Eight Hundred Dollars</u> ^{XX} / ₁₀₀	DOLLARS
MEMO <u>Good Luck!</u>	<u>Thomas Henley</u>
: 000067894 : 12345678	

Contributions from Thomas and Jane Henley

Jane and Thomas Henley 44-22 Roosevelt Avenue Jackson Heights, NY 11372	2304
	DATE <u>January 5, 2009</u>
Pay to the order of: <u>Paine 2009</u>	\$ 800.00
<u>Eight Hundred Dollars</u> ^{XX} / ₁₀₀	DOLLARS
MEMO <u>Good Luck!</u>	<u>Thomas Henley Jane Henley</u>
: 000067894 : 12345678	

The account holders for both contributions are Jane and Thomas Henley. The first check was signed only by Thomas Henley and, therefore, the entire \$800 contribution was only from Thomas Henley. Thus, your campaign can only make one matching claim: \$175 from Thomas. The second check, however, was signed by Thomas Henley *and* Jane Henley. In this instance, the contribution was from **both** account holders. Your campaign should split the contribution between the two contributors (\$400 attributed to Thomas Henley; \$400 attributed to Jane Henley) and make two matching claims: \$175 from Thomas and \$175 from Jane. (See Chapter VI for more information about matching claims and Example 6.3 for a potential issue with reporting jointly signed checks.)

Reminder

Enter each account holder's contribution as a separate transaction into C-SMART. In other words, enter a \$400 transaction under Thomas Henley and another \$400 under Jane Henley.

Cash Contributions

Your campaign is **prohibited** by city and state law from taking more than \$100 in cash from a single contributor during the election cycle (see Example 2.4).

Example 2.4

Dan Jones contributed \$50 in cash to Paine 2009. Six months later, he decided to make another contribution of \$75 in cash. This contribution makes his total cash contributions to the campaign \$125, which is over the \$100 cash contribution limit. In order to avoid violating state law, Paine 2009 must return \$25—the excess portion of the cash contribution—to Dan Jones.

Money Order Contributions

Your campaign is allowed to take money order contributions up to the contribution limit. However, only the **first \$100** of a money order contribution will be matched with public funds.

Credit Card & Debit Card Contributions

Your campaign can accept credit card contributions up to the contribution limit. However, in order to accept credit card contributions and have them eligible to be matched with public funds, you must adhere to the following requirements.

First, to receive the proceeds from credit card contributions, your campaign must set up its own unique (not shared or pooled) **merchant account** in its name.

- ❖ A merchant account is a contract under which a bank or financial institution accepts credit card transactions on behalf of the customer (in this case, the campaign). It is generally linked to your committee's bank account so that contributions may be deposited electronically.
- ❖ A merchant account can be set up by your bank or by a separate merchant account company. Some credit card processing vendors will also be able to provide a unique merchant account.

Next, find a credit card processor.

- ❖ The processor must be able to process transactions only by means of your **own unique merchant account**.
- ❖ It must document whether a transaction was **approved or declined**.
- ❖ It must demonstrate that it will perform real-time address verification (AVS).

AVS is a system whereby the processor verifies the address provided by the contributor as his/her residential address against the billing address on file for the credit card account holder. This verification should be based upon, at minimum, characters from the street address and zip code and the credit card expiration date. This is to verify that the contributor is a New York City resident and to ensure a contributor is using his/her own personal funds.

Your credit card processor must also be able to provide the following for each transaction:

- ❖ A transaction ID or code from the processor
- ❖ Contributor's name and residential billing address

- ❖ The type of credit card, the last 4 digits of the credit card account number, the expiration date, and the transaction amount
- ❖ Indication of successful AVS verification (where AVS has failed, that should be indicated)
- ❖ Your campaign’s name or unique merchant account number must be identifiable as the recipient payee of the transaction and appear on all transaction reports sent to you

Compliance Alert

Your credit card processor must process your credit card transactions through your own unique merchant account. You may not receive contributions from the credit card processor’s merchant account.

Accepting Credit Card Contributions Through the Campaign’s Website:

To accept contributions over the Internet, you need to create a page on your campaign’s website that requires the following:

- 1) Contributor’s name
- 2) Residential address
- 3) Amount of the contribution
- 4) Credit card type (i.e., Visa, MasterCard, AMEX)
- 5) Credit card account number
- 6) Credit card expiration date
- 7) Employment information (including occupation)
- 8) Contributor acknowledgment or electronic signature of the following affirmation statement:

I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal credit card account, billed to and paid by me for my personal use, and having no corporate or business affiliation; and is not being made as a loan.

To make sure your campaign’s website is in compliance, e-mail the URL for the site to your Candidate Services liaison for review. Also, speak to your web developer about developing built-in compliance safeguards for the website to prevent users from proceeding without completing required fields.

Compliance Alert

Any charges or fees resulting from soliciting or processing credit card contributions, and from ordering reports or statements related to those transactions, are expenditures that must be reported and documented by your campaign. These include any percentages withheld as processing or transaction fees, as well as charges related to creating and maintaining a website for processing credit card contributions.

Compliance Alert

You must disclose the unique merchant accounts and your campaign's website address to the CFB by amending your Filer Registration. If you are unsure if your unique merchant account or your website was disclosed on your original FR, please contact your Candidate Services liaison. Your liaison can also advise your campaign on whether your website conforms to CFB requirements. If possible, send the CFB a transaction report from your processor so that our auditors can review it for the required information.

The Appendix contains a “Credit Card Guidance” document that is also available on the CFB’s website, which covers credit card contributions from account set-up through reporting.

Earmarked Contributions

An earmarked contribution is a contribution originally given to a political committee with instructions to direct that contribution to your campaign. Essentially, the contribution is designated — or “earmarked” — to pass from the contributor through a political committee to the campaign. **Earmarked contributions are considered to be from both the original contributor and from the political committee, and are subject to the contribution limits, prohibitions, and requirements.** Your campaign therefore must (a) report the contribution as a contribution from the political committee and (b) disclose the name of the original contributor in a cover letter accompanying its disclosure statement.

In-Kind Contributions

In-kind contributions are contributions in the form of goods or services donated to the campaign for free or provided at a discount not available to the general public (see Example 2.5).

Example 2.5: In-Kind—Discount

Dan Jones owns Kew Gardens Printing, a sole proprietorship, and is a supporter of Robert Paine. When Paine 2009 orders banners and flyers from Kew Gardens Printing, Dan decides to give the campaign a \$200 discount on a \$300 order. The \$200 is an in-kind contribution from Kew Gardens Printing to Paine 2009, and must be documented and reported as such.

Example 2.6: In-Kind—Donation/Free of Charge

Julia Grande needs a computer for her campaign. A supporter of the campaign has a four-year old computer that he is no longer using and donates it to the campaign.

To determine the fair market value of the computer, the campaign will have to research how much this used computer is worth in the current market. The fair-market price will be the amount of the in-kind contribution given by the contributor to the campaign and the amount of the expenditure by the campaign. The campaign must keep written documentation demonstrating how they determined the fair market value of the computer as well as obtaining a detailed description from the contributor of the item he gave to the campaign.

The amount of an in-kind contribution is determined by its fair market value, which is the price one would normally pay when the good is received or the service rendered. The fair market value can be determined by looking on the Internet for comparable goods or by asking vendors what they would normally charge for the product, service, or space (see Example 2.6).

In-kind contributions are considered both contributions and expenditures. They are treated as both because you would have had to purchase these goods or services if they had not been donated (see Example 2.7).

Compliance Alert

The fair market value of any in-kind contribution cannot exceed the contribution limit. The dollar amounts of in-kind and monetary contributions by the same contributor are aggregated.

Compliance Alert

You must keep documentation showing how the fair market value of an item was determined. The CFB may ask for this documentation during the election and/or as part of your campaign's post-election audit.

In-kind contributions from corporations, LLCs, LLPs, and partnerships are prohibited.

Example 2.7: In-Kind—Prohibited

Julia Grande needs another computer for her campaign. This time she shops at The Computer Shop, Inc. The store owner offers the campaign a \$200 discount on a computer that normally retails for \$1,000. Thus, the Grande campaign would be charged \$800 for the computer instead of \$1,000. The store owner does not usually give these discounts to his regular customers. The discount would be a \$200 in-kind contribution.

However, since The Computer Shop, Inc. is a corporation, the campaign must pay the full retail value of the computer because it cannot accept a corporate contribution.

Reminder

In-kind contributions are not matched with public funds.

Outstanding Liabilities and Unpaid Debt

An outstanding liability (a bill not paid at the time a disclosure statement was submitted) that has been left unpaid for ninety (90) days will be considered an in-kind contribution to your campaign unless you can demonstrate that the vendor has made a commercially reasonable attempt to recover the debt. In order to avoid this, provide documentation showing attempts were made by the vendor to collect payment, such as follow-up letters or bills from the vendor. See also the discussion of advances and loans later in this chapter.

Volunteer Services

Volunteer services are **not** considered in-kind contributions. However, if someone else is paying the “volunteer,” then the salary that person receives is an in-kind contribution made by the person paying the “volunteer” (see Example 2.8).

If a person initially volunteering for your campaign is eventually hired by the campaign, you must draft an employee contract starting the day the person became a paid employee of the campaign (**not** covering the period when the person was volunteering for the campaign) (see Example 2.9).

Example 2.8

Gabe Simpson, a certified public accountant, volunteers to help keep the books and records for Paine 2009. His volunteer services do not need to be reported as an in-kind contribution.

However, if Mr. Simpson does copying for the campaign using his office’s copy machine or directs his employee, Mary, to keep the campaign’s books and records as part of that employee’s job responsibility, the cost of the copies and the portion of Mary’s salary for the time spent on campaign work is an in-kind contribution to the committee.

Example 2.9

Terry O’Connell begins volunteering for Grande for Council on July 20, 2007. On December 12, 2007, Terry begins working for the campaign as a paid employee.

The contract between Grande for Council and Terry must be entered into the day she began working as a paid employee, December 12, 2007. Remember, the campaign **cannot** pay her for past work done as a volunteer.

Employee contracts will be discussed further in Chapter III.

Intermediaries—Contributions Delivered or Solicited by a Third Party

Individuals or entities who either deliver contributions to a campaign or solicit contributions on behalf of a campaign, where such solicitation is known to the campaign, are called intermediaries (see Example 2.10).

All intermediaries must complete an intermediary statement, which looks like this:

Intermediary Statement	
Intermediaries are individuals or entities who either deliver contributions to a campaign or successfully solicit contributions on behalf of a campaign, where such solicitation is known to the campaign. Postal, delivery or messenger services, fundraising agents, and immediate family members of the contributor are not considered intermediaries.	
Committee Name: _____	
Intermediary's Name: _____	
Home Address: _____	
City/State/Zip: _____	
Employer: _____	
Occupation: _____	
Business Address: _____	
City/State/Zip: _____	
Contributor's Name	Amount Contributed
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____
Attach additional pages if the intermediary has more than ten (10) intermediated contributions.	
The making of false statements in this document is punishable as a Class E felony pursuant to Section 175.35 of the Penal Law and/or a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.	
I hereby affirm that I did not, nor to my knowledge, did anyone else, reimburse any contributor in any manner for his or her contribution and none of the submitted contributions was made by the contributor as a loan.	
_____	_____
Intermediary's Signature	Date

The candidate, close relatives of the person(s) making the contribution, full-time campaign staff (paid or volunteer), postal workers, and delivery messengers are **not** considered intermediaries. The hosts of a campaign-sponsored fundraising event (where the campaign partially or entirely covers the expenses for the event) are not considered intermediaries. In the case of a fundraising event not sponsored by the campaign and which has multiple hosts, one person from the host committee must be designated as the intermediary. Furthermore, there are exceptions to the intermediary requirement for house parties, which are discussed later in the chapter.

Intermediated contributions are eligible to be matched with public funds as long as the **contributor** meets the requirements for valid matching claims.

Example 2.10

Mark, a known supporter of Julia Grande, asks his co-workers from Bensonhurst Bratwurst Bros. to contribute to her campaign. Through his solicitation, the campaign receives three contributions from his co-workers. The committee must report Mark as the intermediary for these contributions and obtain an intermediary statement from him.

Compliance Alert

For each intermediated contribution, you must report the contributor's information, the intermediary's information, and the fact that the contribution was intermediated.

Compliance Alert

Do not forget to get contribution cards and employment information from every contributor giving through an intermediary. It is very easy to overlook this when someone is soliciting and collecting contributions for your campaign.

IV. COLLECTING CONTRIBUTOR INFORMATION

As mentioned earlier, your campaign cannot accept anonymous contributions. Every contributor (and contribution) must be disclosed to the CFB.

Q. How does the campaign go about getting this information?

A. Use a contribution card!

Contribution Cards

Contribution cards are a reliable and convenient way of collecting contributor information.

A basic contribution card looks like this:

<div style="border: 1px solid black; padding: 5px; display: inline-block;"> For Committee Use Only Statement #: _____ Transaction ID: _____ </div>
<p>Contribution Card</p> <hr/> <p style="text-align: center;">(Committee Name)</p> <p> <input type="checkbox"/> Cash <input type="checkbox"/> Money Order <input type="checkbox"/> Check in the amount of \$ _____ </p> <p>Name _____</p> <p>Home Address _____</p> <p>City/State/Zip _____</p> <p style="text-align: center;">To comply with Campaign Finance Board reporting requirements, please give the following information:</p> <p>Employer _____</p> <p>Occupation _____</p> <p>Business Address _____</p> <p>City/State/Zip _____</p> <p>I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan.</p> <hr/> <p style="display: flex; justify-content: space-between;"> Contributor's Signature Date of Contribution </p>

Contribution cards can be professionally printed with your campaign's letterhead or banner, and may include space for the contributor's e-mail address and phone number. At the very least, contribution cards **must** have the following information:

- ✦ The committee's name at the top of the card
- ✦ The contribution type (e.g., cash, money order, or check)
- ✦ The amount of the contribution
- ✦ The contributor's name, address, and employer information

- ❖ The following affirmation statement that **must** appear directly above the signature line and date:

I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan.

All contribution cards must be completed, signed, and dated by the contributor.

Contributions with incorrect or incomplete contribution cards will not be matched with public funds. Go to www.nyccfb.info for a template to give to the printer or graphic designer so that he or she knows what must appear on the contribution card.

Compliance Alert

Contribution cards are required for cash and money order contributions, and optional for check contributions. Generally speaking, it is a good idea to get a contribution card from every contributor. An individual who gives a credit card contribution must use a credit card authorization form, which will be discussed later in this section.

Compliance Alert

Your contributor must complete the entire contribution card at the same time the contribution is made. The person making the contribution **must** be the person who signs the contribution card. Once completed by the contributor, there must not be any changes made to the card by anyone.

Employment Information

A contributor's employment information is needed if a single contribution *or* the aggregate of multiple contributions equals or exceeds \$100 (see Example 2.11). Contributions of \$100 or more will not be matched with public funds if employment information is missing.

Example 2.11

On February 1, 2008, Grande for Council received a \$50 check from James Dugan. At the time, they did not collect employment information from Mr. Dugan since the contribution was less than \$100.

On April 1, 2009, Mr. Dugan contributed another \$75. He has now contributed \$125 in total and the campaign must obtain employment information from Mr. Dugan, or neither contribution will be matched with public funds.

It is a good idea to get employment information from every contributor the first time he or she contributes to the campaign, and the best way to get employment information is by having the contributor complete a contribution card. Getting the contribution card at the time the contribution is made will

save your campaign a lot of time and energy when your disclosure statement is due. If the contributor is retired, a homemaker, a student, or unemployed, he/she must write that in the “occupation” section of the contributor card and your campaign must report it.

Reminder

The contributor information needed for monetary contributions is also required for in-kind contributions, including the contributor’s name, address, employment information, contribution amount, and contribution date.

Credit Card Authorization Form

If your campaign accepts credit card contributions, contributors must complete a credit card authorization form, which looks like this:

For Committee Use Only Approval Code: _____ Statement #: _____ Transaction ID: _____
<h2 style="margin: 0;">Credit Card Authorization</h2>
<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> Yes, I wish to contribute to _____ (Maximum Donation: \$ _____) (Committee Name) </div> <p>Please note that the New York City Campaign Finance Board will match the first \$175 contributed by individual New York City residents at a \$6 to \$1 rate. This authorization card must be completed in order for your contribution to be matched with public funds. (Please print legibly.)</p> <p>Please select one of the two credit card payment options below and complete the information at the bottom of this card.</p> <ol style="list-style-type: none"> 1. Please bill my credit card in one lump sum of \$ _____. 2. Please bill my credit card in _____ monthly installments of \$ _____ (minimum \$10/month) for a total of \$ _____. <p style="text-align: center;"> <input type="checkbox"/> Visa <input type="checkbox"/> MasterCard <input type="checkbox"/> Discover <input type="checkbox"/> American Express </p> <p> Contributor Name _____ Credit Card Number _____ Expiration Date _____ </p> <p>I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal credit card account, billed to and paid by me for my personal use, and having no corporate or business affiliation; and is not being made as a loan.</p> <p> Signature: _____ Date: _____ </p> <p>The following information is required by law for all contributors:</p> <p> Home Address _____ City _____ State _____ Zip _____ (Optional: Home Phone _____ Business Phone _____) </p> <p>The following information is needed to comply with the reporting requirements of the Campaign Finance Program:</p> <p> Occupation _____ Employer _____ Business Address _____ </p> <p><small>You must include whether you are retired, a homemaker, a student, or self-employed for public disclosure purposes. Please notify the Committee if any of the above information changes during the course of your installment payments. If you have chosen installment contributions and wish to suspend them at any time, you must notify the Committee.</small></p>

This form asks the contributor for the following information:

- ❖ The name of the credit card issuer (e.g., Visa or Mastercard)
- ❖ The name of the credit card account holder (the contributor)
- ❖ The credit card number and expiration date
- ❖ The following affirmation statement:

I understand that state law requires that a contribution be in my name and from my own funds. I hereby affirm this contribution is being made from my personal credit card account, billed to and paid for my personal use, and having no corporate or business affiliations and is not being made as a loan.

This information was mentioned earlier in the chapter in the discussion on collecting credit card contributions via the campaign's website. You may design the contribution page for your campaign's website based on this form.

If you are interested in using one contribution card that encompasses the regular contribution card and the credit card authorization form, then you may use this form:

<div style="border: 1px solid black; padding: 2px; display: inline-block;"> For Committee Use Only Statement #: _____ Transaction ID: _____ </div>
<p>Contribution Card</p> <hr/> <p style="text-align: center;">(Committee Name)</p> <p> <input type="checkbox"/> Cash <input type="checkbox"/> Money Order <input type="checkbox"/> Check <input type="checkbox"/> Credit Card </p> <p style="text-align: center;">in the amount of \$ _____</p> <p>Credit Card Type _____</p> <p>Account Holder _____</p> <p>Account Number _____</p> <p>Expiration Date _____</p> <p>The following information is required by law for all contributors:</p> <p>Name _____</p> <p>Home Address _____</p> <p>City/State/Zip _____</p> <p>To comply with Campaign Finance Board reporting requirements, please give the following information:</p> <p>Employer _____</p> <p>Occupation _____</p> <p>Business Address _____</p> <p>City/State/Zip _____</p> <p>I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan; in addition, in the case of a credit card contribution, I also hereby affirm that this contribution is being made from my personal credit card account, billed to and paid by me for my personal use, and has no corporate or business affiliation.</p> <p>_____</p> <p>Contributor's Signature Date of Contribution</p>

V. FUNDRAISERS AND HOUSE PARTIES

Fundraisers are events organized by your campaign or a supporter of the campaign. In addition to knowing the basics about accepting (or refunding), reporting, and documenting contributions, there are additional requirements you must follow when your campaign, or a supporter, organizes a fundraiser.

All written fundraising solicitations, including Internet solicitations, must include the following statement, placed prominently:

State law prohibits making a contribution in someone else's name, reimbursing someone for a contribution for a contribution made in your name, being reimbursed for a contribution made in your name, or claiming to have made a contribution when a loan is made.

This requirement is in addition to the required affirmation statement on the contribution card.

In the case of a multi-piece mailing, the statement only has to appear in one piece of the mailing.

Next, your campaign must disclose its fundraising agents. These are full-time campaign workers — paid or volunteer — or commercial fundraising firms hired to accept contributions on behalf of your campaign. Fundraising agents must be named in a cover letter with every disclosure statement in which there was a fundraising event during the reporting period. Fundraising agents are **not** intermediaries.

House parties are small fundraisers held in a supporter's home. Hosts of house parties are exempt from the intermediary requirement and you do not have to report how much the host spent on the house party as an in-kind contribution as long as:

- 1) The total cost of a single party or multiple parties hosted by the same person does not exceed \$500. If the cost of a single party or multiple parties held by the same host exceeds \$500, the host must be reported as an intermediary for all contributions collected and the cost of the house party or parties must be reported as an in-kind contribution to your campaign (the in-kind contribution is counted toward the host's contribution limit as well as your campaign's spending limit).
- 2) No single contribution over \$500 is made at the party. If an individual gives over \$500 during a house party or over the course of multiple house parties by the same host, the host must be reported as an intermediary (see Chart 2.1 and Example 2.12).

Chart 2.1

Contribution Amount from a Single Contributor	Equal to or less than \$500.	Greater than \$500.	Any amount.
Cost of House Party (or Multiple House Parties) by Same Host	Equal to or less than \$500.	Equal to or less than \$500.	Greater than \$500.
Must Report Intermediary?	No.	Yes, but only for individual contributions greater than \$500.	Yes, for all contributors. The cost of house party must be reported as an in-kind contribution.
Must Report In-Kind Contribution?	No.	No.	Yes.

Example 2.12

Joan held a party for Paine 2009 and spent \$400 on food and invitations. She collected twenty \$25 contributions at this party. She held another house party three weeks later, spent \$300 on food, and collected ten \$25 contributions.

Since the combined cost of the parties was \$700, Joan must be reported as an intermediary for each contribution she collected at both parties. Additionally, since the total cost of both parties is now \$700, Paine 2009 must disclose a \$700 in-kind contribution from Joan.

VI. TRANSFERS

A transfer is the exchange of money between two political committees.

Money Received From or Given to a Political Party

The exchange of money between your campaign and a constituted party committee (i.e., a local or national political party) is a **Type 1 transfer**.

A **transfer-in** takes place when a constituted party committee transfers money to your campaign's bank account. The amount transferred counts against the constituted party committee's contribution limit and cannot be matched with public funds. In C-SMART, these transactions are reported as a "Committee Transfers In" Type 1 transfer.

A **transfer-out** takes place when your campaign gives money to a constituted party committee. The transfer-out is considered a contribution from your campaign. You can contribute a limited amount without affecting your public funds payment. In C-SMART, these transactions are reported as "Committee Transfers Out" Type 1 transfers. The limit is based on the office you are seeking:

- ❖ \$3,000 for City Council candidate committees
- ❖ \$5,000 for Borough President candidate committees
- ❖ \$10,000 for Mayor, Public Advocate and Comptroller candidate committees

See Chapter IV for more information on transfers.

Reminder

Funds received from a political action committee or a committee authorized by more than one candidate, also known as multi-candidate committees, are not transfers and are not to be reported as such. They are contributions subject to the applicable contribution limit for your office.

Money Received From a Committee Supporting the Same Candidate

An exchange of money between two committees supporting the same candidate is a **Type 2 transfer**. Type 2 transfers are divided into two categories:

- ❖ **Type 2a** transfers are transfers between two committees supporting the same candidate in the *same* election (Participants cannot make these transfers because they may have only one authorized committee per election).
- ❖ **Type 2b** transfers are transfers from a committee supporting the same candidate in a *different* election cycle.

Before your campaign performs a Type 2 transfer, you must observe the following guidelines:

- ❖ Identify the contributions that will be transferred and sort them by reverse chronological order: the last contribution received is the first contribution transferred into the candidate's current committee ("last in—first out" methodology).
- ❖ Exclude prohibited contributions (contributions from corporations, LLCs, LLPs, and partnerships), and contributions from unregistered political committees unless the political committee registers **before** the transfer takes place or within 10 days of the transfer of funds.
- ❖ Refund the portions of contributions that are over-the-limit, including contributions given after February 2, 2008 from individuals doing business with the city (if an individual's contribution[s] from an old committee are transferred to the new committee **and** the individual has contributed money to the new committee or will contribute, then contributions are added together to determine whether the contributions are over-the-limit).
- ❖ Pay outstanding public funds repayment obligations and penalties from the previous election.
- ❖ Report the transferable lump sum amount in C-SMART as a "Committee Transfers In" Type 2a or Type 2b transfer.

If the money to be transferred is from a campaign used in an election in which you ran as a *non-participant* or in an election in which you ran for an office *not covered by the CFB*, the following procedures must also be observed:

- ❖ Obtain a Transfer Authorization Card from each contributor **before** the transfer is made (a sample of the Transfer Authorization Card can be found in the Appendix). The following affirmation statement must appear on the authorization card:

I understand that this contribution will be used by the candidate for an election other than that for which the contribution was originally made. I further understand that the law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution was made from my personal funds, is not being reimbursed in any manner, and is not be made as a loan.

- ❖ Report all expenditures incurred by the transferor committee during the current election. The campaign can submit copies of the transferor committee's disclosure statements (those previously submitted to their respective agencies, i.e., New York City BOE, New York State BOE or the Federal Elections Commission). The copies submitted must include all expenditures made by the transferor committee in the previous election cycle and can be submitted by either paper or electronic media. The expenditures will not be reported into C-SMART.
- ❖ Report the expenditures made in connection with the transferred contributions by either:
 - Reporting the **actual cost** of raising the transferred contributions and submitting proper documentation to substantiate the expenditures made.

or

- Reporting the **estimated cost** of raising the transferred contributions and submitting proper documentation to substantiate the expenditures made. The estimate can be derived by one of two ways:

- (a) Dividing the transferor committee's total fundraising costs by the total amount of funds raised and multiplying this ratio by the total amount transferred:

$$\text{Amount Transferred} \times \left(\frac{\text{Total Spent to Fundraise}}{\text{Total Raised}} \right) = \text{Estimated Cost}$$

or

- (b) Multiplying the total amount transferred by a 15% “flat tax”:

$$\text{Total Amount Transferred} \times .15 = \text{Estimated Cost}$$

Type 2a and Type 2b transfers will **not** be matched with public funds.

VII. LOANS

During the election cycle, it may become necessary to take out loans to cover expenses when other funds are not readily available. You may accept loans from:

- ✦ The candidate
- ✦ A third party (e.g., an individual, the treasurer, etc.)
- ✦ A bank or lending institution that issues loans as part of its routine business

You may **not** accept loans from or have loans guaranteed or secured by:

- ✦ Corporations, LLCs, LLPs, and partnerships (with the exception of institutions that issue loans as part of their routine business, such as banks)
- ✦ Political committees

There is no limit to the amount of money a campaign may borrow, but loans that have not been paid back before the next election will be considered contributions to your campaign subject to the applicable contribution limit (see Example 2.13).

Compliance Alert

You must have a loan agreement for each loan received—even loans from the candidate, and even if no interest will be paid.

Example 2.13

Shirley Baker, a friend of the candidate, lends Grant for Council \$5,000. Shirley also contributed \$2,750—the maximum she can contribute—to Grant for Council. The primary election day passes and the committee still has not repaid Shirley's \$5,000 loan. Thus, Shirley's loan becomes a contribution to Grant for Council. Because she had already contributed the maximum amount allowed to the campaign, the campaign has now accepted an over-the-limit contribution from Shirley, subjecting the committee to potential penalties.

Forgiven Loans

A forgiven loan is a loan for which a lender agrees not to collect repayment or a portion of the repayment (see Example 2.14). A lender, other than a bank, may forgive a loan. The forgiven portion of the loan becomes a monetary contribution to your campaign. If all or part of a loan is forgiven, you must obtain documentation from the lender stating such.

Example 2.14

Paine 2009 receives a \$3,000 loan from a friend of the candidate, John Hernandez, before the primary election. John admires the work his friend is doing in the community and would like to forgive the loan, thus relieving the campaign of any repayment obligation. However, the campaign is only allowed to forgive up to the \$2,750 contribution limit and must repay \$250 to John.

VIII. RECORDKEEPING

Due to the extensive amount of documentation required, treasurers must work diligently to keep their committees organized.

What should you do with all the paperwork flooding your headquarters? To keep proper documentation, it is extremely important for your campaign to remain vigilant about organization. Organization will be important when the CFB requests copies of the campaign's documentation at various points throughout the election cycle.

For **check contributions**, you must keep:

- ❖ A copy of the check.
- ❖ An original and a copy of the contribution card (if one was obtained from the contributor).

For **cash contributions**, you must keep:

- ❖ The original and a copy of a contribution card.

For **money order contributions**, you must keep:

- ✦ A copy of the money order itself.
- ✦ An original and a copy of the contribution card.

For **credit card contributions**, you must keep:

- ✦ Copies of transaction reports and receipts from the credit card processor, and credit card authorization forms from the contributors.
- ✦ Statements and correspondence relating to the campaign's credit card transactions, e.g., monthly statements, chargeback notifications, and credit card authorization forms.

Additional documentation you must keep for all types of monetary contributions includes:

- ✦ Copies of deposit slips and deposit receipts.
- ✦ Original and copies of doing business contributor forms, along with solicitations sent to contributors asking for their cooperation in completing the form.
- ✦ Originals and copies of your solicitation materials for fundraisers.

Reminder

Use separate deposit slips for cash deposits and check deposits. Also, make and keep a photocopy of the deposit slip before making a deposit. If cash and check deposits are combined into one deposit slip, itemize each deposit so auditors are able to distinguish a cash deposit from a check deposit.

For **in-kind contributions**, you must keep:

- ✦ A receipt or other written documentation that provides:
 - The date of the contribution.
 - The name and address of the contributor.
 - A detailed description of the goods or services provided.
 - An explanation and/or proof of how the fair market value of the contribution was determined.

For **refunded contributions**, you must keep:

- ✦ A copy of the front and back of the check used to issue the refund.
- ✦ A bank statement confirming the refund was posted from the committee's account.
- ✦ Correspondence such as credit and debit memos and contribution checks returned due to insufficient funds.

For **intermediated contributions**, you must keep:

- ✦ An original and copy of each intermediary statement (shown earlier in this chapter).
- ✦ The documentation described above for monetary contributions for each intermediated contribution.

For **transfers**, you must keep:

- ⊗ Originals and copies of transfer authorization forms.
- ⊗ Copies of canceled checks used for the transfer or, if the transfer took place electronically, a copy of the bank statement showing that the transfer took place.

For **loans**, you must keep:

- ⊗ An original and a copy of each loan agreement.
- ⊗ A copy of each canceled loan check.
- ⊗ A copy of each loan repayment check.

Chapter V will cover the documentation you are required to submit with your disclosure statements.

Compliance Alert

Remember to submit only *copies* of documentation unless the CFB specifically requests originals. In accordance with state law and CFB Rules, documentation must be kept by the committee for six years.

Reminder

Keep all bank statements in chronological order for easy reference.

Reminder

All documents must have the corresponding C-SMART transaction ID number written on them, and monetary contribution records must be kept in transaction ID order.

IX. RUNNING AS A NON-PARTICIPANT

Candidates running as non-participants:

- ⊗ Are allowed to accept contributions from unregistered political committees.
- ⊗ Can provide an unlimited amount of their own money to their campaign.
- ⊗ Are not required to disclose the expenditures associated with raising the money transferred into the 2009 bank account from an old committee that was not covered by the CFB or did not run as a Program participant in a previous election.

X. WHERE TO FIND IT

Further explanation regarding the information presented in this chapter can be found by referencing the following:

- ❖ Contributions: *CFB Rules, Chapter 1, rule 1-04*
- ❖ Funds originally received for other elections: *CFB Rules, Chapter 1, rule 1-07*
- ❖ Claiming matchable contributions: *CFB Rules, Chapter 3, rule 3-04*
- ❖ Records to be kept: *CFB Rules, Chapter 4, rule 4-01*
- ❖ Credit card contributions: *CFB Rules, Chapter 4, rule 4-01 (b)(6)*



Expenditures

In this chapter:

- I. Expenditure Limits
- II. Paying for Expenditures
- III. Using Campaign Funds
- IV. Post-Election Spending
- V. Recordkeeping for Everyday Expenditures
- VI. Recordkeeping for Wages, Salaries, and Consulting Fees
- VII. Non-Participants
- VIII. Where to Find It

Campaigns cost money. Typically, much of that money is spent on fliers, posters, rent, utilities, wages, office supplies, and postage. Regardless of whether money is spent on media-savvy consultants or pizza for a famished staff, your campaign has to be very careful with how much they spend, how they spend, and how they document their spending.

I. EXPENDITURE LIMITS

The Program limits how much money participants can spend on their campaigns (see Table 3.1). A big part of what the public is buying with public matching funds is compliance with the spending limits. In combination with contribution limits, expenditure limits help to reduce the possibility and the perception of corruption associated with large contributions and unlimited campaign spending. Spending limits also help more candidates run competitive campaigns.

There are three spending limits: the first covers the so-called “off-years,” which extend from the beginning of the election cycle through December 31, 2008. Any campaign activity during this time period will receive the benefit of this off-year spending limit. The second spending limit covers spending up to and including the day of the primary election, and the third covers spending up to and including the day of the general election.

Compliance Alert

Penalties for violating the expenditure limits can be substantial. The law permits higher penalties for expenditure limit violations because such violations can significantly affect the outcome of an election and cannot be corrected. In addition to being liable for penalties for violations of any expenditure limit, your campaign could lose out on future public funds payments and be required to return public funds it previously received.

Table 3.1: Spending Limits for 2009 Primary and General Elections

	Mayor	Public Advocate & Comptroller	Borough President	City Council
2006 – 2008	\$ 290,000	\$ 290,000	\$ 129,000	\$ 43,000

	Mayor	Public Advocate & Comptroller	Borough President	City Council
2009 Primary Election	\$6,158,000	\$3,850,000	\$1,386,000	\$161,000
2009 General Election	\$6,158,000	\$3,850,000	\$1,386,000	\$161,000

You will receive the benefit of the primary election spending limit if your campaign has a primary election. If you do not have a primary election, your campaign will only have a general election spending limit. If you have a primary election but do not make the general election ballot, your campaign will not have a general election spending limit. Lastly, if you are in the primary election **and** general election, your campaign will receive the benefit of the spending limits for the primary election and general election, respectively.

If your campaign spends more than the off-year spending limit, the amount by which you exceeded the off-year limit will be deducted from your next election's spending limit. If your campaign spends more than the spending limit for the primary election and/or general election, your campaign will be fined, you will not be eligible to receive additional public funds, and you may have to return public funds you already received.

To determine which spending limit applies, the CFB looks at **when your campaign received the benefit of the expense**, not just when the expense was incurred (see Example 3.1).

Example 3.1

On December 28, 2008, New Yorkers for Marquez, a campaign for borough president, purchased \$7,000 worth of postage. The campaign used that postage to mail various brochures throughout his borough on January 3, 2009. Because the mailings were distributed on January 3, 2009, the \$7,000 spent on postage will be applied to the 2009 primary election spending limit and not to the off-year limit, even though the campaign paid for the postage on December 28, 2008.

A Note on Spending Limits for Candidates Without a Primary Election

You may not have a primary election because you have no opposition. Usually, if you do not have a primary election, you will **not** have a primary election spending limit. In other words, all your spending that occurred from the beginning of 2009 through Disclosure Statement #13 (the first disclosure statement for the general election) will count toward your campaign's general election spending limit (see Example 3.2).

However, to avoid an unfair disadvantage when it comes to spending, you may qualify for a primary election limit if another party is holding a contested primary for the same office **and** you file the required primary disclosure statements through the primary election on time.

You may have also spent money in reasonable anticipation of a primary that ultimately was not held. If this occurs, you must file a written petition with the Board no later than 10 business days after the last remaining candidate is finally disqualified from the ballot. The petition must include an affidavit and supporting documentation demonstrating that you reasonably anticipated a primary election that did not occur.

Example 3.2

Council Candidate Julia Grande does not have opposition from her party in the primary election, and thus, she will not have a primary election. However, candidate Robert Paine has opposition from *his* party and *will* have a primary election. Because Robert Paine will have a primary election, Julia Grande will receive the benefit of a primary election spending limit if she has submitted all her disclosure statements through Statement #13.

Expenditures That Do Not Count Against the Spending Limit

Some expenditures — known as **exempt expenditures** — do not count against your campaign’s spending limits.

Exempt expenditures include:

- ❖ Challenging or defending the validity of petitions or for canvassing and recanvassing of election results.
- ❖ Preparing for an appearance before the Board.
- ❖ Limited expenses to prepare for the post-election audit.

If you ran in previous election cycles, you will notice that exempt expenditures have changed dramatically for the 2009 election cycle. Canvassing and compliance costs, for example, are no longer exempt. To compensate for the elimination of most exempt expenditures, the expenditure limit was raised approximately 7.5%.

In general, exempt expenditures will be interpreted narrowly, so your campaign must provide enough documentation and accurate reporting in order for the expenditures to be considered exempt.

Compliance Alert

In order for expenditures to be considered exempt, they must fall within the categories listed above *and* be paid for with a campaign check or campaign debit card.

Third-Party Expenditures on Behalf of a Campaign

At times, other entities or people will want to spend money on behalf of your campaign without your cooperation, approval, or direct knowledge. These transactions are known as independent expenditures (see Examples 3.3 and 3.4). Independent expenditures do not count toward your spending limit and are not considered contributions to the campaign.

Compliance Alert

If expenditures are not truly independent, they will be considered in-kind contributions subject to the expenditure and contribution limits. This could result in your campaign significantly exceeding the spending and/or contribution limits. In very serious cases, some campaigns have been fined and required to return some or all of the public funds they had received because they failed to disclose expenditures that were not truly independent.

Some criteria for determining whether an expenditure might **not** be truly independent include:

- ❖ The individual or entity making the expenditure has been connected to the candidate.
- ❖ The individual or entity making the expenditure has had a relationship (business, personal, or otherwise) with the candidate.
- ❖ The individual or entity making the expenditure has been established, financed, maintained, or controlled by any of the same individuals or entities that have established, financed, maintained, or controlled any committee authorized by the candidate.
- ❖ The individual or entity making the expenditure has been in communication with the same third party, or the candidate **knew or should have known** that the communication with or relationship to the third party would result in expenditures benefiting the candidate.

Compliance Alert

Your campaign has the burden of proving that an expenditure was independent, and this may be very difficult to prove. Call CSU if you believe an entity may be making expenditures on your behalf.

Example 3.3

The carpenters' union hires ABC Campaign Consulting to create a mass mailing project in support of candidate Grande without discussing the project with the candidate. However, Grande's campaign has hired ABC Campaign Consulting as a campaign strategist. Because the union is using the same vendor as the campaign, this expenditure will almost certainly be considered an in-kind contribution unless the campaign can prove otherwise.

Example 3.4

The electricians' union pays for an independent commercial endorsing candidate Paine's re-election bid. However, Paine's treasurer and the political director of the union are business partners. Because of the relationship between the union and the campaign, this is not an independent expenditure and the cost of the commercial will be considered an in-kind contribution to the campaign unless the campaign can prove otherwise.

Joint Expenditures: Splitting Costs with Another Campaign

A joint expenditure is an expenditure made by two or more candidates for joint campaign materials or activities, such as printing petitions, fliers, brochures, buttons, or holding rallies and fundraisers for more than one candidate.

While joint expenditures may appear to be an efficient way to cut costs, it can greatly complicate compliance because the **cost** of the materials or activities must be shared in proportion to the **benefit** your campaign derived from the materials or activities. Some of the factors the CFB uses to measure proportionality include:

- ❖ The focus of the material or activity.
- ❖ The geographic distribution or location of the material or activity.
- ❖ The subject matter of the communication.
- ❖ The references to the candidate.
- ❖ The relative prominence of a candidate's references in the communication, including the size and location of references to the candidate and any photographs of the candidate.
- ❖ The timing of the communication.
- ❖ Other circumstances surrounding the communication.

If you do not pay the full cost of your campaign's share of a joint expenditure, you will be considered to have received an in-kind contribution from the other candidate. You must demonstrate that each party paid for their fair share of the expenditures (see Example 3.5 and Example 3.6).

These are ways for campaigns to support one another without engaging in joint expenditures:

- ❖ Contributing money (see Chapter VI, as this could result in a public funds reduction).
- ❖ Endorsing or appearing with another candidate at events.
- ❖ The insubstantial communication of your endorsement of another candidate or appearance on his/her campaign materials, alone or in conjunction with other candidates, provided your name, image, and/or likeness are of equal prominence to all others appearing on the campaign materials.

Your name may also appear on a normal communication from a political club to its members, provided that you are already a member of that club, it has fewer than 500 members, and the communication does not solicit funds on your behalf or otherwise promote your candidacy.

If your campaign pays to communicate an endorsement (not limited as described above), the communication may be considered an in-kind contribution by the campaign **paying** for the communication (i.e., your campaign) to the **endorsing** campaign. The in-kind contribution has both contribution and expenditure limit implications. Thus, be careful in order to avoid complicating compliance for your own campaign **and** the campaign that endorsed you.

Example 3.5

Council candidate Julia Grande decides to split the cost of printing a brochure with borough president candidate Benjamin Marquez. The total cost of printing the brochure is \$5,000. Each candidate receives an equal amount of space in the brochure. Therefore, the candidates should split the cost in half ($\$5,000 \div 2 = \$2,500$). However, candidate Grande pays \$4,000 while candidate Marquez pays \$1,000.

Because Grande paid more than Marquez for something that should have been split evenly, Grande has made a \$1,500 in-kind contribution to Marquez's campaign ($\$4,000 - \$2,500 = \$1,500$), which Marquez's campaign must report and counts as a contribution and an expenditure. In addition, making this in-kind contribution could result in a reduction of public funds for Grande's campaign.

Example 3.6

Council candidate Paine decided to split the cost of a palm card with mayoral candidate Louis Morris and comptroller candidate Hector Rodriguez. Morris' image and name appear on one side of the palm card, while Paine and Rodriguez split the other side of the card. The total cost of printing the cards was \$10,000. Because Morris receives the benefit of half the space, he is responsible for paying half the cost (\$5,000). Candidates Paine and Rodriguez must pay \$2,500 each, since both appeared equally on the other side of the card.

Compliance Alert

For joint expenditures, your campaign must document the expenditures and carefully demonstrate what methodology was used to determine the proportional shares of the total cost. Because of the complexity of joint expenditures, some campaigns choose to avoid them altogether.

II. PAYING FOR EXPENDITURES**Committee Checks, Debit Cards and Credit Cards**

Campaign-related purchases should be made with a committee check or using the committee's debit or credit card because this greatly simplifies recordkeeping and provides the clearest paper trail. However, there are times when this is not feasible and alternate methods of payment have to be used.

Petty Cash Fund

Using petty cash may be a quick and convenient way of making **small** expenditures, but there are a few caveats:

- 1) Expenditures of over \$100 cannot be made in cash.
- 2) The balance for the petty-cash fund cannot exceed \$500 at any given time.
- 3) Public funds cannot be used to make cash purchases (explained in more detail in Chapter IV).

You must be able to document the purpose of all cash expenditures.

Advances and Advance Repayments

An advance is an expense made *on behalf* of your campaign and for which there is an expectation of repayment. Repaid advances are campaign expenditures, and outstanding advances are considered contributions to your campaign until the amount of the advance has been repaid (see Example 3.7). Reimbursements for campaign workers’ or volunteers’ costs, such as paying for the use of their car, are considered to be advances (also see the note on wireless communications later in this chapter).

Committees must obtain:

- 1) A completed advance repayment voucher.
- 2) A copy of the advancer’s check or credit card bill from making the payment (account number may be blocked out).
- 3) A copy of the bill or receipt from the original vendor.

Here is a sample advance repayment voucher:

Advance Repayment Voucher

(Committee Name)

Advancer's Name: _____

Purchases

Date	Vendor	Item Description	Payment Type (check one)	Amount
			<input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Credit Card	
			<input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Credit Card	
			<input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Credit Card	
			<input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Credit Card	
Total Amount Advanced				

Repayment

Date	Method of Repayment	Amount
	Check (# _____)	
	Check (# _____)	
Total Amount Repaid		

Please attach all bills, receipts, invoices and a copy of the front and back of the cancelled repayment check(s) to the voucher for all transaction(s) made.

Candidate or Treasurer's Signature

Date

Example 3.7

On September 1, candidate Paine’s wife, Linda, remembered that the campaign needed paper. She went to the local office supply store and purchased \$20 worth of paper using her personal debit card. The next day, Linda submitted an advance repayment voucher with the receipt from the store to the committee, which then reimbursed her using a committee check before the next disclosure deadline. Since Linda was reimbursed, the advance will be classified as an expenditure and not as an in-kind contribution. In C-SMART, the campaign will enter the purchase as an advance and the reimbursement as an advance repayment.

Tips for Petty Cash and Advances:

- ❖ Use C-SMART’s petty cash journal as opposed to keeping one separately.
- ❖ Keep **every** receipt from petty cash purchases.
- ❖ Keep advances and petty-cash expenditures to a minimum because they complicate record-keeping.
- ❖ You cannot use public funds to pay for purchases made or reimbursed in cash, or for the repayment of advances except in cases where a single advance purchase was more than \$250. There are special rules for reimbursement of wireless communication devices, which are described in detail later in this chapter.

III. USING CAMPAIGN FUNDS

Obviously, money from your committee’s bank account must be used for campaign purposes only. While there is usually a clear connection between an expenditure and its purpose in helping your campaign (for example, the costs of producing fliers, distributing mailings, and maintaining a website), accurate reporting and detailed documentation are required in order to demonstrate that those purchases were campaign related.

Compliance Alert

Careful and detailed recordkeeping is crucial. Failure to maintain accurate records may lead to significant penalties or repayment of public funds.

Campaign-Related Expenditures

The following expenditures will be presumed to be campaign-related:

- ❖ Contributions to charitable organizations designated as 501(c)(3) organizations.
- ❖ Contributions to other candidates, political committees, and constituted party committees.
- ❖ Community events, including events hosted by civic associations and neighborhood associations, but **excluding** sporting or entertainment events.

- ❖ Ballot proposal advocacy where there are indications that the expenditure relates to the candidate.
- ❖ Travel expenses for campaign-related events.
- ❖ Legal defense of a non-criminal matter arising out of a political campaign.
- ❖ Computer hardware, software, and other office technology purchased more than two weeks before the election.
- ❖ A post-election event for staff, volunteers, and/or supporters held within 30 days of the election.
- ❖ Payment of non-criminal penalties or fines arising out of a political campaign.
- ❖ Costs incurred for petitioning and petition litigation, public funds repayment, or defending against a claim that public funds must be repaid.
- ❖ Food and beverages provided to campaign workers or volunteers.

When determining if an expenditure is campaign-related, the CFB looks at the *context* in which the expenditure was made, such as:

- ❖ The timing of the purchase.
- ❖ The necessity of the expenditure.
- ❖ Whether there is a high proportion of spending on a specific category of expenditure.
- ❖ Whether there is a pattern of making non-campaign-related or improper post-election expenditures.
- ❖ The reporting of the expenditure.
- ❖ Whether the expenditure was made to a family member or relative of the candidate, or to an individual or entity with whom the candidate has a business or other financial relationship.

The following expenditures will **not** be considered campaign-related:

- ❖ Expenditures for personal use or to defray the cost of living expenses of the candidate, family of the candidate, or any other individual.
- ❖ Automobile purchases.
- ❖ Dues, fees, or gratuities at a country club, health club, recreational facility, or other nonpolitical organization unless part of a specific fundraising event that takes place on the organization's premises.
- ❖ Admission to a sporting event, theater, concert, or other entertainment event not part of a specific campaign activity.
- ❖ Expenditures for non-campaign related travel, food, drink, or entertainment (if a candidate uses campaign funds to pay expenses associated with travel that involves both personal activities and campaign activities, the expenses that result from the personal activities shall be considered for personal use unless the person benefiting from the use reimburses the campaign account within 30 days for the full amount of the incremental expenses).
- ❖ Gifts, except brochures, buttons, signs, or other campaign materials and token gifts valued at not more than \$50 that are for the purpose of expressing gratitude, condolence, or congratulations.

Compliance Alert

Non-campaign-related expenditures are illegal, and may result in financial penalties and a finding that your campaign must return public funds or is eligible for less public funds than you anticipated.

Wireless Communications

To ensure that there is no question whether expenditures for wireless communications (e.g., cellular phones and PDAs) are campaign-related:

- 1) Campaigns may purchase wireless devices and plans for the candidate and staff.
 - Campaigns are expected to be reasonable consumers and should purchase sensibly priced devices and plans.
- 2) Campaigns may include the cost of procuring their own wireless devices and wireless plans as part of an employee's compensation package in his or her contract.
 - Campaigns should indicate in the contract that the employee will be paid a fixed sum for wireless communications costs, either listing it as a separate amount or indicating that it is included in total compensation.
- 3) Campaigns may reimburse the candidate, workers, and volunteers who already have personal wireless service for any costs over and above their standard costs.
 - Campaigns may not reimburse individuals who already have a wireless communications plan for **standard** wireless service costs because such reimbursement would appear to defray his or her normal living expenses, which is a non-campaign related expenditure under the law. For example, if an individual's standard wireless services cost is \$50 per month, the campaign can only reimburse that individual for expenses **above** the \$50 standard wireless services cost.
 - If possible, campaigns should indicate in a worker's contract that the individual will be reimbursed for wireless communications overage costs.
 - Remember, as with any expenditure, whether it is campaign-related will depend on the amount, timing, and purpose. For example, a request to reimburse the July cell phone bill for a worker who started with the campaign in September will not be campaign related.
 - Campaigns will enter reimbursements into C-SMART as **advances**. In C-SMART, campaigns should enter **the individual whose name appears on the cell phone bill** as the advancer. Campaigns should also ask that individual to complete an advance repayment voucher.
 - Campaigns will be expected to submit detailed records, including itemized bills, to demonstrate that reimbursements are made only for the amount over the standard costs.
 - Campaigns must submit the front and back of canceled reimbursement checks.
 - Reimbursement checks must be made payable to the individual whose name appears on the cell phone bill (the advancer).
 - You must be prepared to demonstrate that the individual being reimbursed worked on the campaign or is the person responsible for the cell phone bill of someone who worked on the campaign. For example, Mary volunteers on the Grande campaign. She incurs cell phone charges over her standard \$50 bill. The bill, however, is a family plan in the name of her mother, May. The Grande campaign should report an advance by May and a repayment to her, and be prepared to explain the relationship.

Petitioning and Election Day Spending

If your campaign chooses to hire daily workers, for example, during petitioning or to help “get out the vote” for Election Day, you must understand the requirements to keep these expenditures qualified.

What is a qualified expenditure?

A qualified expenditure is a campaign-related expenditure incurred in the election year that can be paid for with public funds. Qualified expenditures are discussed further in Chapter IV.

The recommended and most efficient payment method for compliance purposes is to pay all individual workers with a campaign **check**. Your campaign must maintain detailed wage records that include the date or period the service was provided, the hours worked (including starting and ending time), a detailed description of duties, the location where the duties were carried out, the rate of pay, and the amount paid. These documents should be signed by the worker and the treasurer.

Your campaign may also hire a campaign consultant to manage Election Day efforts. The consultant would then coordinate operations, hire staff, and be responsible for the payment of wages out of his/her fee. **Please keep in mind that you must maintain a contract documenting the consultant’s fees and his/her expenditures, including the approximate number of people to be hired and their rate of pay.** The consultant must provide the required documentation such as the daily wage records for the people he/she hired, demonstrating the work performed by the employees. Consultants should also sign wage records for the individuals they hired.

Reminder

The CFB will request a contract documenting the consultant’s fees and his/her expenditures, including the approximate number of people to be hired and their rate of pay.

A third option is to pay campaign workers in cash. **However, under State Law, cash payments in excess of \$100 are prohibited.** It is important to keep daily wage records for employees as well as documentation for cash withdrawals and re-deposits of any excess cash. You must also be able to document the purposes of every cash expenditure.

IV. POST-ELECTION SPENDING

If your campaign has received public funds, you are allowed to make very limited post-election expenditures for routine activities involving nominal costs associated with winding up a campaign and responding to the post-election audit, including:

- ❖ Payment of rent and outstanding utility bills.
- ❖ Payment of taxes and other reasonable expenses for compliance with applicable tax laws.
- ❖ Payment of interest from loans.

- ⊗ Reasonable payment of staff salaries.
- ⊗ Reasonable moving expenses related to closing the campaign office.
- ⊗ “Thank you” notes to contributors, staff, and campaign volunteers.
- ⊗ A post-election event for staff, volunteers, and/or supporters held within 30 days of the election.
- ⊗ A holiday card mailing to contributors, campaign volunteers, and staff.
- ⊗ Expenses incurred to prepare for and participate in the post-election audit.

The following post-election expenditures are **prohibited**:

- ⊗ Post-election mailings other than those mentioned above.
- ⊗ Contributions to other campaigns, organizations, or clubs.
- ⊗ Bonuses or gifts to staff or volunteers (unless previously agreed to in a contract upon hire and not conditional on the receipt of public funds).
- ⊗ Computer hardware, software, and other office technology purchased less than two weeks before the date of a primary election, in the case of a candidate who is opposed in the primary election, or two weeks before the date of a general election, in the case of a candidate who was not opposed in a primary election.
- ⊗ Spending for transitional and inaugural activities (discussed in Chapter XI).

V. RECORDKEEPING FOR EVERYDAY EXPENDITURES

If your campaign is hiring or retaining an individual or entity for work that will total over \$1,000, you must write up a detailed agreement, contract, invoice, or receipt. The key to any piece of expenditure documentation from a vendor is itemization and detail. This includes:

- ⊗ The date the vendor was retained or the goods or services provided.
- ⊗ The vendor’s name and address.
- ⊗ The amount of the expenditure.
- ⊗ A detailed description of the goods or services provided.

The following is an example of an acceptable bill from a vendor:

ABC PRINTING, INC.			
123 Broadway New York, NY 10001			
INVOICE # 183-842			
Date: January 15, 2007			
Bill to: Paine 2009 555 West 20th Street New York, NY 10011			
Quantity	Description	Rate	Amount
1,000	Palm cards—double-sided, 4-color process	\$ 0.35 ea.	\$ 350.00
1,000	Pamphlets—tri-fold, black and white	\$ 0.20 ea.	\$ 200.00
5	4' x 8' banner	\$ 250.00 ea.	\$ 1,250.00
5,000	Personalized letterhead, "Paine 2009"	\$ 0.11 ea.	\$ 550.00
		Total:	\$ 2,350.00

Notice the itemization and detailed description of the purchase. It is clear exactly what you are getting and how much you are paying for each item.

The next example is not acceptable because there is not enough detail or itemization.

ABC PRINTING, INC.	
123 Broadway New York, NY 10001	
INVOICE # 183-842	
Date: January 15, 2007	
Bill to: Paine 2009 555 West 20th Street New York, NY 10011	
Description	Amount
Printing	\$ 2,350.00
Total:	\$ 2,350.00

If the documentation from a vendor does not meet these requirements, you must create an additional contemporaneous record containing the necessary information that is signed by your vendor and your treasurer or other representative of the campaign at the time the services are rendered.

If your campaign pays a vendor more than \$5,000 over the course of the election cycle for goods or services, you must find out if the vendor used a subcontractor for any part of delivered goods or services. Ask the vendor to complete this subcontractor disclosure form:

Subcontractor Disclosure Form

Committee Name: _____

As a candidate in the New York City Campaign Finance Program, I am required to report information about subcontractors who are paid more than \$5,000. A subcontractor is anyone who a vendor pays for goods or services provided through the vendor to my campaign.

Vendor Name: _____

Vendor Address: _____

Did you use subcontractors? Yes _____ No _____

If yes, was there more than \$5,000 worth of goods or services subcontracted? Yes _____ No _____

If yes, please complete the following information:

Subcontractor Name: _____

Subcontractor Address: _____

Services Provided: _____

Cost of Services Provided: _____

Subcontractor Name: _____

Subcontractor Address: _____

Services Provided: _____

Cost of Services Provided: _____

Vendor Signature: _____ Date: _____

Name: _____

Title: _____

Let the vendor know about this form before you contract any work with him/her. The form asks the vendor to disclose the subcontractor's name, address, the types of services provided by the subcontractor, and the costs of the services provided by the subcontractor — the information a campaign must report on its disclosure statement. The subcontractor disclosure form should be kept with the documents you keep related to the primary vendor (see Example 3.8).

Example 3.8

Paine 2009 enters into a contract with ABC Campaign Consulting for \$20,000 to develop and print literature for the campaign. Because the amount exceeds \$5,000, the committee must give ABC Campaign Consulting a subcontractor disclosure form to disclose any use of a subcontractor.

ABC Campaign Consulting designs the literature and pays Kew Gardens Printing \$8,000 to print the literature. Because ABC Campaign Consulting hired Kew Gardens Printing to complete the original order, ABC Campaign Consulting discloses Kew Gardens Printing as a subcontractor using the subcontractor disclosure form. The committee keeps the subcontractor disclosure form with the contract and a copy of the payment check used to pay ABC Campaign Consulting. Paine 2009 must also disclose Kew Gardens Printing as a subcontractor in its next disclosure statement.

Reminder

If your campaign contracts over \$5,000 worth of services and the vendor *did not* use a subcontractor, you should still obtain a subcontractor disclosure form from the vendor confirming that a subcontractor was not used (by checking “no” on the form).

Compliance Alert

Campaigns can reach the \$5,000 minimum in a single payment or over several payments. In general, whenever a vendor is going to be paid more than \$5,000 in goods and services, ask if work will be subcontracted and if so, get a completed subcontractor disclosure form.

Compliance Alert

In addition to the subcontractor disclosure form, subcontractors must be entered in C-SMART and reported on disclosure statements.

You must keep originals and copies of expenditure documentation throughout the election cycle, and documentation must be obtained **at the time the liability is incurred**. If at any time you become aware that an invoice or contract is missing or incomplete, you may obtain or request a new invoice or contract from the vendor or consultant, or if necessary, create a new record or modify an existing record, **provided the new or modified record is clearly identified as new, modified, or recreated**. In addition, you must provide a signed, dated, and notarized statement from a campaign representative with first-hand knowledge explaining the circumstances surrounding the need to obtain or create the modified record.

All expenditure documentation must be contemporaneous and reported when the liability is incurred.

Compliance Alert

Under no circumstances should you create a post-dated invoice or contract. Submitting recreated or altered invoices or contracts to the Board without clearly marking them as recreated or altered is fraud.

For expenditures made with **committee check** or **debit cards**, keep:

- ✦ Originals and copies of all itemized bills and invoices with the check number (if paid by check), statement number, and C-SMART transaction ID written on them.
- ✦ Bank statements showing expenditures posting to the bank account.
- ✦ The front and back of canceled committee checks or a legible scanned image of the front and back of canceled committee checks.

For **petty cash** expenditures, keep:

- ✦ Copies of each canceled check (made out to “cash”) or ATM receipt used to withdraw money from your campaign’s account, demonstrating how much was deposited into the petty cash fund.
- ✦ The payee’s name, the date of payment, the amount, and the purpose.
- ✦ All corresponding receipts for the expenditure.

Remember to keep a record of all petty cash expenditures in a petty cash journal (C-SMART has a journal built into the software).

For expenditures made with a **credit card** keep (see Example 3.9):

- ✦ Originals and copies of all itemized bills and invoices from the vendors with the credit card number, statement number, and C-SMART transaction ID number written on them.
- ✦ Originals and copies of itemized monthly statements from credit card companies with the C-SMART transaction ID number written on the credit card statement next to each purchase (see sample below).
- ✦ The front and back of the canceled committee check used to pay the credit card bill.

Remember to report the individual purchases, not the payment to the credit card company (see Chapter V for more information on disclosing expenditures).

American Express

Grande for Council
Account Number: 1236547895412
Date Due: January 15, 2009

Ollie's Office Supplies	December 1, 2008	\$ 1,000	5/17
Astoria Graphics	December 12, 2008	\$ 500	5/22
RadioShack	December 20, 2008	\$ 200	5/36

Statement number generated by C-SMART

Transaction ID number generated by C-SMART

Don't forget to write the statement number and transaction ID number next to each item on the credit card statement (and on each associated receipt)!

Example 3.9

Shirley Baker, the treasurer for Grande for Council, purchased a fax machine using the committee's American Express card. The transaction was entered in C-SMART as a \$200 fax machine purchased from RadioShack. When she received the statement from American Express the following month, she paid it using a committee check.

Shirley must keep the receipt from RadioShack, the American Express bill, and a copy of the front and back of the committee's canceled check to American Express. She must also write the statement number and C-SMART transaction ID numbers on the receipt from Radio Shack and the credit card statement from American Express.

For refunded expenditures:

- ❖ Keep a copy of the receipt from the refund (including any explanation for or correspondence about the refund).
- ❖ If the refund was issued by a check, keep a copy of the front and back of the canceled refund check as well as the bank statement showing the deposit of the refund.
- ❖ If the refund was issued by electronic transfer, keep the bank statement showing when the electronic transfer took place.
- ❖ If the refund was issued in cash, deposit the refund into the committee's bank account and keep a copy of the deposit slip and the bank statement showing the refund posting to the account.

For **advances**, keep:

- ✦ A copy of the receipt from the purchase or bill that you are reimbursing.
- ✦ A copy of the advance repayment voucher from the advancer with the date of purchase, name of the vendor, and the amount advanced.
- ✦ A copy of the canceled committee check used to reimburse the person making the advance.
- ✦ For reimbursements for the use of a car, keep the mileage log and your method for calculating the reimbursement.

For **fundraisers**, keep:

- ✦ Detailed record of each fundraising event indicating the date and location of the event.
- ✦ Originals and copies of receipts or invoices related to the event.
- ✦ Names of person(s) and/or organization(s) hosting the event.
- ✦ Itemized list of all expenses for the event including the venue, caterer, entertainment, and employees.

For **contributions to other campaigns, political committees, and constituted party committees**, keep:

- ✦ The front and back of the canceled check used to make the contribution.

Political Advertisements and Literature

No candidate has ever won an election without publicizing his or her name. With that in mind, maintain originals and copies of your campaign's:

- ✦ Advertisements
- ✦ Pamphlets
- ✦ Circulars
- ✦ Flyers
- ✦ Palm cards
- ✦ Brochures
- ✦ Letterhead

Also, keep a schedule of all radio and television time purchased and scripts used.

Reminder

Remember to keep the invoices, contracts, and payment checks associated with the purchase and subsequent distribution of any literature and advertisements!

VI. RECORDKEEPING FOR WAGES, SALARIES, AND CONSULTING FEES

When hiring staff or a consultant, you must write up a detailed employment agreement at the time the employee or consultant is hired. It must include:

- ❖ Name and address of the employee or consultant.
- ❖ Detailed description of the services.
- ❖ Amount of the wages, salary, or consulting fees and how they will be paid (e.g. hourly, weekly, monthly).
- ❖ Date(s) on which the work will be performed or the period for which the individual is being retained.
- ❖ Dated signatures of the employee/consultant **and** the candidate or treasurer.

You must keep evidence to show that the work detailed in the employee agreement was actually performed, such as time records, phone records, and/or samples of work product.

You must document payment to employees of your campaign. There are three different types of records, depending on the employee's position in the campaign:

- ❖ A **daily wage record**, for employees hired to work on a specific day such as Election Day.
- ❖ A **weekly wage record**, or timesheet, for **part-time staff** or those who will be paid at an hourly rate.
- ❖ An **employee contract** is required for **full-time** staff employees.

Sample of a Weekly Wage Record

Paine 2009: Weekly Wage Record							
Employee Name: <u>Kevin Johnson</u>		Social Security Number: <u>621 / 40 / 3185</u>					
Home Address: <u>401 New Lots Avenue</u> <u>Brooklyn, NY 11207</u>		Phone Number: <u>(718) 264-3125</u>					
		Period Covering: <u>8/24/09 – 8/30/09</u>					
Salary/Wage: \$ <u>10.00</u> per <u>hour</u> day (circle one)							
	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Date	8/24	8/25	8/26	8/27	8/28	8/29	8/30
Time In:	12 p.m.	5 p.m.	5 p.m.	5 p.m.	5 p.m.	5 p.m.	12 p.m.
Time Out:	6 p.m.	9 p.m.	9 p.m.	9 p.m.	9 p.m.	9 p.m.	6 p.m.
Total hours worked	6	4	4	4	4	4	6
Duties Performed	<u>Handing out palm cards by 3 train station on New Lots Avenue and distributing literature to residents along New Lots Avenue and Van Siclen Avenue.</u>						
Salary amount	\$320						
Verification							
I affirm I have performed the duties, worked the hours, and received the salary amount listed above.							
<u>Kevin Johnson</u> Employee Signature		<u>8/30/09</u> Date		<u>Jan Smith</u> Treasurer Signature		<u>8/30/09</u> Date	
For Committee Use Only							
Paid: _____ by cash or check (circle one) Check Number: _____							
Paid for by _____ (Committee or Third Party Vendor)							

Reminder

When writing up a contract, include everything the employee is going to do for your campaign. It is not enough to write just the employee's job title. Only you know what your campaign manager, for example, does; the CFB does not! Different campaigns give their campaign managers different responsibilities. For all contracts, include specific duties and responsibilities for the employee and make sure it is detailed.

Compliance Alert

As with your expenditure documentation from vendors, do not create post-dated employee invoices or contracts. Submitting recreated or altered invoices or contracts to the Board without clearly marking them as recreated or altered is fraud. Also, if you hire an employee after he/she volunteered for the campaign, you cannot pay her for the work he/she did as a volunteer if you receive any public funds (see Example 3.10)

Example 3.10

Herman Lopez volunteered for Grande for Council beginning January 2008. On July 1, 2008, Grande for Council decided to hire Herman as a full-time employee.

Even though Herman was a volunteer for the campaign at the time he was hired, the contract with Herman must begin on July 1, 2008. Further, the campaign cannot pay him for the time he was a volunteer.

Don't Forget:

- ❖ Even if your campaign decides to use a payroll service to pay employees, all wages have to be entered into C-SMART and reported in your disclosure statements.
- ❖ Keep a copy of each employee's W-2 or 1099 forms, as well as copies of the canceled checks used to pay their wages.
- ❖ If a person takes on additional duties other than those originally stipulated in his/her contract, create an amendment to the original contract stating that it is an extension of the original contract to cover the additional duties. This should be done contemporaneously and be very detailed!
- ❖ If an employee is let go prior to the end of his/her contract, try to obtain a termination letter signed by the employee and the candidate or treasurer.

VII. RUNNING AS A NON-PARTICIPANT

Candidates running as non-participants are not required to observe the spending limits.

VIII. WHERE TO FIND IT

Further explanation regarding the information presented in this chapter can be found through referencing the following:

- ❖ Campaign spending: *Campaign Finance Act §3-706; CFB Rules, Chapter 1, rule 1-08; Final Determination No. 2003-3 (September 12, 2003)*
- ❖ Spending public funds: *CFB Rules, Chapter 3, rule 3-04; Final Determination No. 2003-4 (October 30, 2004)*
- ❖ Records to be kept: *CFB Rules, Chapter 4, rule 4-01*



Public Funds

The New York City Campaign Finance Program provides generous public matching funds to eligible Program participants: over \$24,000,000 in public funds was distributed in the 2005 election cycle. Receiving public funds is an enormous responsibility for campaigns and requires due diligence since they must account for every public dollar they receive, as well as follow the rules and requirements of the Program. This chapter is designed to give you a comprehensive overview of public funds, from eligibility to post-election repayments and payments.

In this chapter:

- I. Eligibility for Public Funds
- II. Matchable Contributions vs. Non-Matchable Contributions
- III. Public Funds Payments
- IV. Spending Public Funds: Qualified & Non-Qualified Expenditures
- V. Post-Election Public Funds Repayments and Payments
- VI. Where to Find It

I. ELIGIBILITY FOR PUBLIC FUNDS

Your campaign must fulfill the following requirements **before** they are eligible to receive public funds:

- ❖ Be in compliance.
- ❖ Meet a two-part threshold.
- ❖ File a **Certification** form on or before **June 10, 2009**.
- ❖ Be on the ballot **and** be opposed by another candidate on the ballot.
- ❖ Repay any debt owed to the CFB from a previous election.
- ❖ File a financial disclosure report with the New York City Conflicts of Interest Board (COIB) and submit a copy of the certification receipt indicating proof of compliance from the COIB.

The COIB certification receipt has a raised seal and is different from a regular receipt. Contact the COIB at (212) 442-1400 with any questions.

Compliance

You must be in compliance with the CFB's rules and requirements throughout the election cycle, including:

- ❖ Accurately reporting all contributions and expenditures.
- ❖ Maintaining documentation of contributions and expenditures and providing them to the CFB upon request.
- ❖ Filing disclosure statements in a timely and complete manner.
- ❖ Not being in violation of any part of the law, such as contribution and expenditure limits.

Threshold

You must meet a two-part threshold to demonstrate a minimal level of support within the community. Meeting threshold includes:

- 1) Raising a certain amount of money in matchable claims
- 2) Collecting a minimum number of matchable contributions of \$10 or more from individuals within the area the candidate seeks to represent

Table 4.1: 2009 Threshold Requirements

Office	Part 1: Dollar Amount	Part 2: Number of Contributors
Mayor	\$ 250,000	1,000 New York City residents
Public Advocate	\$ 125,000	500 New York City residents
Comptroller	\$ 125,000	500 New York City residents
Borough President*		
Bronx	\$ 26,653	100 Bronx residents
Brooklyn	\$ 49,307	100 Brooklyn residents
Manhattan	\$ 30,744	100 Manhattan residents
Queens	\$ 44,588	100 Queens residents
Staten Island	\$ 10,000	100 Staten Island residents
City Council	\$ 5,000	75 district residents

* The dollar amount threshold for borough president candidates is based upon the population of the borough.

Part 1: Dollar Amount

The CFB uses disclosure statements to measure your progress toward threshold. After each disclosure statement's review by the CFB, you will receive a threshold report demonstrating your status regarding meeting threshold.

The CFB does not take into account your campaign's total contributions when calculating progress toward threshold; it only looks at your **valid matching claims**. To understand the dollar amount requirement in more detail, please consider this hypothetical list of contributions:

Type of Contributor	Amount of Contribution	Matching Amount Claimed and Counted Toward Threshold
Individual NYC resident	\$ 1,000	\$ 175
Individual NYC resident	\$ 50	\$ 50
Individual NYC resident	\$ 100	\$ 100
Connecticut resident	\$ 100	\$ 0
Individual NYC resident	\$ 500	\$ 175

Type of Contributor	Amount of Contribution	Matching Amount Claimed and Counted Toward Threshold
Individual NYC resident	\$ 4,950	\$ 175
Individual NYC resident	\$ 1,500	\$ 175
Individual NYC resident	\$ 10	\$ 10
PAC	\$ 3,500	\$ 0
Individual NYC resident	\$ 20	\$ 20
	Total: \$ 11,730	Total: \$ 880

The column on the left shows the type of contributor, the column in the middle shows the amount of total contributions collected from that contributor, and the column on the right shows the amount that can be claimed for match and counted toward threshold. Remember, only the first \$175 of each eligible contribution will be counted toward threshold and matched. Therefore, even though this hypothetical campaign raised over \$11,000, the column on the right shows that the total amount of matching claims is less than \$1,000, which is far below the threshold amount.

Part 2: Number of Contributors

The CFB does not count **every** contributor when determining whether you have met Part 2 of the threshold. First of all, the contributor must have contributed at least \$10. Second, for borough president and City Council races, these contributors must be residents of the borough or Council District the candidate seeks to represent.

Reminder

Do not forget to submit backup documentation to the CFB for every contribution claimed for matching funds. Any invalid matching claims will not count toward meeting threshold. The procedures for preparing and submitting backup documentation are covered in detail in Chapter V.

When collecting contributions, keep in mind the following:

1. Get more than the minimum needed for threshold.
2. Meet threshold as soon as possible.
3. Stay in compliance.
4. Contributions that are not eligible to be matched with public funds will not count toward threshold.

Compliance Visits

An auditor and your CSU liaison may visit your headquarters or the location at which your campaign records are maintained **before** you receive public funds. The visit consists of an interview with the treasurer and review of your campaign's financial records and documentation.

You will be asked to provide copies of certain documentation. These could include:

- ✦ Advance repayment vouchers
- ✦ Bank statements, including copies of deposit slips
- ✦ Credit card statements
- ✦ Consultant agreements
- ✦ Documentation of the value of in-kind contributions
- ✦ Employee contracts and wage records
- ✦ Fundraising documentation, including a list of fundraising events with the date and location of each event
- ✦ Invoices or receipts for expenditures made by the campaign
- ✦ Lease agreements
- ✦ Loan documentation
- ✦ Merchant account statements for credit card contributions
- ✦ Petty cash journal

The upshot to compliance visits:

The visits are also an opportunity to have a one-on-one conversation with the auditor and your liaison about any questions and concerns you have related to compliance and the audit process.

You will be told in advance what paperwork to have available during the compliance visit.

You will also be asked about recordkeeping as another method of measuring your campaign's level of compliance. Some questions will be about procedures your campaign observes in connection with:

- ✦ Fundraisers
- ✦ In-kind contributions
- ✦ Cash contributions
- ✦ Credit card contributions
- ✦ Prohibited contributions
- ✦ Loans
- ✦ Transfers
- ✦ Qualified expenditures

Additional preparation for your compliance visit

The auditor might ask the campaign about its procedures for refunding a \$200 cash contribution. The campaign should have established procedures for dealing with this situation and be able to describe them to the auditor, as well as provide the auditor with documentation in connection with the refund, showing that the internal procedure worked.

In general, campaigns are required to have adequate financial controls in place and must be prepared to explain the nature of these controls.

Afterward, the auditor reviews the information and documentation from the visit. The auditor will contact you if more information is needed and you will have an opportunity to respond to the notice (failure to respond by the deadline could affect your public funds eligibility). If there are no outstanding issues, a complete explanation of the auditor's findings will be on your campaign's next statement review.

Certification

Whereas submitting the FR registers your campaign with the CFB and allows you to submit disclosure statements, the **Certification** form officially binds the candidate as a participant in the Campaign Finance Program. It must be filed on or before **June 10, 2009**.

Certifications will be available for download on the CFB's website in early spring 2009. You are encouraged to submit Certifications in advance of the June 10 deadline in case there are errors on the Certification that have to be corrected.

If you file your Certification before the deadline, and then decide you do **not** want to join the Program, it is possible to rescind your Certification, but **only before the June 10th deadline!** Contact CSU immediately for assistance with this.

Compliance Alert

Late Certifications will not be accepted. If a Certification is not hand-delivered to the CFB or postmarked and mailed by June 10, 2009, the campaign will not be eligible for public funds.

Helpful hints for completing the Certification:

1. Public funds disbursements will be made through direct deposit, so remember to provide accurate information on the Certification about your bank account, including the current balance and opening date and attach a voided check (no starter checks) to the Certification.
2. Submit the Certification as soon as it becomes available, so you will have time to correct any errors or omissions before the due date. Incomplete Certifications will not be processed.

Reminder

Becoming a Program participant does not guarantee public funds payments.

Ballot Status

Candidates must be on the ballot and opposed by another candidate on the ballot in order to be eligible to receive public matching funds.

If the BOE disqualifies **you** from the ballot:

- ⊗ **Your campaign will not receive public matching funds.**
- ⊗ Your campaign must notify the CFB in writing indicating its intention to appeal the disqualification.
- ⊗ Your campaign must also notify the CFB in writing if its disqualification was reversed on appeal.

If the BOE disqualifies **all of your opponents** from the ballot:

- ⊗ **Your campaign will not receive public funds.**
- ⊗ You can notify the CFB in writing if any of your opponents' disqualifications were reversed on appeal and your campaign intends to seek public funds.

If you were temporarily on the ballot with opposition but were subsequently disqualified from the ballot **or** if all of your opponents were disqualified from the ballot:

- ⊗ Your campaign may submit a petition to the CFB for payment for expenses incurred during the period in which you or your opponent(s) were on the ballot.
- ⊗ **The deadline for this written petition is 30 days after final disqualification.**

If you **or** your only opponent is a write-in candidate:

- ⊗ Your campaign is not eligible to receive public funds.
- ⊗ Your campaign must notify the CFB in writing and continue filing all necessary disclosure statements.

Debt Repayment

If you ran in a previous election cycle and still have outstanding penalties or public funds repayments from the previous campaign, you will not be eligible to receive any public funds payments for your current campaign until the debt is satisfied.

You should not use your current campaign to repay debt from a previous election cycle as it will result in a reduction in the amount of public funds your current campaign would be eligible to receive. There are other payment options available to your campaign. One option involves opening a segregated bank account in which you can deposit funds you raise specifically to pay off debts from a previous campaign. Segregated bank accounts are discussed in detail later in this chapter. If you have outstanding debt, please contact the CFB's Legal Unit and speak to one of the staff attorneys to learn about the options available to you to satisfy debt from a previous election cycle.

Filing a Financial Disclosure Report with the COIB

Candidates running for office are required to file a financial disclosure report with the New York City Conflicts of Interest Board. These reports ensure that there are no prohibited conflicts of interest between a city official's responsibilities and private interests.

You must provide the CFB with a copy of the certification receipt from the COIB as proof of compliance with this requirement on or before July 31, 2009 to be eligible to receive public funds.

II. MATCHABLE CONTRIBUTIONS VS. NON-MATCHABLE CONTRIBUTIONS

Matchable Contributions

Only monetary contributions from individual New York City residents are eligible to be matched with public funds.

A participant may be eligible to receive public funds at a matching rate of \$6 in public tax dollars for every \$1 contributed to his/her campaign from an individual New York City resident. Up to \$175 of each contribution is eligible to be matched, for a maximum of \$1,050 per contributor.

For money order contributions, only the first \$100 will be eligible for match, although you can receive up to the contribution limit.

For cash contributions, since you can only receive up to \$100 in cash from a contributor, only up to \$100 will be eligible for match.

Non-Matchable Contributions

Contributions that are legal but are not eligible to be matched with public funds include:

- ❖ Contributions from individuals who are not New York City residents.
- ❖ In-kind contributions.
- ❖ Contributions from temporary or one-time paid employees of the campaign (see Example 4.2) because they are considered to be vendors rather than employees of your campaign.
- ❖ Contributions from minors (under 18 years of age).
- ❖ Contributions from campaign vendors.
- ❖ Contributions from registered political committees, unions, and sole proprietorships.
- ❖ Contributions from individuals doing business with the city.

These types of contributions are described in more detail in Chapter II.

Example 4.2

Grant for Council accepts a \$100 contribution from Herman Lopez and claims that contribution for matching funds. In July 2008, Herman is hired to pass out literature on Election Day and is paid \$100.

Since Herman was issued a one-time payment for his work, his contribution is no longer eligible to be matched with public funds and the committee should withdraw that matching claim.

Also, a contribution is not matchable if it is in the form of:

- ⊗ The purchase price paid for an item with significant intrinsic and enduring value (i.e., such as a good or service provided by the campaign).
- ⊗ The purchase price paid for or otherwise induced by a chance to participate in a raffle, lottery or similar drawing for valuable prizes.

In other words, if a contributor is essentially getting back his/her money in the form of a valuable good, service, or opportunity to win such a good or service, the contribution cannot be matched with public funds.

The following goods and services that are frequently offered by campaigns to would-be contributors in the normal context of the campaign are not considered valuable and do not prevent a contribution from being matchable:

- ⊗ Limited food and beverages
- ⊗ Limited musical or other entertainment
- ⊗ Campaign literature
- ⊗ Campaign buttons
- ⊗ Campaign t-shirts
- ⊗ Other campaign paraphernalia

Normal campaign items do not pose an issue for the matchability of contributions because they do not have significant intrinsic and enduring value.

Please contact the Candidate Services Unit in advance if you are planning to hold a fundraising event that raises concerns about whether the contributions received will be matchable.

III. PUBLIC FUNDS PAYMENTS

The maximum a participant can receive in public funds per election is 55% of the applicable spending limit (see Table 4.3).

Table 4.3: Maximum Public Funds

Mayor	Public Advocate	Comptroller	Borough President	City Council
\$3,386,900	\$2,117,500	\$2,117,500	\$762,300	\$88,550

Public funds payments will be capped at 25% of the maximum if your opponent has not raised or spent more than 20% of the spending limit. In order to receive additional public funds, your campaign may submit a signed, certified statement explaining the necessity for additional public funds and that one or more of the following conditions apply:

- ⊗ The participant is opposed by a non-participant or limited participant and can provide a factual basis demonstrating the non-participant's or limited participant's ability to self-finance.
- ⊗ The opposing candidate has received (i) the endorsement of a citywide or statewide elected official or a federal elected official representing all or a portion of the area covered by the election; (ii) two or more endorsements from other city elected officials who represent all or a part of the area covered by the election; or (iii) endorsements of one or more membership organizations with a membership of over 250 members.

- ❖ The opposing candidate has received 25% or more of the vote in an election for public office in an area encompassing all or part of the area that is the subject of the current election in the last eight years preceding the election.
- ❖ The opponent’s name is substantially similar to the candidate’s so as to result in confusion among voters.
- ❖ The opposing candidate is a chairman or president of a community board or district manager of a community board (applicable only for borough president or City Council campaigns).
- ❖ The opposing candidate’s spouse, domestic partner, sibling, parent or child holds or has held elective office in an area encompassing all or part of the area of the covered election, in the past ten years.
- ❖ The opposing candidate has had significant media exposure in the twelve months preceding the election.

A word on significant media exposure

“Significant media exposure” — for the purposes of demonstrating additional public funds are needed — means your opponent or his/her name must have appeared on TV or radio or in print media in general circulation in the area of the covered election at least 12 times in the year before the covered election. However, if your opponent’s name merely appears in a list of candidates or potential candidates for the covered election without any information about him/her, that does not count toward the significant media exposure requirement.

These conditions must reasonably demonstrate the need for additional public funds and you must submit documentation demonstrating such conditions. **The statements and documentation will be published on the CFB’s website and the Board will verify the truthfulness of any submitted material.**

A campaign will also be eligible to receive additional public funds if the candidate is opposed in a primary or special election for an open seat (i.e., where there is no incumbent seeking re-election).

The Bonus Situation

The “bonus situation” helps Program participants who are opposed by well-financed non-participants by matching their contributions at a higher rate, increasing the maximum amount of public funds they can receive, and raising their spending limit. You can qualify for the bonus if:

- 1) An opponent is a non-participant.
- 2) Your non-participating opponent either raises or spends at least half of the spending limit for your office.

The CFB will review disclosure statements to see if the bonus situation is warranted and will notify you if your opponent triggered the bonus. You may also petition the Board if you believe your non-participating opponent has triggered the bonus. A petition for a bonus determination must:

- ❖ Be sworn to or affirmed.
- ❖ Indicate the participant or limited participant on whose behalf it is being submitted.
- ❖ Specify what information has been omitted from or is inaccurate on disclosure statements filed by the non-participant with the CFB and/or the Board of Elections.
- ❖ Identify specific fundraising and/or spending by the non-participant that is alleged to have occurred since the end of the last reporting period.
- ❖ Include relevant names, dates, and amounts of contributions to and expenditures on behalf of the non-participant, including in-kind contributions and information about the fair market value of goods and services.

- ✦ Contain information about statements by the non-participant, his or her agents, or authorized representatives, and any other relevant information, if applicable.

A non-participant's failure to file required disclosure statements may be sufficient reason for the Board to make a bonus determination.

A petition for a bonus determination must be filed by the due date of the last disclosure statement for the election.

There are two tiers of bonus.

Tier 1

Tier 1 of the bonus situation is triggered if the non-participating opponent candidate has raised or spent over half the applicable spending limit. The CFB will match your contributions from individual New York City residents up to \$1,250 per contributor. The maximum amount in public funds you may receive will be raised from 55% to two-thirds of the original spending limit. In addition, your campaign's spending limit will be increased by 50%.

Tier 2

Tier 2 of the bonus situation is triggered if the non-participating opponent candidate has raised or spent over three times the applicable spending limit. The CFB will match your contributions from individual New York City residents up to \$1,500 per contributor. The maximum amount in public funds you may receive will be raised from 55% of the original spending limit to 125%. Additionally, your campaign's spending limit will be removed entirely.

Table 4.4: Bonus Matching Funds

Office		Matching Rate	Trigger Amount [†]	Maximum Public Funds	Expenditure Limit
Mayor	regularly	\$6 – to – \$1	—	\$ 3,386,900	\$6,158,000
	Tier 1	\$7.14* – to – \$1	\$ 3,079,001	\$ 4,105,333	\$9,372,000
	Tier 2	\$8.57* – to – \$1	\$18,474,001	\$ 7,697,500	no limit
Public Advocate/ Comptroller	regularly	\$6 – to – \$1	—	\$ 2,117,500	\$3,850,000
	Tier 1	\$7.14* – to – \$1	\$1,925,001	\$2,566,667	\$5,775,000
	Tier 2	\$8.57* – to – \$1	\$11,550,001	\$4,812,500	no limit
Borough President	regularly	\$6 – to – \$1	—	\$ 762,300	\$1,386,000
	Tier 1	\$7.14* – to – \$1	\$693,001	\$ 924,000	\$2,079,000
	Tier 2	\$8.57* – to – \$1	\$4,158,001	\$1,732,500	no limit
City Council	regularly	\$6 – to – \$1	—	\$ 88,550	\$ 161,000
	Tier 1	\$7.14* – to – \$1	\$80,501	\$ 107,333	\$ 241,500
	Tier 2	\$8.57* – to – \$1	\$483,001	\$ 201,250	no limit

^{*} These are approximate matching rate formulas. The CFB will match up to \$175 given by each eligible contributor based on the applicable bonus matching rate, bringing the maximum public funds available per contributor up from \$1,050 to \$1,250 for Tier 1 and \$1,500 for Tier 2.

Reminder

The bonus situation is triggered for a single election at a time. For example, you will not receive bonus matching funds or a higher spending limit in the general election just because you received them for the primary election; a non-participating opponent would have to trigger the bonus situation for the general election separately.

Public Funds Disbursements

The first disbursement will not occur until after the BOE conducts its hearings on ballot petitions and challenges and the ballot is set. Three additional payments will occur within the 30 days prior to the primary election and another three payments will be scheduled within the 30 days prior to the general election. There are certain disclosure statements in which payments will occur within four (4) business days after the statement's deadline. **In order to receive a public funds payment within this four-day turnaround period, your disclosure statement and backup documentation must be filed with the CFB by close of business on the statement's due date.**

Table 4.5: Disbursement Calendar

2009 Election Payment Dates	Includes Valid Contributions Through Disclosure Statement	Payment Type
1st Week of August*	#9	Primary Election (PE)
August 20, 2009	#10	Primary Election (PE)
Payment TBD†		Primary Election (PE)
September 11, 2009	#11	Primary Election (PE)
October 1, 2009	#12	General Election (GE)
October 8, 2009	#13	General Election (GE)
Payment TBD†		General Election (GE)
October 29, 2009	#14	General Election (GE)

* Public funds payments will not be paid until after the BOE conducts hearings on ballot petitions.
† An additional payment will be scheduled in this period (not associated with a particular disclosure deadline).

If you are not eligible for public funds, the Board will send a written notice specifying the basis for any non-payment. Your campaign has the opportunity to petition the Board for reconsideration. Some of the reasons for ineligibility include:

- ❖ Failure to meet criteria for eligibility, e.g., threshold.
- ❖ Failure to demonstrate compliance with the Act or Rules.
- ❖ Failure to pay penalties or repayments of public funds owed to the Board from a previous election.

Important Payment Information:

- ⊗ Fix invalid matching claims as soon as possible. If you do not qualify for public funds before the last payment date prior to the primary election or general election, you will not receive another payment until the post-election audit is finished (if eligible at that time).
- ⊗ The law requires the CFB to withhold 5% of your eligible public funds payment until the final payment before the election.
- ⊗ If you choose not to use all or part of the public funds received, you should return the money by writing a check to the “New York City Election Campaign Finance Fund.” However, you cannot get public funds back once the money is returned.
- ⊗ If you do not wish to receive public funds, notify the CFB in writing and payment will not be issued.

Deductions from Payments

The following transactions are deemed to consist entirely of contributions claimed to be matchable, and thus may reduce your campaign’s public funds payment and affect its payment calculations:

- ⊗ Transfers or disbursements from your 2009 committee to another committee controlled by the candidate that is not involved in the 2009 elections.
- ⊗ Expenditures made to pay expenses for or stemming from debt from a previous election, including payments of penalties and public funds repayments.
- ⊗ Loans to, or spending for, other candidates or political clubs that are not reimbursed within 30 days, unless you can show that the expenditure was made for a tangible item (such as an advertisement in a fundraising journal) that directly promotes your candidacy.
- ⊗ Contributions to political committees unless you demonstrate that you have enough non-matchable contributions to exceed the total amount of contributions you made, provided the total amount of contributions you made does not exceed:
 - \$10,000 for mayor, public advocate, and comptroller campaigns
 - \$5,000 for borough president campaigns
 - \$3,000 for City Council campaigns

Example 4.3

Paine 2009 contributes \$4,000 to candidate Louis Morris’s mayoral committee. Since Paine 2009 is a city council committee, and the \$4,000 contribution exceeds the limit of \$3,000 for city council candidates, Morris’s matching claims will be reduced by \$1,000, resulting in a reduction of public funds.

Remember, with the 6:1 ratio, Paine loses \$6,000 in public funds ($\$1,000 \times 6$) because he exceeded the allowable limit.

Avoiding Public Funds Deduction: Segregated Bank Accounts

If you want to make contributions to other political committees, spend money on behalf of another candidate, or pay debt from a previous election, you may set up a separate bank account to avoid a public funds deduction. This account must be documented and reported as a **segregated bank account** under your current committee's name.

Reminder

Contributions received and deposited into a segregated account will not be matched with public funds.

When you solicit contributions intended for a segregated bank account, the contributor must sign a special segregated account contribution card. The segregated account contribution card must include the following affirmation statement:

“I understand that this entire contribution will be used only (i) to pay expenses or debt from a previous election; (ii) by the candidate for an election other than the election for which this contribution is made; or (iii) to support candidates other than the candidate to whose campaign this contribution is made, political party committees, or political clubs. I further understand that this contribution will not be matched with public funds. I understand that State law requires that a contribution be made in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan.”

The affirmation statement informs the contributor why money is being deposited into a segregated account and that it will not be matched with public funds.

A segregated account contribution card looks like this:

Segregated Account/Non-Matchable Contribution Card	
Committee Name _____	
To comply with Campaign Finance Reporting Rules, please give the following information:	<input type="checkbox"/> Cash
In the amount of \$ _____	<input type="checkbox"/> Money Order # _____
	<input type="checkbox"/> Check # _____
Name _____	
Home Address _____	
City/State/Zip _____	
Employer _____	
Occupation _____	
Business Address _____	

I understand that this entire contribution will be used by the candidate only (i) to pay expenses or debt from a previous election; (ii) by the candidate for an election other than the election for which this contribution is made; or (iii) to support candidates other than the candidate to whose campaign this contribution made, political party committees, or political clubs. I further understand that this contribution will not be matched with public funds.	
I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan.	
_____ Contributor's Signature	_____ Date of Contribution

Compliance Alert

Segregated account contribution cards must be collected for every contribution to the segregated account, **including** check contributions.

Compliance Alert

Do not deposit contributions into the segregated account that are meant to be deposited into the primary bank account, or vice versa.

Reminder

Transactions involving the segregated bank account must also be reported in C-SMART. Call your CSU liaison for help in reporting contributions to a segregated bank account in C-SMART.

For contributions to a segregated bank account, you must maintain the following documentation:

- ✦ Copies of checks
- ✦ Copies of money orders
- ✦ Originals and copies of segregated bank account contribution cards
- ✦ Copies of deposit slips
- ✦ Bank statements for the segregated bank account

For expenditures made from a segregated bank account, you must maintain the following documentation:

- ✦ Originals and copies of invoices or receipts for each expenditure
- ✦ Copies of the front and back of canceled checks
- ✦ Bank statements for segregated bank account

Suspension of Public Funds Payments

Certain violations may result in the immediate suspension of public funds payments. Such violations include, but are not limited to:

- ✦ Failing to file or filing a late disclosure statement.
- ✦ Accepting prohibited contributions.
- ✦ Exceeding the contribution or expenditure limits.
- ✦ Failing to provide a receipt showing compliance with the COIB financial disclosure requirement.
- ✦ Failing to provide acceptable backup documentation.
- ✦ Failing to repay funds owed to the CFB from prior elections.
- ✦ Material misrepresentation, including but not limited to fraudulent backup documentation, matching claims, and expenditures.

Reminder

If you exceed the expenditure limit, you may be required to return all public funds received, even if you have already spent the funds.

IV. SPENDING PUBLIC FUNDS: QUALIFIED & NON-QUALIFIED EXPENDITURES

Receiving public funds can provide a significant financial boost to your campaign. However, not everything your campaign purchases can be paid for with public funds.

Qualified Expenditures

A qualified expenditure is any expenditure that can be paid for using public funds. **Qualified expenditures are expenditures incurred in the 2009 calendar year to further the candidate's nomination or election and must be paid for using a committee check, committee debit card, committee credit card, or an advance of a single purchase over \$250.**

Qualified expenditures include, but are not limited to:

- ✦ Rent for the campaign office
- ✦ Time for television and radio broadcasts
- ✦ Print advertisements
- ✦ Establishment and maintenance of a website
- ✦ Campaign literature
- ✦ Fundraising costs
- ✦ Mailings
- ✦ Staff salaries
- ✦ Payment to consultants to assist with fundraising and/or compliance
- ✦ Compliance with the CFB
- ✦ Reimbursement of an advance of a single purchase in excess of \$250

Compliance Alert

The dollar amount of your campaign's qualified expenditures must equal or exceed the amount of public funds it received. If your campaign cannot document sufficient qualified expenditures to account for all the public funds it received, the difference must be repaid to the Public Fund.

Compliance Alert

All qualified expenditures must be documented properly. See Chapter III to review recordkeeping requirements for expenditures.

Non-Qualified Expenditures

Non-qualified expenditures are expenditures that cannot be paid for using public funds. These expenditures include, but are not limited to, the following:

- ✦ Expenditures made before January 1, 2009 or after December 31, 2009.
- ✦ Expenditures that are not reported in the appropriate disclosure statement.
- ✦ Expenditures for which proper records were not kept at the time the transaction took place.
- ✦ Expenditures paid for in cash.
- ✦ Payments to the candidate or a spouse, domestic partner, child, grandparent, parent, grandchild, brother, or sister of the candidate; or spouse or domestic partner of such child, grandchild, parent, grandparent, brother, or sister; or to a business entity in which the candidate or any such person has a 10% or greater ownership interest.
- ✦ Illegal or otherwise prohibited expenditures.
- ✦ Expenditures for any purpose other than the furtherance of the participant’s nomination or election.
- ✦ Payments above the fair market value of goods or services received.
- ✦ Expenditures that are made after any of the following: a BOE declaration that the candidate’s petitions are invalid, a candidate’s removal from the ballot, or the removal of all other opposing campaigns from the ballot.
- ✦ Expenditures made primarily for the purpose of expressly advocating a vote for or against a ballot proposal, unless made also to further the participating candidate’s nomination for election.
- ✦ Payment of any penalty or fine imposed due to any violation(s) of local, state, or federal law.
- ✦ Litigation related to ballot petitions.
- ✦ Contributions, transfers, or loans to other candidates or committees.
- ✦ Gifts.
- ✦ Spending related to the canvassing of election results.

V. POST-ELECTION PUBLIC FUNDS REPAYMENTS AND PAYMENTS

Your campaign will be required to repay public funds if:

- ✦ You did not make or document enough qualified expenditures.
- ✦ You are disqualified from the ballot.
- ✦ You received more public funds than you were entitled to receive.
- ✦ You have unspent campaign funds left over after the election.

“Unspent campaign funds” is money left over after the election is finished, and is calculated by subtracting the sum of your campaign’s receipts from the sum of its expenditures. The Audit Unit may make adjustments to this calculation, such as:

- ✦ Reported expenditures for which checks remain uncashed, or debits that do not appear on bank statements.
- ✦ Expenditures that are not campaign-related.
- ✦ Improper post-election spending.

Post-Election Public Funds Payments

If your campaign is eligible, post-election public funds payments will occur at the conclusion of the post-election audit. In order to receive a public funds payment after the post-election audit, your campaign must:

- ❖ Have valid matching claims for which public funds were not yet received.
- ❖ Have documented outstanding liabilities.
- ❖ Not have a public funds repayment obligation due to unspent campaign funds.
- ❖ Have sufficient documented qualified expenditures to cover the post-election payment amount.
- ❖ Remain in compliance with the Program.

If your campaign meets these requirements, you may receive a public funds payment equal to the lesser of the following (less any penalties owed to the Board):

- ❖ Your remaining valid matching claims.
- ❖ Your documented and reported outstanding liabilities.
- ❖ Your documented qualified expenditures.
- ❖ The deficit in your unspent campaign funds calculation.

To qualify for a post-election public funds payment, your campaign must submit bills or other documentation of outstanding debt to show how the money will be spent. You then have 60 days after the final public funds payment to show that the public funds were used to pay such outstanding debt, or you will have to return the public funds.

The CFB will not make post election-payments based upon:

- ❖ Disclosure statement amendments or resubmissions filed after December 31, 2009.
- ❖ Amendments or resubmissions to Disclosure Statement 16.

VI. WHERE TO FIND IT

Further explanation regarding the information presented in this chapter can be found in the following:

- ❖ Definitions: *Campaign Finance Act*: § 3-702(3), § 3-702(5)
- ❖ Eligibility for public funds: *Campaign Finance Act*, § 3-703; *CFB Rules*, Chapter 2, rule 2-07
- ❖ Qualified campaign expenditures: *Campaign Finance Act*, § 3-704
- ❖ Optional public financing: *Campaign Finance Act*, § 3-705
- ❖ Public funds: *CFB Rules*, Chapter 5
- ❖ Public fund repayments: *Campaign Finance Act*, § 3-710



Disclosure

In this chapter:

- I. Filing Periodic Disclosure Statements with the CFB
- II. Filing Periodic Disclosure Statements with the State and City BOE
- III. Exceptions to Filing Periodic Disclosure Statements
- IV. Easing the Reporting Process
- V. Non-Participants
- VI. Where to Find It

Every transaction discussed in Chapters II and III must be reported to the CFB in disclosure statements. These statements detail a campaign's financial activity during a given reporting period and are filed not only with the CFB but also with the New York State and New York City Boards of Elections. Fortunately, C-SMART generates disclosure statements for all three agencies. The procedures for filing the statements do vary and will be discussed in this chapter.

Compliance Alert

Complete disclosure statements must be filed with the CFB on time. Campaigns filing late statements will be penalized for each day the disclosure statement is late, and any matching claims reported in that disclosure statement could be invalidated.

Before going any further in this chapter, it should be made clear that in order to submit disclosure statements you must submit a Filer Registration (FR) to the CFB and get C-SMART. Disclosure statements will not be accepted unless your FR is on file and your campaign is using C-SMART. If you have not submitted a FR, put the handbook down, call the Candidate Services Unit (CSU), and ask a liaison about submitting a FR. Remember to continue reading this handbook once the FR is submitted.

Disclosure statements are scheduled throughout the election cycle. In the "off-years," you must submit these statements semi-annually, on January 15 and July 15. During the election year, however, the submissions become much more frequent as the primary and general elections approach. Each statement covers a period ending four days prior to the date on which the statement is due, so there is a window allowing your campaign time to prepare and submit its disclosure statement. You should submit disclosure statements early so your campaign has time to correct any problems that may arise before the statement deadline.

Reminder

Compliance and C-SMART trainings teach you how to prepare and submit disclosure statements. Be sure to attend a training seminar well before your first disclosure statement deadline.

Table 5.1: 2009 Disclosure Statement Deadlines

Statement Number	Statement Due Date	Disclosure Period
1	7/17/2006	1/12/2006 – 7/11/2006
2	1/16/2007	7/12/2006 – 1/11/2007
3	7/16/2007	1/12/2007 – 7/11/2007
4	1/15/2008	7/12/2007 – 1/11/2008
5	7/15/2008	1/12/2008 – 7/11/2008
6	1/15/2009	7/12/2008 – 1/11/2009
7	3/16/2009	1/12/2009 – 3/11/2009
8	5/15/2009	3/12/2009 – 5/11/2009
	6/10/2009	Certification Deadline
9	7/15/2009	5/12/2009 – 7/11/2009 (PE/GE)
10	8/14/2009	7/12/2009 – 8/10/2009 ^{†*} (PE)
11	9/4/2009	8/11/2009 – 8/31/2009 ^{†*} (PE)
Daily Pre-Election Disclosure	Daily	9/1/2009 – 9/15/2009[†] (PE)
	9/15/2009	Primary Election
12	9/25/2009	9/1/2009 – 9/21/2009 ^{†*} (PE)
13	10/2/2009	9/22/2009 – 9/28/2009 ^{†*} (GE)
14	10/23/2009	9/29/2009 – 10/19/2009 ^{†*} (GE)
Daily Pre-Election Disclosure	Daily	10/20/2009 – 11/3/2009[‡] (GE)
	11/3/2009	General Election
15	11/30/2009	10/20/2009 – 11/26/2009 [‡] (GE)
16	1/15/2010	11/27/2009 – 1/11/2010 (PE/GE)
<p>[†] Candidates who are not in a primary election need not submit these disclosure statements, except they must file Disclosure Statement #12 if they wish to be eligible for the first possible general election payment date.</p> <p>[‡] Candidates who are not in the general election need not submit these disclosure statements.</p> <p>* Four-day turnaround payment dates.</p> <p>(PE) Primary Election</p> <p>(GE) General Election</p>		

I. FILING PERIODIC DISCLOSURE STATEMENTS WITH THE CFB

There are two ways to file disclosure statements: **online submission** or **disk submission**.

Online Submission

The easiest way to file disclosure statements is through C-SMART's Internet Delivery System (IDS). Filing through IDS allows the candidate or treasurer to electronically sign the disclosure statement and send a copy of the statement directly to the CFB. You can apply for IDS when you complete your Filer Registration (if you do not have IDS or are not sure if you do, call CSU for assistance). CSU will then give you a default IDS password to enter when you are ready to submit your first disclosure statement. Remember, the IDS password is **case sensitive**. C-SMART will then prompt you to enter a new password. The CFB will **not** have your new password, and neither should anybody else except the candidate and the treasurer, as they are the only ones authorized to file disclosure statements. Your submission will proceed once your new password is entered.

In order for an online submission to be complete and timely, it must be processed by midnight of the due date.

C-SMART has an excellent Help function that can help resolve any questions that may come up when you are submitting your disclosure statement. If the C-SMART Help function does not completely answer your question, contact your CSU liaison.

Disk Submissions

You also have the option of doing a disk submission. For a disk submission, C-SMART creates a .zip file that will be downloaded onto a disk or CD. It also generates a paper copy of the disclosure statement that the candidate or treasurer must sign and submit with the disk or CD.

In order for a disk submission to be complete and timely, the following must be either hand delivered to the CFB by 5 p.m. on the statement's due date or postmarked by midnight of the due date:

- 1) A C-SMART generated paper copy of the disclosure statement with the cover sheet and summary pages with the **original signatures** of the candidate or treasurer (it will say "CFB Only" on the document).
- 2) Submission disk or CD containing the appropriate .zip file.

Compliance Alert

Only the candidate and treasurer listed on the FR or Certification are allowed to sign and submit disclosure statements. Should the treasurer change during the election cycle, **your campaign must submit a new FR or Certification** to the CFB with the new treasurer's name and contact information. Disclosure statements signed by anybody but the candidate or treasurer will be rejected.

Backup Documentation

Backup documentation proves the validity of a matching claim by showing that the contribution was from an individual New York City resident and was reported accurately. You must submit backup documentation with **every** disclosure statement.

Compliance Alert

A disclosure statement, whether submitted online or by disk, will not be complete and timely unless the backup documentation is submitted.

Reminder

Be sure to keep the originals of all documents but submit copies of backup documentation unless originals are specifically requested by the CFB.

The backup documentation your campaign must submit differs depending on the type of contribution it is disclosing (cash, check, money order, etc.).

Backup documentation for a **check contribution** includes:

- ⊗ A copy of the check.
- ⊗ A copy of the contribution card associated with the check contribution if one was collected (it is optional for check contributions).

Helpful Hints for Check Contributions:

- ⊗ Check contributions are relatively easy to document, so get checks whenever possible.
- ⊗ If a designated agent or bank representative signs the check instead of the contributor, you must provide a document signed by the account holder stating that the designated agent is authorized to sign checks on behalf of the account holder. This letter should also include the date of the contribution, amount, and your committee name.
- ⊗ If your campaign forgets to make a copy of the check before it is deposited, contact the bank and ask for a copy of the canceled check. If absolutely necessary, ask the contributor for a copy of the canceled check.

Backup documentation for a **cash contribution** includes:

- ⊗ A copy of the completed contribution card signed by the contributor.

Compliance Alert

Remember, cash contributions over \$100 per contributor are prohibited. Not only will the excess amount not be matched with public funds, you must return it or face penalties.

Backup documentation for a **money order contribution** includes:

- ❖ A copy of actual money order (not just the receipt).
- ❖ A copy of the completed contribution card signed by the contributor.

Compliance Alert

Contribution cards must be completed and signed by the contributor **at the time the contribution is made.**

Reminder

Keep in mind that the date the contribution is received could be different from the date written on the check and/or contribution card. Report the date your campaign actually received the contribution. However, both dates should be within the same disclosure period.

Backup documentation for a **credit or debit card contribution** includes:

- ❖ Credit card authorization form with all but the last four digits of the account number redacted.
- ❖ Authorization slip or approval codes report showing that the transaction was approved and processed properly.
- ❖ Proof of real-time address verification.
- ❖ Record of electronic transfer of funds from credit card company to your campaign's bank account.

Referencing backup documentation

Because the CFB receives thousands of pieces of backup documentation throughout the election cycle, your campaign must organize backup documentation by writing the statement number and C-SMART-generated transaction ID number on it. Every transaction entered into C-SMART gets a unique transaction ID number as soon as the entry is saved. That number should be written on the photocopy of the contribution.

The following illustrates what C-SMART will look like as you enter a monetary contribution into the software:

In the upper right-hand corner of the screen are the transaction ID number and statement number assigned to this particular transaction. The transaction ID number is assigned when you save the entry and the statement number is assigned when the transaction is submitted to the CFB as part of the disclosure statement (C-SMART also has a calendar on the main screen which highlights the current statement number). Referencing this screen, write the statement number and transaction ID number on your backup documentation.

Let's say you have received several check contributions and copied them together. Next to each check, write the statement and transaction ID numbers (see illustration).

For contribution cards, write the statement and transaction ID number in the area "for committee use only" (see illustration).

For Committee Use Only Statement #: <u>6</u> Transaction ID: <u>391</u>
Contribution Card <u>Paine 2009</u> <small>(Committee Name)</small>
<input checked="" type="checkbox"/> Cash <input type="checkbox"/> Money Order <input type="checkbox"/> Check in the amount of \$ <u>25.00</u>
Name <u>Gloria Jones</u>
Home Address <u>245 W 72nd Street</u>
City/State/Zip <u>New York, NY 10023</u>
To comply with Campaign Finance Board reporting requirements, please give the following information:
Employer <u>Morgan Stanley</u>
Occupation <u>Accountant</u>
Business Address <u>1585 Broadway</u>
City/State/Zip <u>New York, NY 10036</u>
I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan.
<div style="display: flex; justify-content: space-between; width: 100%;"> Contributor's Signature 8/21/08 Date of Contribution </div>

Valerie Russell 124
37 Duane Street
New York, NY 10007

DATE July 30, 2008

Pay to the order of: Paine 2009 \$ 175.00
One Hundred and Seventy five Dollars and xx/100 DOLLARS

MEMO _____ Valerie Russell

|:005367894|: 18695678

6 | 371

Juan Solis 504
82-56 Roosevelt Avenue
Jackson Heights, NY 11372


DATE August 2, 2008

Pay to the order of: Paine 2009 \$ 50.00
Fifty Dollars and xx/100 DOLLARS

MEMO Good Luck Juan Solis

|:651067894|: 12473578

6 | 375

 Amanda Lee 232
71-01 Main Street
Flushing, NY 11367

DATE August 7, 2008

Pay to the order of: Paine 2009 \$ 1000.00
One Thousand Dollars and xx/100 DOLLARS

MEMO _____ Amanda Lee

|:63897894|: 39473578

6 | 377

Kate Adams 164
2 Rector Street
New York, NY 10006

DATE August 11, 2008

Pay to the order of: Paine 2009 \$ 250.00
Two Hundred and Fifty Dollars and xx/100 DOLLARS

MEMO _____ Kate Adams

|:095367894|: 13855678

6 | 380

Compliance Alert

You must provide backup documentation to the CFB ordered by transaction ID number in **ascending** order (transaction ID #1, #2, #3, etc.) Note that transaction ID numbers for your backup documentation may skip in sequence. Do not worry; this is okay. It is a result of C-SMART generating transaction IDs for every action that saves any information.

Cross-referencing your backup documentation helps the CFB’s auditors efficiently review the documentation.

With each disclosure statement, you must also submit:

- ⊗ Detailed loan agreements and copies of the loan checks, if your campaign took out a loan during the reporting period.
- ⊗ A cover letter listing fundraising agents, if your campaign hired any during the reporting period.

Compliance Alert

You must submit your backup documentation to the CFB by 5 p.m. on the due date or it must be **postmarked** (not just placed in the mailbox) by midnight on the due date. Disclosure statements without backup documentation will be rejected and any matching claims for that statement period will be invalidated.

Remember:

- ⊗ Your campaign must report all matching claims in the disclosure statement period in which the contribution was received; otherwise, those contributions will not be eligible for public matching funds.
- ⊗ For your campaign to be eligible for a public funds payment **within four business days**, Disclosure Statements 10 – 14 **and** your corresponding backup documentation must be in the CFB’s offices by close of business on the due date. Otherwise, the CFB cannot guarantee review of your statement in time for the four-day turnaround.

Disclosure Statement Rejection Policy

The CFB will reject disclosure statements for the following reasons:

- 1) Failure to submit backup documentation or failure to provide it organized by transaction ID number (ascending order, please!)
- 2) Using an outdated version of C-SMART.
- 3) Submitting a draft version of the statement.
- 4) Signature is not original.
- 5) Illegibility (poor print quality).
- 6) Missing cover page and signature page (for disk submissions).

- 7) Missing submission disk.
- 8) Blank, corrupted, or unreadable files on submission disk.
- 9) Submission disk that contains the backup database instead of the disclosure statement.

The Candidate Services Unit reviews each disclosure statement to make sure it does not fall into any of these categories. If you file using IDS, however, you won't have to worry about most of these errors. Online filers just need to make sure they get the backup documentation to the CFB on time and properly organized.

II. FILING PERIODIC DISCLOSURE STATEMENTS WITH THE STATE AND CITY BOE

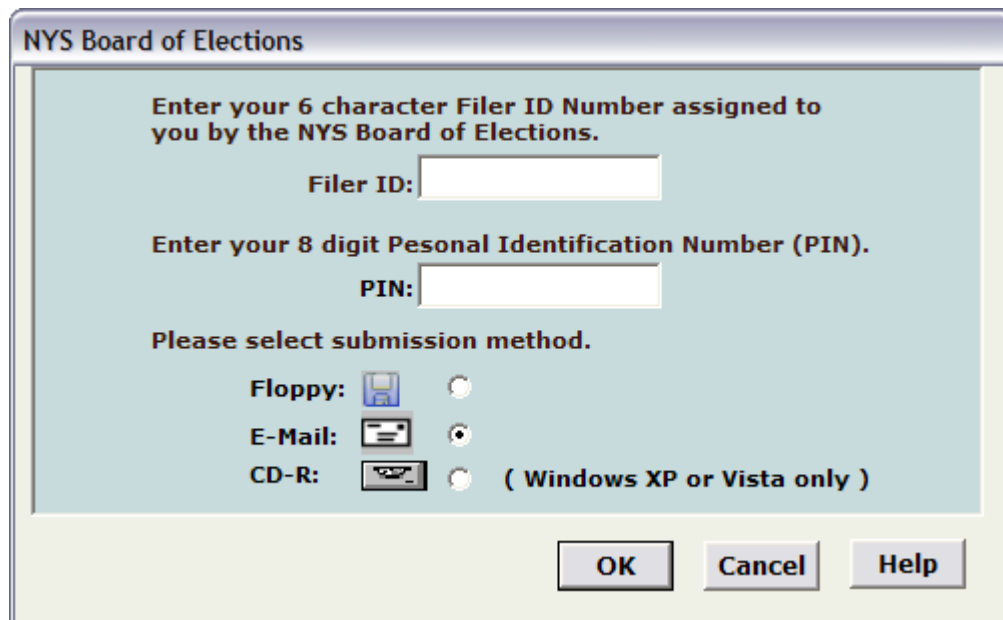
C-SMART also enables you to file required disclosure statements with the State and City BOE.

Filing with the New York State BOE

You will need a New York State BOE-issued Filer ID and PIN to submit your disclosure statement(s) to the New York State BOE. Contact the New York State BOE at (800) 458-3453 to get your user ID and password in advance of filing your first disclosure statement. **The New York State BOE only accepts submissions by disk, CD, or e-mail.**

Filing the New York State BOE Disclosure Statement Via E-mail

- 1) Begin the submission process in C-SMART (either through IDS or disk).
- 2) You will be asked to submit a statement to the New York State BOE. Click "Yes".
- 3) Enter the BOE-issued Filer ID and PIN number in this screen:



The screenshot shows a dialog box titled "NYS Board of Elections". The text inside the dialog box reads: "Enter your 6 character Filer ID Number assigned to you by the NYS Board of Elections." followed by a text input field labeled "Filer ID:". Below that, it says "Enter your 8 digit Personal Identification Number (PIN)." followed by a text input field labeled "PIN:". Then, it says "Please select submission method." and lists three options: "Floppy:" with a floppy disk icon and a radio button, "E-Mail:" with an envelope icon and a radio button (which is selected), and "CD-R:" with a CD-R icon and a radio button. To the right of the CD-R option, it says "(Windows XP or Vista only)". At the bottom of the dialog box, there are three buttons: "OK", "Cancel", and "Help".

- 4) When asked how you would like to submit the statement, select e-mail and click “OK” to complete the submission.
- 5) Once the submission is complete, C-SMART will display a screen with instructions on where to find the file on your C: drive (these instructions also list the e-mail address to which you will send the file):



- 6) Go to your C: drive and find the folder named “NYC-CFB” and click on it.
- 7) Next, click on the “C-SMART” folder.
- 8) Locate the folder titled “boedata” and within it, click on the folder titled “boe2009x”. There will be several files in that folder, all of which look the same. The C-SMART generated NYS BOE submission record will tell you the correct file name. (If you have trouble, sort the files by “Date Created” to find the most recent file.)
- 9) Upon finding the correct file, use your personal e-mail program to create a new e-mail and attach this file, then send to: efsfiling@elections.state.ny.us.

Compliance Alert

The New York State Board of Elections cannot take submissions from users with a Hotmail or MSN e-mail address.

Filing the New York State BOE Disclosure Statement Via First Class Mail

- 1) Follow steps 1 – 3 as listed above.
- 2) When asked how to submit your statement, select either “floppy disk” or “CD”.
- 3) Mail the floppy disk or CD to:

New York State Board of Elections
 Attn: Campaign Finance
 40 Steuben Street
 Albany, NY 12207-2108

Filing with the New York City BOE

The New York City BOE only accepts paper filings. C-SMART automatically prints the New York City BOE's disclosure statement as part of the disclosure statement submission process. Don't be confused by the fact that the document you must send to the New York City BOE says **State of New York** at the top. Complete the statement as indicated, sign it, and either mail or hand-deliver to the New York City BOE at:

New York City Board of Elections
Attn: Candidate Records Unit
32 Broadway, 7th Floor
New York, NY 10004

You must also include copies of all advertisements, pamphlets, circulars, flyers, brochures, letterheads, and other printed matter, and a schedule of all radio or TV time and scripts used therein, to the New York City BOE.

Reminder

The New York City BOE does not have an option for electronic submission. You must mail or hand deliver your statement to the New York City BOE.

III. EXCEPTIONS TO FILING PERIODIC DISCLOSURE STATEMENTS

There are exceptions and alternatives to filing periodic disclosure statements.

Candidates Not on the Primary Election Ballot

If you are **not** on the ballot for the primary election, you are **not** required to file the following disclosure statements:

- ❖ Statement #10, due August 14, 2009
- ❖ Statement #11, due September 4, 2009
- ❖ Daily pre-election disclosure statements (due September 1 – 15, 2009)
- ❖ Statement #12, due September 25, 2009

However, if you wish to receive public funds for the general election on the earliest possible payment date, you must file Statement #12 timely, even if you are not on the primary election ballot.

Candidates Not on the General Election Ballot

If you are **not** on the ballot for the general election, you are **not** required to file the following disclosure statements:

- ❖ Statement #13, due October 2, 2009
- ❖ Statement #14, due October 23, 2009
- ❖ Daily pre-election disclosure statements (due October 20 – November 3, 2009)
- ❖ Statement #15, due November 30, 2009

Daily Pre-Election Disclosure

During the two weeks before the primary and general elections, campaigns must disclose all contributions and loans over \$1,000 and expenditures over \$20,000 by using a Daily Pre-Election Disclosure Statement **within 24 hours** of the transaction taking place.

You can submit daily Pre-Election Disclosure Statements through IDS or fax them to the CFB, provided the faxed statement is signed by the candidate or treasurer. **This is the only instance when the CFB will accept faxed disclosure statements.** Daily Pre-Election Disclosure Statements can also be mailed to the CFB; however, the statement must be received by the CFB within 24 hours of the transaction taking place.

Compliance Alert

Transactions reported in a Daily Pre-Election Disclosure Statement must also be reported in the next regular disclosure statement.

Deferred Filing

During certain disclosure periods, your campaign is not required to file an itemized disclosure statement if it has not accepted \$2,000 or more in contributions and loans since the last disclosure statement, and has not spent more than 45% of the office's expenditure limit to date. However, **all** campaigns must file the semi-annual disclosure statements due every January and July 15th.

Reminder

Contributions received during the deferred statement reporting period will not be matched with public funds.

Compliance Alert

Disclosure Statements #1–6, 9, and 16 cannot be deferred.

Filing as a Small Campaign

If your campaign has **not** raised or spent a certain amount of money for the entire election cycle by the time the disclosure statement is due, you may file a small campaign disclosure statement. Those amounts are as follows:

- ⊗ \$14,850 for public advocate, comptroller, or mayor campaigns.
- ⊗ \$11,550 for borough president campaigns.
- ⊗ \$8,250 for City Council campaigns.

Reminder

Contributions received during a period for which your campaign files a small campaign disclosure statement cannot be matched with public funds. Therefore, if your campaign is eligible to file as a small campaign (but you believe you could eventually meet the threshold for public funds), you should file a regular disclosure statement so that the contributions collected in that reporting period may be eligible for matching funds.

Compliance Alert

Even if your campaign never raises or spends more than the small campaign caps, your last disclosure statement must be a complete, itemized disclosure statement of your campaign's financial activity for the entire election cycle.

If your campaign exceeds the maximum contribution or expenditure amounts for small campaign status during a disclosure period, you must file a regular itemized disclosure statement at the end of the next reporting period.

The small campaign disclosure statement form can be found in the Appendix or downloaded from the CFB's website.

Terminated Candidacy

If you have terminated your candidacy or have had your candidacy terminated by the CFB, you are not obligated to file disclosure statements. You are, however, required to follow all other requirements. See Chapter I for information on terminated candidacies.

IV. EASING THE REPORTING PROCESS

- ❖ Occasionally the CFB will update C-SMART, so you must make sure you are running the latest version of the software. CSU will notify you when a new version of C-SMART is released and will include the release date, version number, and build number in that notification. As an added precaution, you should verify you are using the most current version by going to the Help menu and clicking on "About C-SMART".
- ❖ Make sure your campaign's bank account number in C-SMART matches the bank account number disclosed on your FR or Certification. Similarly, if your campaign has more than one bank account (e.g., a money market or savings account), you must make sure those accounts are disclosed on the FR and added to C-SMART.
- ❖ If possible, the candidate or treasurer should personally deliver the backup documentation, *especially* if the campaign is filing a disclosure statement for the first time or for four-day payments.
- ❖ If you are mailing the disclosure statement and/or backup documentation, get a **dated receipt** from the Post Office or delivery service.

- ❖ As the primary election and general election approach, there will be public funds disbursements for eligible campaigns within four business days of submitting certain disclosure statements. The CFB cannot guarantee payment within the four-day period to campaigns that do not get their disclosure statements and backup documentation to the CFB before 5 p.m. on the due date.

V. RUNNING AS A NON-PARTICIPANT

If you are running as a non-participant, you are not required to submit backup documentation with your disclosure statements.

VI. WHERE TO FIND IT

Further explanation of the information presented in this chapter can be found through referencing the following:

- ❖ Definitions: *CFB Rules, Chapter 1, rule 1-02*
- ❖ Campaign Finance Disclosure Statements: *CFB Rules, Chapter 3*
- ❖ Submitting documents to the CFB: *CFB Rules, Chapter 1, rule 1-09(a)(3)*
- ❖ Campaign Finance Rules: *CFB Rules, Chapter 9, rules 9-01, 9-02, 9-03*
- ❖ Eligibility and disclosure: *Campaign Finance Act §3-703 (6)(a)(b)*

In this chapter:

- I. Anatomy of a Statement Review
- II. Running as a Non-Participant
- II. Where to Find It

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Statement Reviews

As soon as the CFB receives a disclosure statement from a campaign, the audit process officially begins in earnest with the statement review. Once the statement review is finished, campaigns receive a letter and reports from the CFB explaining the statement review's findings, including an Invalid Matching Claims Report listing matching claims that were not accepted by the CFB. Campaigns then have a chance to respond to those findings and correct them before the next disclosure deadline.

I. ANATOMY OF A STATEMENT REVIEW

During the statement review, auditors look for instances of failure to comply with the Act and Rules, any of which can prevent the issuance of public funds. You will receive a detailed report in the statement review explaining the violation and what you can do to rectify it. The most common reports are detailed below.

If you disagree with an audit report finding, you should write your explanation directly on the report, and you must include documentation to support your claim (see the individual report descriptions for more information on supporting documentation).

Prohibited Contributions Report

You are prohibited from accepting contributions from corporations, LLCs, LLPs, partnerships and unregistered political committees. If you have accepted a prohibited contribution, you must refund the prohibited contribution using a bank or certified check only. A copy of this check must be submitted to the CFB, and you must enter the refund into C-SMART.

If you are unable to return the contribution to the contributor, e.g., because the contributor has moved without providing a forwarding address you may pay to the Public Fund an amount equal to the prohibited contribution. The payment to the Public Fund must include a cover letter explaining your efforts to return the prohibited contribution before paying the Fund to resolve the violation.

Aggregate Contributions Over-the-Limit Report

You cannot accept contributions exceeding the limit for your particular office. If you are found in violation of this requirement, you will receive a report listing all of the contributions in question. To fix

this, you must refund the amount that exceeds the contribution limit with a certified or bank check and provide a copy of it to the CFB. You must also enter this refund into C-SMART.

If you are unable to return the contribution to the contributor, you may pay to the Public Fund an amount equal to the prohibited contribution. The payment to the Public Fund must include a cover letter explaining your efforts to return the prohibited contribution.

If you believe the finding is in error, write the explanation directly on the report and return it to the CFB, including any documentation to support your explanation.

Expenditures Over-the-Limit Report

This report will be sent to you if the CFB has reason to believe you have violated the expenditure limit. The report will detail the amount by which you appear to have exceeded the expenditure limit based on your reporting. If you believe this finding is in error, you must provide an explanation and documentation to the CFB in support of your explanation, including any documentation for exempt expenditure claims.

Suspected Intermediaries Report

This report will be sent to you if patterns in contributions suggest that you may not have reported an intermediary. If the contributions listed on the report were, in fact, intermediated, you must list the contributions as being intermediated in C-SMART, submit an amendment to the CFB reflecting this change, and request an intermediary statement from the intermediary. If you did not receive the listed contributions through an intermediated source, you must write your response on the report explaining the circumstances surrounding the receipt of the contributions.

Missing Employment Information Report

The missing employment information report will list any contributions greater than \$99 for which employment information is incomplete or entirely missing. You must obtain missing employer information. A disclosure statement grossly deficient in providing employment information will prevent you from receiving public funds. After obtaining the employment information from the contributors, you must enter this information into C-SMART and submit an amendment to the CFB.

Invalid Matching Claims

Auditors evaluate whether the contributions you claimed for match are “valid” and therefore eligible to be matched with public funds. If not, the auditor assigns an invalid code to the contribution that signifies **why** it is not eligible to be matched. The Audit Unit then sends an **Invalid Matching Claims Report** (IMC Report) to your campaign that lists each invalidated matching claim for that disclosure statement and the invalid code(s) that apply to it.

Matching claims can be invalidated for a variety of reasons — sometimes for more than one reason, in which case you will see several IMC codes on the IMC report for that particular transaction. Sometimes the problem is that the contribution was not accurately reported or you did not provide sufficient backup documentation (e.g., the information on the contribution card does not match the information in your disclosure statement or you did not submit a contribution card for this contribution). In many instances, you can correct the problem(s) so the contribution **will** become eligible for match. In the list of IMC codes, you will find both an explanation of the code and information explaining how to correct or dispute the invalidation.

Reminder

Some invalid matching claims cannot be corrected because the contribution simply does not meet the legal requirements to be eligible for matching funds—for example, a contribution made by an individual who lives in Connecticut will never be matchable because only contributions from New York City residents are eligible for matching funds.

In many cases, you will need to make changes in C-SMART and submit an amendment to your disclosure statement (as well as taking other steps, as outlined for each IMC code) in order to correct an invalidated matching claim. After all the changes have been made, run the “Modified Statement Report”, which will tell you which statements require amendments. Submit the amendments to the CFB with your entire response (explanations, documentation, etc.).

In cases where you are required to refund all or part of a contribution, enter the refund in C-SMART for the related transaction. You do not need to submit an amendment; refunds will appear in your next disclosure statement.

If you wish to withdraw the matching claim for a transaction, change the Match Amount field for that transaction in C-SMART to zero (\$0), and indicate that you are withdrawing the claim on the IMC Report.

Call your CSU liaison with any questions about your IMC Report, IMC codes, and for instructions on submitting amendments in C-SMART.

Reminder

If compliance problems are found in your disclosure statement before a scheduled public funds payment date, the CFB cannot guarantee payment within the four-day turnaround.

Invalid Matching Claims (IMC) Codes

There are two sets of IMC codes. The first set of codes, beginning with “01”, are computer-generated. You will notice these codes are not sequentially numbered; this is because C-SMART 9 will not permit you to make many of the errors that used to result matching claims being invalidated, so many of the codes are no longer used by the CFB. The second set of codes all begin with an “M”. These codes are assigned manually by the auditor reviewing your statement, and are usually based upon review of the backup documentation you submitted.

01: Total Cash Contribution is Greater than \$100

Under New York State law, your campaign is prohibited from accepting a cash contribution over \$100 from any contributor. Respond by refunding the over-the-limit portion of the cash contribution with a bank or certified check, providing the CFB with a copy of the certified or bank check used to issue the refund, and entering the refund into C-SMART (see Example 6.1).

Example 6.1

Paine 2009 accepted a \$150 cash contribution from an individual New York City resident during a fundraiser, and claimed it for matching funds. During the statement review, the Audit Unit assigned a 01 code to this contribution because the campaign took a cash contribution exceeding \$100.

After receiving the IMC Report from the Audit Unit, Paine 2009 used a certified check to refund \$50 to the contributor, provided the CFB with a copy of the check as proof of the refund, and entered the refund into C-SMART.

04: Total Gross Contribution Exceeds the Applicable Limit

This means the contribution exceeds the contribution limit. Over-the-limit contributions will be invalidated. Respond to this code by refunding the over-the-limit portion of the contribution with a certified or bank check, entering the refund in C-SMART, and providing the CFB with a copy of the certified or bank check used to issue the refund.

06/07: Contributor's Last/First Name Not Reported

The contributor's full name must be reported for any contribution claimed for matching funds. The 06 code will be assigned if the contributor's last name is not reported and the 07 code will be assigned if the first name is not reported. To fix this, correct the contributor's name in C-SMART's Name Maintenance screen and submit an amendment.

08: Incomplete Address Reported (Excluding Missing Zip Code)

You must report the contributor's full address for any contribution you claim for matching funds. The 08 code indicates that at least one of the address fields has been left blank in C-SMART. This code is not assigned if only the zip code field is blank. To fix this, correct the address fields in C-SMART's Name Maintenance screen and submit an amendment.

Reminder

To avoid invalidated matching claims, make sure the contributor's name, address, and employment information are entered correctly and fully in C-SMART in the Name Maintenance screen.

11: Contribution Received after December 31st of the Election Year

Contributions claimed for matching funds for the 2009 election cycle must be received **before** December 31, 2009. Contributions received after that date will not be matched. If the "Date Received" was entered incorrectly, correct it in C-SMART and submit an amendment.

14: Contribution Received Outside Normal Reporting Period

Contributions and matching claims are to be reported in the next disclosure statement. The 14 code is assigned when a contribution is not reported in its appropriate disclosure period. If this code appears on a contribution, verify the date on which the contribution is reported. If the date has been reported incor-

rectly, correct the “date received” field in C-SMART and submit an amendment. If the date reported was correct, explain on the IMC Report why the transaction was not reported during the appropriate reporting period.

Sometimes this code is used when, in the course of correcting an invalid claim, you delete a transaction and then add a new, replacement transaction. Whenever possible, you should modify transactions instead of deleting and re-entering them. If a deletion is absolutely necessary, you should show that the new transaction was originally reported in the correct reporting period by providing documentation and the original transaction ID.

16: Contribution Missing Required Employment Information

Employment information is required for contributions from a single contributor totaling \$100 or more. Campaigns must ask the contributor for employment information and report it in C-SMART (C-SMART will also warn you if a contribution requires employment information). You may enter “unemployed”, “retired”, “student”, or “homemaker” in the occupation field and leave the other employment fields blank if the contributor falls into one of those categories (but make sure those exact terms are used, or the contribution will continue to be invalidated because the CFB’s system may not recognize variations). If this was an error, correct it in C-SMART and submit an amendment.

18: Contributor Has a Non-Residential Address

The CFB will classify an address as either residential or non-residential using a zoning database regularly updated and maintained by the city. If a contribution is assigned this code, review the reported address to confirm that it is correct. A typographical error can cause an address to appear as non-residential; if this is the case, correct the error in C-SMART and submit an amendment. If not, contact the contributor to confirm the address (sometimes contributors give campaigns work addresses instead of their home addresses). If possible, obtain written evidence that the address is residential. This could be a listing from the White Pages, a real estate advertisement for the building, or a signed letter from the contributor. You must submit an amendment to correct this problem.

19: Money Order Matchable Amount Exceeds \$100

Money order contributions from a single individual exceeding \$100 are not eligible to be matched with public funds. To correct this, change the matching amount to \$100 in C-SMART and submit an amendment.

Reminder

Pay close attention when you are entering a contributor’s information into C-SMART. Misreporting a digit or mistyping a street name can cause a residence to be categorized as a commercial address and invalidate your matching claim.

M1: Contributor has a Non-Residential Address

This has the same meaning as a code 18 except that it is manually assigned by the CFB if it has information that indicates the reported address is non-residential, including misreporting that prevents the electronic match from properly taking place. Follow the same steps as described for code 18 to rectify an M1 violation.

M2: Contribution with Matchable Claim that was Refunded or Check Bounced

The CFB assigns this code if a campaign claims matching funds for a refunded contribution, a contribution in which the contributor's check bounced, or a contribution in which the contributor's credit card was declined. To correct this, withdraw the matching claim in C-SMART and submit an amendment.

M3: Contribution with Matchable Claim is Part of Surplus Funds from Candidate's Previous Election

This code is assigned to contributions originally received for a different election which have been transferred from another committee. Transferred contributions will not be matched with public funds. To correct this, withdraw the matching claim in C-SMART and submit an amendment. (You should contact CSU if you see this code as you may have other reporting that requires modification.)

M4: Contributor Not the Same as Payor as per Backup Documentation

This code is assigned when a check and/or contribution card appears to be from someone other than the reported contributor, or when a check is unsigned. If the check was signed by a business agent, you may need to provide a letter from the account holder validating the authorized signatory of the check and the details of the contribution. You may need to amend the transaction in C-SMART to report the correct contributor if the contributor's name was misreported, e.g., a husband is reported as the contributor but the wife signed the check, and submit an amendment.

M5: Not Accepted by the Board

The CFB staff will assign the M5 code to any contribution that is considered questionable. Often, this code will also be assigned to contributions that can never be matched because of a fundamental flaw not addressed by other invalid codes.

M6: Backup Documentation Not Supplied for the Matching Claim

All contributions claimed for match must be accompanied by the appropriate backup documentation. This code is assigned when no documentation has been submitted for the reported matching claim. The only way to rectify this invalid code is by submitting the missing documentation properly labeled with the statement number and C-SMART transaction ID number.

M7: Contribution Amount is Different from Amount on Backup Documentation

The M7 code is assigned when the amount of the contribution reported in your disclosure statement does not match the amount written on the contribution card (for a cash, money order, or credit card contribution), or the dollar amount is unclear or not written on the contribution card. To correct this, the campaign must get a signed statement from the contributor affirming the amount he/she gave to the campaign, or if the amount was entered incorrectly in C-SMART, correct it in C-SMART and submit an amendment.

M8: Contribution Not Payable to Principal Committee

This code is assigned when a contribution, most likely a check or money order, was not made payable to the candidate's committee, for example, when a check or money order was made payable to the candidate rather than his/her committee. Other instances in which the M8 code can be assigned include:

- ❖ The CFB determines that a contribution claimed for matching funds was not intended for the committee or it cannot discern the intent of the contribution.
- ❖ The committee's name is not written on the contribution card, or written incorrectly.
- ❖ The "Pay to the Order of" section of a check or money order is left blank, made payable to cash, made payable to the candidate in a professional capacity, or filled in by the campaign staff.

If the candidate's committee name is not written on the contribution card, or if a contributor wrote another committee name or the candidate's name as the payee on a check or money order contribution, obtain a signed statement from the contributor confirming that the contribution was intended to go to the committee, and submit it to the CFB.

M9: Contributor Card is Not Properly Signed

The M9 code is assigned when a contribution card is submitted to the CFB without the contributor's signature. To fix this, obtain a new, signed contribution card with the correct information from the contributor, and submit it to the CFB with the IMC Report.

M10: Contribution Violates Other Laws

Contributions violating federal, state, and/or local election laws cannot be claimed for matching funds, and you will be required to refund the contribution altogether. You should immediately contact the Audit Unit if you receive this code.

M11: Aggregate Cash Contributions Greater than \$100

The M11 code is assigned when your campaign accepts cash contributions exceeding \$100 from a single contributor, which is a violation of state law (see Example 6.2). Refund the excess portion of the contribution immediately with a bank or certified check, submit a copy of that refund check to the CFB, and enter the refund into C-SMART.

Example 6.2

Grande for Council receives five \$25 cash contributions from a single contributor over the course of a reporting period. The campaign submits its disclosure statement to the CFB. During the statement review, the M11 code is assigned because the sum of the five contributions exceeds the \$100 aggregate cash contribution limit per contributor.

The campaign must refund the excess portion of the cash contribution, using a certified or bank check, enter the refund in C-SMART, and send a photocopy of the check used to issue the refund to the CFB. The refund will be reported on the campaign's next disclosure statement.

M12: Aggregate Matchable Amount Exceeds \$175

The total matching amount from any contributor cannot exceed \$175. To fix this, modify the matching amount in C-SMART so that it is at or below \$175, and submit an amendment.

M13: Aggregate Contribution Exceeds the Contribution Limit

This code is assigned to matching claims associated with a contribution or multiple contributions from a single source that exceeds the contribution limit (see Chapter II for a review of single source contributions). If you accepted contribution(s) from a single source that exceed the contribution limit, refund the excess portion using a certified or bank check, submit a copy of that refund check to the CFB, and enter the refund into C-SMART.

M15: Contribution Missing Required Employment Information

This is similar to invalid code 16. However, it may be applied to contributions less than \$100 that aggregate to \$100 or more per contributor. Follow the instructions in code 16 to correct it.

M16: Backup Documentation Incomplete: Copy of Money Order Not Supplied

For money order contributions, you must supply a copy of the money order with the contributor's name on it along with a completed contribution card. A money order receipt is **not** sufficient documentation. If you can obtain a copy of the actual money order, submit it to the CFB to correct this invalid code.

M17: Contributor is Not an Individual

Only contributions from *individual* New York City residents are eligible to be matched. The M17 code is applied when a contribution is reported as being from a non-incorporated entity or when a single transaction is reported as being from more than one contributor. If the contribution is not from an individual, withdraw the matching claim in C-SMART and submit an amendment. If the contributor information was reported incorrectly, correct it in C-SMART and submit an amendment (see Example 6.3).

Example 6.3

Grande for Council receives a \$500 contribution from Mary and Joe Smith in the form of a single check drawn on their joint bank account and signed by both of them. The campaign has entered this into C-SMART as a single contribution from both Mary and Joe Smith. During the statement review, the CFB determines that this matching claim is invalid and assigns it the M17 code on the IMC Report.

To fix this, the campaign modifies the original transaction, correcting it to be a \$250 contribution from Joe Smith, and creates a new transaction to report a \$250 contribution from Mary Smith, claiming a \$175 match for each contribution. The campaign then submits an amendment to its disclosure statement.

M18: Contributor has Non-New York City Address

Contributions from non-New York City residents are not eligible to be matched with public funds. If the contributor lives outside New York City, the matching claim must be withdrawn in C-SMART. If the address was entered incorrectly, you must correct it in C-SMART and submit an amendment.

M19: Incomplete Address or P.O. Box Reported

The M19 code is assigned when you do not report the contributor's full residential address for a contribution claimed for match (e.g., it is missing street/apartment number information or lists a post office box). Correct this by entering the full address (you may need to obtain this information from the contributor). If you find that your contributor is not a NYC resident, withdraw the matching claim. In either case, submit an amendment.

M20: Contribution Not Reported Complete and Timely

Contributions must be reported in the appropriate disclosure statement and claimed for match at the time of reporting. Make sure that the date the contribution received is reported accurately in C-SMART.

M21: Backup Documentation is Illegible

If the backup documentation is illegible, the CFB cannot determine whether it substantiates a matching claim. To correct this code, you must provide the CFB with legible backup documentation.

M22: Contributor is Not an Individual: Drawn on Business Account Per Backup Documentation

The M22 code is assigned when a check appears to be drawn from a business account (this includes sole proprietor businesses; see Chapter II for more information). To dispute this, you must obtain a letter from the contributor stating that this account is a personal account; contact CSU for more information on documenting this type of contribution. If this contribution is in fact drawn on sole proprietor's business account, you can keep the contribution but must withdraw the matching claim. If the check is in fact drawn from any other type of business account, the entire contribution is prohibited and you must refund it using a certified or bank check, provide a copy of that refund check to the CFB, and enter the refund into C-SMART.

M23: Contributor is Not an Individual: Drawn on Corporate Account Per Backup Documentation

Campaigns are prohibited from accepting corporate contributions. The M23 code means the contribution is prohibited entirely, not just ineligible for matching funds. Immediately refund the contribution using a bank or certified check; submit a copy of that check to the CFB; enter the refund into C-SMART, and withdraw the claim for match; and submit an amendment.

M24: Contributor is Not an Individual: Drawn on Political Committee Account Per Backup Documentation

Contributions from political committees are not eligible to be matched with public matching funds. Withdraw the matching claim in C-SMART and submit an amendment.

M25: Backup Documentation Incomplete: Credit Card Approval Information Not Provided

The M25 code is assigned if you did not submit documentation verifying that credit card contributions claimed for matching funds have been approved successfully by the credit card processor. To fix this, supply the CFB with documentation verifying that the contribution was processed and deposited into the committee's bank account by the credit card vendor (review the backup documentation for credit cards in Chapter VI).

M26: Contributor's Full Name Not Reported

The M26 code is assigned when a contributor's full name is not correctly and entirely reported in C-SMART. To fix this, correct any partial reporting of names, use of initials, and significant misspellings in C-SMART and submit an amendment.

M27: Duplicate Matching Claim

The M27 code is assigned when a campaign has claimed matching funds for the same contribution more than once. (Occasionally, this error will occur if the campaign incorrectly restores its C-SMART database, resulting in duplicate transactions being submitted to the CFB.) If a contribution was reported twice in error, delete the duplicate transaction. However, if more than one duplicate transaction appears with an identical transaction ID, call the Candidate Services Unit for assistance.

M28: Contribution Reported with Incorrect Instrument Code

Campaigns are required to report the contribution type (check, cash, money order, credit card) for all contributions. The M28 code is assigned if the wrong contribution type is reported, or if the contribution type is not indicated or clearly marked on the contribution card. If you entered the contribution type incorrectly in C-SMART, you fix this problem by modifying the transaction in C-SMART and submitting an amendment. However, if the contribution type was not clearly indicated on the backup documentation, you must contact the Audit Unit for instructions to rectify this problem.

M29: Backup Documentation Incomplete: Contribution Card Missing or Not Completed Other than a Missing Signature

For most contribution types (see Chapter VI), you must submit a contribution card. The M29 code is assigned if any required information is missing from the contribution card (date, committee name, contributor's name and address). Contact the contributor to obtain a new contribution card and submit it to the CFB to correct this error.

M30: Aggregate Matchable Amount for Money Order Contributions Exceeds \$100

Only the first \$100 of money order contributions can be claimed for matching funds. The M30 code is assigned when an amount greater than \$100 was claimed as matchable for a money order contribution. To fix this, change the "Matching Amount" field in C-SMART to \$100 or less and submit an amendment.

M31: Contributor is Under Eighteen Years of Age

Contributions from individuals who are under eighteen are not eligible to be matched with public funds; the M31 code means the CFB has reason to believe that the contributor is a minor. To fix this, provide a signed statement from the contributor confirming his/her age and affirming that the contribution was made from his/her own funds.

M32: Contributor is a Vendor to the Campaign

Any contributor who is also paid by the campaign for services rendered cannot have his/her contribution matched (see Example 6.4). This includes consultants and one-time payees, but does not include regular (salaried) campaign employees. Withdraw the matching claim and submit an amendment.

Example 6.4

Grande for Council hires Paul Peters to work the day of the Primary Election. Paul also contributes \$10 to the campaign. Paul is an individual New York City resident and the campaign claims matching funds for the contribution. During the statement review, however, the Audit Unit invalidates the matching claim with an M32 code because Paul Peters worked for the campaign on the day of the Primary Election.

After receiving the IMC Report, Grande for Council withdraws the matching claim in C-SMART and submits an amendment to the CFB.

M33: Credit Card Transaction Not Properly Verified

The M33 code is assigned when a credit card contribution is not accompanied by documentation that shows it is in compliance with the CFB's requirement for a matchable credit card contribution. Contact the Audit Unit for assistance if you receive this code, as it may affect more than one matching claim.

M34: Incorrect Affirmation Statement on Contribution Card

An affirmation statement must appear on all contribution cards and credit card authorization forms. The affirmation as it appears in this handbook must be copied verbatim. The M34 code is assigned to all contributions in which the affirmation is omitted from the contribution card or if there are any deviations in the language of the affirmation.

M35: Contributor is a Lobbyist or Immediate Family of a Lobbyist

The M35 code is assigned to contributions from anyone who was required to be included on a lobbyist registration filed with the City Clerk. This includes lobbyists, their spouses, domestic partners, unemancipated children, and lobbying firm employees. This code will only be assigned to contributions received prior to February 2, 2008 (see codes M36 and M37 below). Unless you can prove that the contributor was not required to be included on a lobbyist registration, you should withdraw the matching claim and submit an amendment.

M36: Contributor is Doing Business with NYC

This code is assigned to contributors who were considered to be doing business with the City at the time of their contribution. The CFB matches contributors to data in the doing business database (DBDB) to make this finding. If your contributor believes he/she appears in the DBDB in error, he/she can apply for removal. If the contributor is in the DBDB in connection with any category of doing business except lobbying, he/she should contact the Doing Business Accountability Project of the Mayor's Office of Contract Services by calling (212) 788-8104 or by email at DoingBusiness@cityhall.nyc.gov. If the contributor is in the DBDB as a lobbyist and thinks that he/she should not be, he/she should contact the Office of the City Clerk at (212) 699-8171. Unless the contributor is found to be in the DBDB in error, you should withdraw the matching claim and submit an amendment.

M37: Contributor is Other Person on Lobbyist Registration

This code refers to contributors whose claims have been invalidated because they are required to be included on a lobbyist registration. This includes spouses, domestic partners, and unemancipated children of registered lobbyists, as well as lobbyist employees who are not lobbying. These contributors are not in the DBDB (and are not subject to the doing business contribution limits). Unless you can prove that the contributor was not required to be on a lobbyist registration, you should withdraw the matching claim and submit an amendment.

Doing Business Contributions Review

When you file a disclosure statement, the CFB also performs a separate review of your contributions to ensure compliance with the “doing business” law. If the CFB finds a contribution from an individual who is doing business with New York City that exceeds the applicable contribution limit, your campaign will be notified (usually by e-mail). You then must return the excess portion to the contributor by bank or certified check and provide documentation of the refund to the CFB.

Your campaign will also receive preliminary notification about matching claims you have made for contributions from those doing business with New York City. These invalid codes, which were described in the previous section on IMC codes, will also be included in the regular IMC reports you will receive as part of your disclosure statement review. When responding to an IMC report, if your campaign does not dispute that the contributor was doing business with the city at the time of the contribution, you should withdraw the claim by deleting the matching amount field in C-SMART and amending that disclosure statement.

The CFB has 20 days to notify campaigns of any findings that the doing business contribution limit has been exceeded. You then have 20 days to respond. In the six weeks preceding an election, the CFB has three business days to notify your campaign, but your campaign still has 20 days to respond.

Instructions on how to respond to the doing business notification will be included with the findings.

II. RUNNING AS A NON-PARTICIPANT

Candidates running as non-participants will not receive IMC Reports since they do not claim any contributions for public matching funds.

III. WHERE TO FIND IT

Further explanation regarding the information presented in this chapter can be found in the following:

- ✦ Campaign Finance Act: § 3-703(1)(b), § 3-703 (12)(b)
- ✦ Definitions: Campaign Finance Act, §3-702 (18-20); *CFB Rules, Chapter 1, rule 1-02*



Post-Election Audit

All campaigns will undergo a rigorous post-election audit to make sure each transaction was accurately reported and documented. If you received or expect to receive public funds, the audit will determine whether you have sufficiently documented qualified expenditures. The post-election audit has three stages, beginning with the request for documentation after the election.

In this chapter:

- I. Request for Documentation
- II. Draft Audit Report; Penalty and Repayment Notices
- III. Final Audit Report
- IV. Retiring Outstanding Liabilities in the Post-Election Period
- V. Running for Office in a Future Election Cycle
- VI. Where to Find It

Keeping your records organized throughout the election cycle will help make the audit process easier.

Compliance Alert

You must notify the CFB whenever the contact information for the campaign, the candidate, or the treasurer changes.

I. REQUEST FOR DOCUMENTATION

After the election, the CFB will send you a documentation request and you will have to respond by a certain deadline. The request will include whole categories, such as all bank records, as well as documentation for specific transactions. The records requested are necessary for the CFB to conduct the post-election audit, and may involve transactions from the beginning of the election cycle.

Compliance Alert

You have 30 days to respond to the document request. Failure to submit the requested documentation may result in a finding of violation.

II. DRAFT AUDIT REPORT; PENALTY AND REPAYMENT NOTICES

After reviewing your campaign's disclosure statements and documents, the CFB will issue a Draft Audit Report (DAR), which contains preliminary findings of non-compliance and asks for additional information, explanation, or documentation. The DAR also indicates whether you have to repay public funds or if you may be eligible to receive a post-election public funds payment. A copy of the DAR is mailed to the candidate and the treasurer, and you will have an opportunity to respond to the CFB's findings and present evidence demonstrating the measures you have taken to address the findings. Your campaign may also amend its disclosure statements when appropriate.

Help is available! CSU and the Audit Unit offer training seminars to help campaigns respond to the Draft Audit Report. Knowing how to properly respond to the Draft Audit Report can shorten the time it takes for you to receive your final audit. Check the CFB website after the election for training dates.

Remember, all findings in the DAR are preliminary, and occasionally a DAR will have findings that appear contradictory. This is because the Audit Unit needs additional information or documentation from your campaign before it is able to conclude the audit.

Compliance Alert

Your response to the DAR must be submitted to the CFB on or before the due date stated on the report. You can be fined up to 10% of the public funds your campaign received, or be required to repay the public funds you received, if you fail to respond to the DAR. If you need more time to respond to the document request or to the DAR, ask for an extension! However, asking for extensions will prolong your post-election audit process.

Penalty and Public Funds Repayment Notices

After you have had the opportunity to respond to your DAR, the CFB will send you: (1) a notice detailing any alleged violations and penalties recommended by the CFB staff; and (2) a notice detailing the staff's calculation of the amount of additional public funds you are eligible to receive or the amount of public funds you must return to the Board.

You then will have the opportunity to respond in writing to the notices and to appear before the Board or an independent hearing officer called an administrative law judge (ALJ). Board hearings are informal, while hearings before an ALJ are conducted in accordance with the City Administrative Procedure Act (CAPA) and are more formal. If you choose to have penalty and public funds matters heard by an ALJ, the ALJ will conduct a hearing and then issue written recommendations to the Board. The Board will then decide whether to accept the ALJ's recommendations and the Board's determination will become part of your Final Audit Report.

III. FINAL AUDIT REPORT

The Final Audit Report (FAR) is the official record of your campaign's compliance with the CFB. The report describes findings, violations, and penalties, and the amount of public funds the campaign received or must return to the Board. It is a public document that will be posted on the CFB's website.

Payment of any penalties must be made within 30 days of the issuance of the FAR. Both the candidate and the treasurer will be held jointly and severally liable for the payment of penalties and, in certain circumstances, any public funds repayments.

Reminder

If you decide to run for office in a future election, you will not be eligible to receive public funds for the new election until debts you owe to the CFB from any previous election(s) are satisfied.

The duration of your post-election audit will vary. The timeframe for completion of draft and final audits, counting from the due date of your final disclosure statement (January 15, 2010) is as follows:

Office	Deadline for Draft Audit Report	Did Campaign Attend Draft Audit Report Training?	Deadline for Final Audit Report
Mayor, Public Advocate, and Comptroller	10 months	Yes No	16 months 18 months
Borough President and City Council	8 months	Yes No	14 months 16 months

Keep in mind that extensions or delayed responses will make the deadline for completing the audit later. The deadlines do not apply to audits that raise issues involving potential fraud or very serious violations of the Act and Rules.

IV. RETIRING OUTSTANDING LIABILITIES IN THE POST-ELECTION PERIOD

You may still have outstanding campaign debt to vendors after the final audit is issued and public funds repayments are made. You may continue to raise money to pay off outstanding debt. However, you must continue to abide by all Program rules and requirements in effect during that election cycle, including contribution limits and prohibitions.

Contact the BOE regarding its reporting requirements. C-SMART will continue to produce these statements for you.

V. RUNNING FOR OFFICE IN A FUTURE ELECTION CYCLE

If you run for office in a future election cycle, you must create a new principal committee and open a new committee bank account before beginning financial activity for the new election cycle. Commingling funds from different election cycles, or funds from a personal bank account with campaign funds, is prohibited. Failure to follow these rules could adversely affect your new committee's public funds eligibility for the next election and result in financial penalties.

VI. WHERE TO FIND IT

Further explanation regarding the information presented in this chapter can be found in the following:

- ❖ Examinations and audits; repayments: *Campaign Finance Act §3-710*
- ❖ Findings of violation or infraction; adjudications; final determinations: *Campaign Finance Act §3-710.5*
- ❖ Audits: *CFB Rules, Chapter 4, rule 4-05*



Runoff Elections

When no candidate for citywide office receives more than 40% of the vote in the primary election, the two leading candidates will participate in a runoff election to determine their party's nominee for the general election. Campaigns are allowed to raise and spend money for a runoff election once they demonstrate to the CFB that a runoff election is "reasonably anticipated".

I. DEMONSTRATING THAT A RUNOFF IS "REASONABLY ANTICIPATED" AND OPENING A RUNOFF ELECTION BANK ACCOUNT

In order to demonstrate to the CFB that a runoff is "reasonably anticipated", you may submit evidence to the Board in writing, such as:

- ✦ Information about the number of candidates or potential candidates seeking the seat.
- ✦ Polling data.
- ✦ Press coverage.
- ✦ Financial activity of the candidates involved in the election.

Once the CFB declares that a runoff is reasonably anticipated, your campaign must open a new bank account specifically for the runoff election **before** you can begin raising and spending money. You should also keep in mind the following:

- ✦ Campaigns soliciting contributions before the runoff election is announced by the BOE must include in their fundraising materials an explanation that the contributions being solicited are for a runoff election that may not occur.
- ✦ Your campaign must stop accepting contributions for a runoff once it is no longer reasonable to anticipate a runoff election.
- ✦ You must include a copy of the most recent bank statement from the your runoff election bank account with each disclosure statement you submit to the CFB.
- ✦ You cannot make any disbursements from your runoff election bank account until after the primary election.

In this chapter:

- I. Demonstrating that a Runoff is "Reasonably Anticipated" and Opening a Runoff Election Bank Account
- II. Contribution Limits
- III. Expenditure Limits
- IV. Public Funds
- V. Transferring Money Between a Campaign's Primary/General Election Bank Account and a Runoff Account
- VI. Where to Find It

Compliance Alert

You cannot mix contributions accepted for the runoff with the funds in your committee's other bank account(s).

II. CONTRIBUTION LIMITS

The contribution limit for a runoff election is \$2,475, half (50%) of the normal contribution limit for citywide offices. You may accept the full \$2,475 for the runoff election from a contributor even if he/she has already contributed the maximum \$4,950 for the regular primary/general elections.

The Doing Business contribution limit is \$200, half (50%) of the normal Doing Business limit for citywide offices. You may accept the full \$200 for the runoff from a contributor even if he/she has already contributed the maximum \$400 for the regular primary/general election.

III. EXPENDITURE LIMITS

The expenditure limit for a runoff primary election is half (50%) of the regular expenditure limit for the applicable office for the primary election (see Table 8.1).

Table 8.1: Expenditure Limit for Runoff Election

Office	2009 Primary Expenditure Limit	2009 Runoff Expenditure Limit
Mayor	\$6,158,000	\$3,079,000
Public Advocate	\$3,850,000	\$1,925,000
Comptroller	\$3,850,000	\$1,925,000

Compliance Alert

As with the primary and general election, contributions and expenditures associated with runoffs must be disclosed to the CFB and documented by your campaign. Transactions for the runoff election can be entered into C-SMART (you must enter the bank account information and check the “Runoff” box on the transaction’s screen to associate the entry with the runoff election). Expenditures for runoffs must also fall under the definitions of campaign-related expenditures as outlined in Chapter IV.

IV. PUBLIC FUNDS

Campaigns in a runoff primary election will receive a lump sum payment equal to one-quarter (25%) of the amount of public funds they received for the regular primary election (see Example 8.1). The CFB will issue runoff payments within four business days after the preceding election, or as soon thereafter as practicable. Program rules for receiving public funds apply to payments distributed for a runoff election, and you are required to document your qualified expenditures for the runoff election.

Example 8.1:

Mayoral candidates Louis Morris and Oliver Brown will be in the runoff election. During the regular primary election, Morris received \$2,500,000 and Brown received \$2,000,000 in public funds.

For the runoff, candidates receive a lump-sum payment equal to 25% of the amount of public funds they received in the regular primary, so Morris will receive \$625,000 and Brown will receive \$500,000 in public funds.

V. TRANSFERRING MONEY BETWEEN A CAMPAIGN'S PRIMARY/GENERAL ELECTION BANK ACCOUNT AND A RUNOFF ACCOUNT

In general, contributions you accept for the runoff primary cannot be combined with contributions for the regular primary or any other election. However, there are some exceptions. You may transfer:

- ❖ Funds from your primary and/or general election account into a runoff bank account **after** the primary election has taken place so that you can spend the funds in the runoff primary.
- ❖ Funds from a runoff account into a primary/general election account **after** the runoff election is held provided you were involved in a runoff election. You may only spend these funds in the general election.

Reminder

Contributions you transfer from your campaign's primary/general election bank account into your runoff bank account will not be matched with public funds. In addition, the contributions transferred into a runoff bank account must follow the guidelines for transfers as explained in Chapter II.

If a runoff election does not take place, your runoff election account must not be used for primary or general election expenditures. Additionally, your runoff account will be frozen until your last disclosure statement is due (January 15, 2010), or until the day your committee pays its last liability from your last election, whichever comes first. Once the freeze is lifted, your committee will be allowed to spend the money (as long as your spending is in accordance with Program requirements and state law).

VI. WHERE TO FIND IT

Further explanation regarding the information presented in this chapter can be found in the following:

- ✦ Anticipated run-off primary elections: *CFB Rules, Chapter 1, rule 1-04 (q)*
- ✦ Runoff disbursements: *CFB Rules, Chapter 2, rule 6 (c)*
- ✦ Runoff election expenditure limit: *Campaign Finance Act §3-706 (b)*
- ✦ New York City Campaign Finance Fund: *Campaign Finance Act §3-709 (6)*
- ✦ Runoff election debates: *Campaign Finance Act §3-709.5 (1)(b)*



Voter Guide

The CFB produces the official New York City Voter Guide for each regularly scheduled primary and general election. The Guide provides equal space, free of charge, to all candidates on the ballot for the offices of mayor, comptroller, public advocate, borough president, and City Council member. Each edition also contains nonpartisan information about how and where to vote, how to register to vote, the dates of the primary and general elections, and information about any local or state proposals that are expected to appear on the ballot.

Each candidate for local office is encouraged to submit a profile, which includes biographical information, e-mail and website addresses for the campaign, answers to questions of interest to the voters, and a photo. You will receive a software application—the *Voter Guide Wizard*—which takes you step-by-step through each part of the profile, offering suggestions about what information to include, and helping you enter the correct information. The Wizard is part of the Voter Guide Candidate Submission Kit, which the CFB distributes in the spring before regularly scheduled municipal elections. The kit is also provided on the CFB's website.

Voter Guides are printed in English and Spanish and mailed to every household with a registered voter. Additionally, some districts receive Chinese and/or Korean-language Guides, consistent with the federal Voting Rights Act. The CFB provides boxes of Guides to civic groups, schools, and other organizations for further distribution. Voters receive their copy of the Guide about a week before the election. The CFB simultaneously publishes an interactive Voter Guide on its website.

The Voter Guide offers you an invaluable chance to reach potential voters before Election Day, at no cost to your campaign. Don't forget to submit a profile!

When

Your Voter Guide profile is due on June 10th of the election year (the same deadline as the Certification form for candidates joining the Campaign Finance Program). All candidates running on major party lines (Republican, Democratic, Independence, Conservative, or Working Families party) must submit their profiles by this deadline, **even if they do not expect a contested primary**. The CFB will determine whether your profile will be included in the primary election Guides based on petitioning information from the Board of Elections. (Note: candidates running as independents will have a later deadline.)

There is more information about the Voter Guide, including archived editions of the online Guide since 1998, on the CFB's website, www.nycfb.info.

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The Debate Law

Program participants for citywide office who appear on the ballot, who meet objective, nonpartisan, and non-discriminatory criteria are eligible to take part in at least one of two pre-election debates. Debates between competing candidates are an integral part of the electoral process. They are a vehicle through which voters learn about the candidates' positions on issues that matter to them. They are televised and held before the primary and general election.

The CFB will select one or more sponsors for each debate. Sponsors shall be responsible for choosing the date, time, and location of the debates. Sponsors are limited to organizations which are not affiliated with any political party or with any holder of or candidate for public office, which have not endorsed any candidate in the pending primary, general, or runoff election. The rules for conducting these debates will be largely determined by the sponsor in consultation with the CFB. Organizations interested in sponsoring a debate must submit applications to the CFB demonstrating their ability to reach broad audiences and their ability to run a fair and impartial debate. The CFB will also take into consideration feedback from interested persons regarding the qualifications of potential sponsors.

To be included in the first debate, you have to meet nonpartisan, objective, and non-discriminatory criteria set forth in an agreement with the CFB and debate sponsor, and you have to have raised **and** spent at least 20% of the public funds threshold for that office. Participation in the second debate will be limited to candidates who, as determined by the sponsor and the CFB, are leading contenders for election.

Compliance Alert

Only money you raised and spent in compliance with CFB rules and requirements will be used to determine whether you have raised and spent 20% of the threshold.

Eligible candidates who joined the Program but decline to participate in debates could be asked to return any public funds they have received.

For more information on the Debate Law, please contact the Press Unit at (212) 306-7145.

WHERE TO FIND IT

Further explanation regarding the information presented in this chapter can be found in the following:

- ✦ Mandatory debates: *Campaign Finance Act* §3-709.5

In this chapter:

- I. Registering a TIE
- II. TIE Donation Limits
- III. TIE Expenditures
- IV. Filing Deadlines
- V. Recordkeeping
- VI. Where to Find It

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Transition and Inauguration Entities

After winning their election, candidates often have expenses related to their transition into office and/or their inauguration. You cannot pay for these expenditures using the funds you raised for your election, nor can you use the bank account your committee opened for the election. Instead, you must register a Transition and Inauguration Entity (TIE) with the CFB and open a separate TIE bank account. This requirement applies to **all** elected candidates, whether or not you participated in the matching funds program.

Compliance Alert

All newly elected and re-elected officials who wish to raise and spend money for transition and/or inaugural expenses are required to register a TIE with the CFB and open a separate TIE bank account **before money can be raised or spent.**

I. REGISTERING A TIE

The TIE registration form includes information about the elected candidate, the TIE itself, the treasurer, and any other liaison legally designated to sign TIE disclosure statements or who otherwise has access to your TIE bank account. The form must be signed by the elected candidate and the treasurer or other designated officer, notarized, and sent to the CFB with **original** signatures.

Compliance Alert

Money from your campaign's bank accounts for the 2009 primary and general elections cannot be used for your TIE.

II. TIE DONATION LIMITS

Donations to your TIE are subject to the TIE contribution limits, which are different than those for the primary/general election cycle. The TIE donation limit for your office applies to both monetary and in-kind contributions (see Table 11.1).

Table 11.1: TIE Donation Limits

Office	Donation Limit
Mayor, Public Advocate, Comptroller	\$4,500
Borough President	\$3,500
City Council	\$2,500

You can self-finance your TIE, but then you **cannot** accept donations from any other contributor.

Reminder

Loans received for your TIE that you have not repaid by the date of the inauguration are considered donations subject to the donation limits. The rules for accepting donations from a single source for your TIE are the same as the rules on single-source contributions during the regular election cycle, as outlined in Chapter II.

Restricted Donations

Your TIE cannot accept donations:

- ✦ That exceed the limits in Table 11.1.
- ✦ After January 31, 2010 or once all outstanding debts relating to the TIE are paid.
- ✦ From corporations, LLCs, LLPs, or partnerships.
- ✦ From any person whose name appears on the doing business database unless such person is the candidate or a close relative of the candidate as defined in Chapter II.
- ✦ In cash over \$100 from a single contributor.
- ✦ Transferred from other committees authorized by the elected candidate.
- ✦ From unregistered political committees.

III. TIE EXPENDITURES

Money raised for your TIE may not be spent for any purpose other than for your transition and inauguration into office.

Examples of expenditures that help your transition into office include:

- ❖ Furniture
- ❖ Seminars
- ❖ Office rent
- ❖ Consulting fees
- ❖ Payroll
- ❖ Phone bills

Compliance Alert

If you are re-elected to the same office, you are presumed to have no transition expenses, and can only make expenditures for inaugural events.

Examples of expenditures for an inaugural event include:

- ❖ Catering
- ❖ Entertainment
- ❖ Payroll
- ❖ Invitations
- ❖ Printing
- ❖ Equipment rental
- ❖ Decorations
- ❖ Flowers
- ❖ Site rental
- ❖ Advertising
- ❖ Transportation
- ❖ Postage
- ❖ Photography

Your TIE must be closed once it has paid all outstanding liabilities to its vendors. Money left over in your TIE must be returned to the donor(s) or paid to the Public Fund.

You may not make disbursements from your TIE after January 31, 2010 except to pay liabilities you incurred prior to that date, and to pay routine and nominal overhead costs, bank fees, taxes, and other reasonable expenses for compliance with applicable tax laws.

IV. FILING DEADLINES

There are up to three filing deadlines for candidates to disclose TIE activity, as follows:

- 1) **January 7, 2010** to cover transactions from your TIE registration date through December 31, 2009.
- 2) **March 5, 2010** to cover transactions from January 1 through February 28, 2010.
- 3) A final report is due five business days after your TIE terminates its activities.

Reminder

Your final TIE disclosure report could be due *before* Report #2 (e.g., if your TIE terminated its activities on January 19, 2010, your final report would be due no later than January 26, 2010 and Report #2 would not be required).

Compliance Alert

You cannot generate or submit disclosure statements for your TIE using C-SMART. You must use special statements provided by the CFB on its website. These statements must be submitted to the CFB by 5 p.m. on the due date or postmarked by midnight on the due date.

V. RECORDKEEPING

The CFB will audit all candidates' TIEs. Thus, you must keep clear and accurate records of your TIEs' donations and expenditures. The records to be kept include the following:

- ✦ Copies of all deposit slips.
- ✦ Copies of all checks from donations.
- ✦ Records of all efforts made to obtain donor contact and employment information.
- ✦ Record of all efforts made to identify an intermediary.
- ✦ All receipts or other written records showing how the value of in-kind contributions were determined.
- ✦ All bills for goods or services provided.
- ✦ All documentation for each loan received, loan repayment, and loan forgiven.
- ✦ All monthly billing statements for any TIE credit card or charge card account.
- ✦ All bank statements.
- ✦ Copies of the front and back of all returned and canceled checks.
- ✦ Petty cash journal.

You must keep these records for **six years** from the date of your TIE's registration.

VI. WHERE TO FIND IT

Further explanation regarding the information presented in this chapter can be found in the following:

- ❖ Registering a TIE: *CFB Rules, Chapter 11, rule 11-02*
- ❖ TIE disclosure reports: *CFB Rules, Chapter 11, rule 11-03*
- ❖ Transfer Restrictions: *CFB Rules, Chapter 11, rule 11-04*
- ❖ Transition and inaugural donations and expenses: *Campaign Finance Act, §3-801*



Glossary

Advance — a campaign expense paid for by an individual on behalf of the campaign using his/her personal funds with an expectation of repayment (see Chapter III).

Advisory Opinion — a document issued by the Board to clarify the Campaign Finance Act and Rules, sometimes at the request of a campaign or other interested party.

Affiliated Contributor — a contributor who is subject to a single contribution limit, because it is controlled by the same person(s) or entity (see Chapter II).

Amendment — a modified disclosure statement submitted by a campaign to correct errors and/or omissions in the original statement. It is usually submitted in response to a statement review or Draft Audit Report (see Chapter VI).

Backup Documentation — paperwork for each matchable contribution claim submitted with each disclosure statement to support a claim's eligibility for public matching funds (see Chapter V).

Bonus Situation — the two-tiered system which provides additional public funds and higher spending limits to a Program participant who is opposed by a well-financed non-participant (see Chapter IV).

C-SMART (Candidate Software for Managing and Reporting Transactions) — the computer program used by candidates to report campaign finance transactions and submit disclosure statements to the CFB and the State and City BOEs (see Chapter I).

Campaign Finance Act (the Act) — the law that regulates how the Campaign Finance Board operates and how the Campaign Finance Program is run. The Act contains the regulations, limits, and prohibitions that apply to all candidates for mayor, public advocate, comptroller, borough president, and City Council member, as well as the regulations governing candidates who join the matching funds program.

Campaign Finance Program — the system established by the Act and administered by the CFB that allows eligible candidates running for New York City office to have contributions to their campaigns from individual New York City residents matched with public funds in return for agreeing to limit their spending (see Chapter I).

Campaign-Related Expenditure — an expenditure a campaign is permitted to make under the Act that helps further the candidate's nomination or election to office (see Chapter III).

Certification — the document used by a candidate to voluntarily join the Program (see Chapter I).

Citywide Office — a position in which candidates are selected by voters in all five boroughs.

Compliance Visit — an on-site visit by the CFB's Audit Unit typically scheduled before a public funds payment to review a campaign's compliance with the CFB's recordkeeping requirements (see Chapter IV).

Contemporaneously — at the same time.

Contribution — any gift, subscription, advance, or deposit of money or anything of value made in support of a candidate (see Chapter II).

Contribution Card — a document completed and signed by an individual contributor making a monetary contribution to a campaign to verify information about the contributor and the origin of the contribution (see Chapter II).

Contribution Limit — a cap on the amount of money a campaign can accept from a single contributor per election cycle (see Chapter II).

Debate Law — the section of the Act requiring Program participants running for a citywide office to engage in a series of public debates (see Chapter X).

Disclosure Statement — an itemized report prepared by the campaign of all financial transactions occurring during a reporting period (see Chapter V).

Doing Business Contributor Form — a form completed by contributors when their contributions exceed the doing business contribution limits to ascertain whether they have business dealings with the city (see Chapter II).

Doing Business Database — the computerized database containing the names of persons and entities engaged in business dealings with the city (see Chapter II).

Draft Audit Report — the report sent to the campaign after the election summarizing the findings of its audit, including potential findings of violation and potential public funds repayment obligations (see Chapter VII).

Election Cycle — the four-year period during which campaigns report their finances to the CFB.

Employer Identification Number (EIN) — a unique, nine-digit number assigned by the IRS to sole proprietors, corporations, partnerships, estates, and other entities for tax filing and reporting purposes. Campaigns must obtain an EIN for their committees to open a bank account (see Chapter I).

Exempt Expenditure — a narrow set of campaign spending that does not count toward the campaign's spending limit (see Chapter III).

Expenditure Limit (Spending Limit) — the cap on the amount of money a campaign can spend during an election cycle (see Chapter III).

Fair Market Value — the value of a good or service as available to the general public (see Chapter II).

Filer Registration (FR) — the form used by a campaign to register with the CFB to allow the campaign to submit disclosure statements (see Chapter I).

Final Audit Report — the final, public report sent to a campaign after the election summarizing its record of compliance with the requirements of the Act and Board's Rules (see Chapter VII).

Forgiven Loan — money borrowed by the campaign for which the lender does not require full or partial repayment (see Chapter II).

Fundraising Agent — a paid or volunteer full-time campaign staff or commercial fundraising firm retained by the campaign to accept contributions on behalf of the campaign (see Chapter II).

- In-Kind Contribution** — a good or service donated to a campaign free of charge or at a special discount not available to others (see Chapter II).
- Independent Expenditure** — spending on behalf of a candidate by an individual or entity with no connection to or dealings with the campaign (see Chapter III).
- Intermediary** — a person or entity who solicits and/or delivers contributions from another person or entity to a campaign where such solicitation is known to the candidate or his/her campaign (see Chapter II).
- Invalid Matching Claim (IMC)** — a claim for public matching funds that the CFB has found is ineligible to be matched for a particular reason (see Chapter VI).
- Invalid Matching Claims Report (IMC Report)** — a list of all matching claims found to be not matchable by the CFB and the reasons for those findings (see Chapter VI).
- Joint Expenditure** — a purchase of goods or service by two or more campaigns, such as a palm card advertising both a citywide and a City Council candidate (see Chapter III).
- Matchable Contribution** — a contribution from an individual New York City resident that is eligible to be matched with public funds (see Chapter IV).
- Matching Claim** — a monetary contribution that a campaign seeks to be matched with public funds (see Chapter IV).
- Matching Rate** — the formula at which contributions from individual New York City residents will be matched with public funds (see Chapter IV).
- Maximum Public Funds** — the most money that a campaign can receive in public funds per election (see Chapter IV).
- Monetary Contribution** — a donation of money to a campaign in the form of cash, money order, credit card, or check (see Chapter II).
- Non-Campaign Related Expenditure** — An expenditure that is not permitted to be paid for using campaign funds, including anything for personal use which is unrelated to the campaign (see Chapter III).
- Non-Participant** — a candidate that does not participate in the Campaign Finance Program (see Chapter I).
- Non-Qualified Expenditure** — an expenditure that, while campaign-related, cannot be paid for with public funds (see Chapter IV).
- Outstanding Liability** — a bill that has not been paid by the time the reporting period ends and the disclosure statement is submitted (see Chapter III).
- Participant** — a candidate who files a Certification to voluntarily join the Campaign Finance Program (see Chapter I).
- Petty Cash** — cash fund which may be used to make small cash purchases not exceeding \$100 per transaction (see Chapter III).
- Public Matching Funds (public funds)** — taxpayer money used to match eligible contributions that is calculated by multiplying a campaign's valid matching claims by the matching rate (see Chapter IV).
- Qualified Expenditure** — a campaign-related expenditure made in the election year that can be paid for with public funds (see Chapter IV).
- Reporting Period** — the date range that is covered by a particular disclosure statement (see Chapter V).

Runoff Election — an election held to determine a party's nominee if no candidate running for a citywide office receives more than 40% of the vote in the primary election (see Chapter VIII).

Subcontracted Expenditure — a payment made by a primary vendor to a secondary vendor to complete the work originally contracted between the primary vendor and the campaign (see Chapter III).

Threshold — the two-part criteria demonstrating a minimal level of support that a participant must meet to be eligible to receive public funds (see Chapter IV).

Transaction ID — the unique identification number generated and automatically assigned by C-SMART to each entry (see Chapter V).

Transfer — any exchange of funds or any other thing of value between political committees (see Chapter II).

Transition and Inauguration Entity (TIE) — an entity created by an elected candidate to raise and/or spend money on his/her transition into office and/or inaugural event (see Chapter XI).

Unspent Campaign Funds — Public funds left over after an election that must be repaid to the Public Fund (see Chapter IV).

Voter Guide — a publication distributed by the CFB before the primary and general elections to provide voters with information about municipal candidates, local ballot proposals, and assistance with voting (see Chapter IX).

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Appendix

- ☞ Advance Repayment Voucher (pocket)
- ☞ How to Submit Your Backup Documentation
- ☞ Candidate Non-Expenditure Statement (Form CF-16) (pocket)
- ☞ Change of Address Request Form (pocket)
- ☞ Change of Bank Account Request Form (pocket)
- ☞ Contribution Card with Credit Card Information (pocket)
- ☞ Committee Designation of Treasurer and Depository (Form CF-02) (pocket)
- ☞ Committee Statement of Authorization or Non-Authorization (Form CF-03) (pocket)
- ☞ Contribution Card (pocket)
- ☞ Credit Card Authorization Form (pocket)
- ☞ Credit Card Guidance Document
- ☞ Daily Wage Record (pocket)
- ☞ Disclosure Statement Calendar (with election dates) (pocket)
- ☞ Doing Business Contributor Form (single-sided) (pocket)
- ☞ Employer Identification Number (pocket)
- ☞ Filer Registration Form (pocket)
- ☞ Intermediary Statement Form (pocket)
- ☞ Political Committee Registration Form (pocket)
- ☞ Segregated/Non-Matchable Contribution Card (pocket)
- ☞ Small Campaign Form (pocket)
- ☞ Step-by-Step Guide to Filing Day

- ❧ Subcontractor Disclosure Form (pocket)
- ❧ Transfer Authorization Card (pocket)
- ❧ Verification of Terminated Candidacy (pocket)
- ❧ Weekly Wage Record (pocket)



How to Submit Your Backup Documentation

- * **Organize all backup so that it is in ascending order according to the transaction ID number from C-SMART. Backup that is not in order will not be accepted.** This is a common mistake and one that can be easily avoided.
- * Never cut out checks, money orders or contribution cards. Always copy them onto **FULL SIZE** sheets of paper. Anything smaller will not be accepted.
- * When copying **multiple checks on one page**, please make sure the checks are in transaction ID order and that they are facing the same direction, as shown in the attached sample. See page 2.
- * When copying a **contribution card with a money order or check** on the same page please make sure the contribution card and the money order or check are facing the same direction, as shown in the attached sample. See page 3.
- * When copying **multiple contribution cards on one page** (e.g., for cash contributions), please make sure the contribution cards are in transaction ID order and that they are facing the same direction, as shown in the attached sample. See page 4.
- * When copying multiple documents on one page, make sure they do not overlap and block potentially important information.

NOTE

If you are not using the contribution card sample provided by the CFB, where we have included a “For Committee Use Only” box to write the statement number and transaction ID, please write the statement number and transaction ID on the upper right hand corner of the page.

See samples of acceptable backup documentation on the following pages of this packet.

Valerie Russell
37 Duane Street
New York, NY 10007

124

DATE July 30, 2008

Pay to the order of: Paine 2009 \$ 175.00
One Hundred and Seventy five Dollars and xx/100 DOLLARS

MEMO Valerie Russell

|:005367894|: 18695678

6 | 371

Juan Solis
82-56 Roosevelt Avenue
Jackson Heights, NY 11372

504


DATE August 2, 2008

Pay to the order of: Paine 2009 \$ 50.00
Fifty Dollars ^{xx}/₁₀₀ DOLLARS

MEMO Good Luck Juan Solis

|:651067894|: 12473578

6 | 375

 Amanda Lee
71-01 Main Street
Flushing, NY 11367

232

DATE August 7, 2008

Pay to the order of: Paine 2009 \$ 1000.00
One Thousand Dollars and xx/100 DOLLARS

MEMO Amanda Lee

|:63897894|: 39473578

6 | 377

Kate Adams
2 Rector Street
New York, NY 10006

164

DATE August 11, 2008

Pay to the order of: Paine 2009 \$ 250.00
Two Hundred and Fifty Dollars and xx/100 DOLLARS

MEMO Kate Adams

|:095367894|: 13855678

6 | 380

For Committee Use Only
 Statement #: 6
 Transaction ID: 383

Contribution Card

Paine 2009

(Committee Name)

Cash Money Order Check in the amount of \$ 100

Name Hannah Daniels

Home Address 200 Chambers Street

City/State/Zip New York, NY 10007

To comply with Campaign Finance Board reporting requirements, please give the following information:

Employer _____

Occupation Self-Employed

Business Address 200 Chambers Street

City/State/Zip New York, NY 10007

I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan.

Hannah Daniels 8/16/08
 Contributor's Signature Date of Contribution

MONEY ORDER			
SERIAL NUMBER 02543750594	YEAR, MONTH, DAY 2008-08-16	POST OFFICE 103131	U.S. DOLLARS AND CENTS \$\$\$100.00¢
AMOUNT THIRTEEN DOLLARS & 00¢ *****			
PAY TO <u>Paine 2009</u>	NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS		
ADDRESS	FROM <u>Hannah Daniels</u>		
	ADDRESS <u>200 Chambers St.</u>	CLERK 0012	
C.O.D. NO. OR USED FOR	<u>New York, NY 10007</u>		
: 591000804 : 64801578			

6 | 383

For Committee Use Only

Statement #: 6

Transaction ID: 386

Contribution Card

Paine 2009

(Committee Name)

Cash Money Order Check in the amount of \$ 10

Name Ellen Cunningham

Home Address 9251 Kings Hwy

City/State/Zip Brooklyn, NY 11212

To comply with Campaign Finance Board reporting requirements, please give the following information:

Employer USC Consulting

Occupation Accountant

Business Address 1125 Eastern Pkwy

City/State/Zip Brooklyn, NY 11213

I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan.

Ellen Cunningham 8/18/08
Contributor's Signature Date of Contribution

For Committee Use Only

Statement #: 6

Transaction ID: 391

Contribution Card

Paine 2009

(Committee Name)

Cash Money Order Check in the amount of \$ 25.00

Name Gloria Jones

Home Address 245 W 72nd Street

City/State/Zip New York, NY 10023

To comply with Campaign Finance Board reporting requirements, please give the following information:

Employer Morgan Stanley

Occupation Accountant

Business Address 1585 Broadway

City/State/Zip New York, NY 10036

I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan.

Gloria Jones 8/21/08
Contributor's Signature Date of Contribution



CREDIT CARD GUIDANCE DOCUMENT

Special processing, reporting, and recordkeeping requirements must be met in order for credit card contributions to be matched with public funds. This handout is intended to be a step-by-step guide to complying with these requirements.

I. GETTING STARTED

A) Processing Method:

The first step in accepting credit card contributions is to decide how your campaign will process them. There are three options available: manual, online and a hybrid of the two (each of these options is explained further in Section II – Credit Card Processing). Once you select an option, you need to establish your campaign’s own unique merchant account.

B) Establishing a Unique Merchant Account:

A merchant account is a contract under which a bank or financial institution accepts credit card transactions on behalf of the customer, in this case, the campaign. The Campaign Finance Board (CFB) requires your campaign to establish its own, unique (not shared or pooled) merchant account in its own name. Merchant accounts are generally linked to bank accounts so that receipts may be deposited electronically. Some credit card processing vendors will also provide your campaign with its own unique merchant account; if they do not, your bank may be able to set one up for your campaign.

C) Disclosing Your Unique Merchant Account:

Once you have established a unique merchant account, you must disclose it on your Filer Registration (FR). If you have already submitted this form, an amendment must be submitted using the Change of Bank Account Form. If you choose to accept credit card contributions through your campaign’s website, you must disclose the website address on your Filer Registration. If you are unsure if your unique merchant account or your website has been disclosed on your Filer Registration, please contact your Candidate Services Unit (CSU) liaison. Your liaison can also advise your campaign on whether your website conforms to CFB requirements for accepting online contributions.

II. CREDIT CARD PROCESSING

There are three ways in which credit card transactions are processed:

Manual Processing – This is where a campaign uses a “swipe” terminal, like those used by most businesses, OR when a campaign manually enters the contributor’s credit card information into a terminal. Since the contributor is present to swipe his/her credit card and to fill out and sign a Credit Card Authorization Form, it is the easiest way to collect the required backup documentation.

Online Processing – This is where a campaign sets up a website to process online contributions. All the elements of the Credit Card Authorization Form, including the credit card information, are captured and submitted to an online processor which processes the contribution immediately. While this may be the most convenient method of collecting credit card contributions, the absence of physical interaction with the contributor may require greater effort to obtain the required records. The documentation requirements are discussed in Section III-B – Recordkeeping Requirements.

Hybrid Processing – This is where a campaign collects the contributor’s credit card information using its website, and then, in a separate processing step, manually processes the transaction. In this hybrid setup, a campaign usually enters the contributor’s information received via electronic notification generated by its website into a separate online processing system. (This method produces some of the needed backup documentation, but, like the online option, the absence of interaction with the contributor necessitates the same contributor authorization process).

There may be other methods available. If you are contemplating something other than the above processing methods, please contact your CSU liaison.

A) Real-Time Address Verification (AVS):

Your credit card processor must use real time address verification to verify transactions, also known as AVS. This is a system where the processor verifies the residential address provided by the contributor against the billing address on file for the credit card account. This verification should be based on, at minimum, characters from the street address and zip code and the credit card expiration date. The purpose of AVS is to verify the contributor is a New York City resident and to ensure a contributor is using his/her own personal funds. This level of verification may be higher than what some vendors require but it is not unusual in the context of political fundraising.

B) Additional Information Regarding Online Contributions:

- 1) If your website is soliciting contributions, it must contain the following statement in a conspicuous and clearly recognizable manner:

“State law prohibits making a contribution in someone else’s name, reimbursing someone for a contribution made in your name, being reimbursed for a contribution made in your name, or claiming to have made a contribution when a loan is made.”

This requirement for solicitations is separate from the recordkeeping requirement for each contribution (see Section III).
- 2) The part of your website that collects contributor information should be secure.
- 3) It is strongly recommended for your website to list prohibited contributions and contribution limits. Make sure that the maximum contribution amount your website is able to process is the contribution limit for the office you are seeking.
- 4) It is advisable that you set up your website such that all information you require for the purpose of reporting the contribution on disclosure statements (and claiming it for matching funds) is collected by the website. Consider using required fields to obtain that information before the transaction can be processed.

III. RECORDKEEPING

A) Credit Card Authorization Form:

Similar to other types of contributions, your campaign is required to collect a **Credit Card Authorization Form** for each credit card contribution, or a functional equivalent (a printout of where your website collected the same information) for contributions received over the Internet; and if the contribution is over the **“Doing Business” contribution limit** for your office, your campaign should try and collect a **“Doing Business” Contribution Form**. The Credit Card Authorization Form needs to collect all of the information outlined below in Section B-3a.

B) Recordkeeping Requirements:

There are five components to the recordkeeping requirements for credit card contributions. Following the detailed discussion is a section that describes what must be submitted with each disclosure statement to substantiate transactions claimed for public matching funds (“backup documentation”).

1) Unique Merchant Account Agreement and Statements:

As discussed in Section I – Getting Started, a merchant account is established with a contract. The contract outlines the terms and conditions of the merchant account and demonstrates whether it is a unique (not shared or pooled) account specific to your campaign. For example, the agreement might contain the AVS requirements necessary for the campaign and the fee schedule being charged. The campaign must keep this document, as well as any addenda or changes to it, and submit it to the CFB upon request.

2) Statements or Reports from the Credit Card Processing Company:

Many credit card processing companies provide regular statements by paper, electronically, or both. These statements generally contain summary information regarding the transactions processed and the fees taken. Certain companies might generate separate reports to address chargebacks or attempted transactions that failed. Reports from the credit card processing company might also contain explanations for codes that appear on the proof of processing documents (see below, Section 4).

3) Proof of Authorization of the Contribution by the Contributor:

The purpose of requiring proof of authorization of the contribution by the contributor is the same as the CFB’s requirement that contributors sign their checks or, in the case of cash or money orders, sign contribution cards.

- a) If you are accepting credit card contributions under circumstances where the contributor will be completing a physical authorization form:

Your campaign must obtain a **Credit Card Authorization Form** which includes the following:

- i. Contributor’s name
- ii. Contributor’s residential address
- iii. Amount of the contribution
- iv. Authorized committee’s name
- v. Credit card account type (e.g., Visa, Mastercard, etc.)
- vi. Credit card account number
- vii. Credit card expiration date
- viii. The following affirmation statement with a line directly below it for the contributor’s signature and the date:

“I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal credit card account, billed to and paid by me for my personal use, and having no corporate or business affiliation; and is not being made as a loan.”

If your campaign prefers to use one **contribution card** for all types of monetary contributions (e.g., cash, money order, and credit card), your campaign may use this **“combined” affirmation instead:**

“I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan; in addition, in the case of a credit card contribution, I also hereby affirm that this contribution is being made from my personal credit card account, billed to and paid by me for my personal use, and has no corporate or business affiliation.”

- b) If your campaign is accepting credit card contributions online and collecting the online equivalent of a Credit Card Authorization Form:

Your campaign’s website must clearly identify itself as the campaign’s website and collect the following:

- i) Contributor’s name
- ii) Contributor’s residential address
- iii) Amount of the contribution
- iv) Credit card type (e.g., Visa, MasterCard, etc.)
- v) Credit card account number
- vi) Credit card expiration date
- vii) The contributor’s agreement to the following statement and affirmation:

“I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal credit card account, billed to and paid by me for my personal use, and having no corporate or business affiliation; and is not being made as a loan.”

The contributor’s acknowledgement of the above affirmation may be obtained with a check box that is a required field for the contributor to affirm, prior to proceeding with the online transaction. This acts as an electronic signature that indicates that the contributor is agreeing to the affirmation.

- 4) Proof of Processing:

The purpose of this requirement is to verify that credit card transactions were actually processed; and processed in such a manner as to make them potentially matchable contributions in accordance with the CFB’s guidelines. There are many variations in how different processors are able to meet these requirements, including being done in two separate documents that are cross-referenced to each other.

Proof of processing consists of documentation from the credit card processor that must include:

- a) A transaction number or code from the processor for each individual transaction.
- b) Contributor’s name and residential address as the billing address.
- c) The type of credit card, the last 4 digits of the contributor’s credit card account number and the expiration date. (If the processor provides the entire credit card number, you should redact all but the last 4 digits before submitting to the CFB.)
- d) The transaction amount.
- e) Indicia of successful AVS verification for each individual transaction. Where AVS has failed, that too should be indicated.
- f) Transaction approval (or declination).

- g) Your committee name or unique merchant account number must be identifiable as the recipient payee of the transaction.
- 5) Website Content and Processing Documents:
You must retain copies of your campaign's web content, completed Credit Card Authorization Forms (including printouts of those completed on the website) and all above-mentioned processing documents. Just like all other campaign records, state law requires that these be retained for six years after the election.

IV. BACKUP DOCUMENTATION

As with other contributions for which matching claims are made, credit card contributions will be matched with public funds only if they are from individual New York City residents. For each credit card contribution that your campaign wants to have matched with public funds (see Section V – Reporting), your campaign must submit with each disclosure statement the Credit Card Authorization Form or its functional equivalent as proof of authorization and the proof of processing from the credit card processor for each transaction as described in Section III B-3 and Section III B-4 of this document. These will serve as the backup documentation for matching claims for credit card contributions. Together, the proof of authorization and the proof of processing should provide the CFB with the ability to track the contribution from the contributor through the verification process. As with all backup documentation, backup documentation for credit card transactions must be labeled with the appropriate statement and transaction ID numbers from C-SMART. All backup documentation for matching claims should be submitted in transaction ID number order when the disclosure statement is filed. A claim will be invalidated for failing to provide complete backup documentation.

We strongly urge you to contact your CSU liaison to review the content of your campaign's website and the sample backup documentation from your credit card processor to ensure that you are collecting the proper documentation before you begin accepting actual credit card contributions. This is to help your campaign preemptively make sure that all of the credit card contributions received are in preliminary compliance with CFB guidelines.

V. REPORTING

To report a credit card contribution in C-SMART, select or add the contributor's name record and add a monetary contribution. Under "Contribution Type," select "Credit Card." All other information for these transactions is entered in the same manner as for any other type of monetary contribution. To claim matching funds for a credit card contribution, you must also enter an amount in the "Matching Amount" field.

Your campaign must also report any charges and/or fees resulting from soliciting or processing credit card contributions and/or from ordering reports or statements related to those transactions. These are considered campaign expenditures and must be reported as such. In C-SMART, your campaign must report these as "Bills" and "Bill Payments". These expenditures include any percentages withheld as processing or transaction fees, as well as any costs related to creating and maintaining a website.

If a credit card processing company takes its fee with each transaction processed, your campaign should still report the full amount contributed by the contributor and a bill and bill payment to the credit card processing company for the amount of the fee. The fees for multiple credit card transactions may be combined on a periodic basis and entered into C-SMART as a single transaction, since that is what many processors may do. The backup documentation and records maintained by your campaign should provide an audit trail clearly showing both amounts.

For installment contributions:

Sometimes, campaigns will ask supporters to contribute in a series of installments (for example, the pledge of a contribution of \$300 given in 12 monthly installments of \$25). The campaign should report each installment as a separate transaction on the date each contribution is made. Each transaction requires its own backup documentation (although one Credit Card Authorization Form is sufficient if it explicitly covers all of the installments); all annotated with corresponding statement and transaction ID numbers. If your campaign accepts installment contributions, it must inform those contributors that they may discontinue their authorizations at any time by contacting your campaign. Installment contributions are eligible to be matched with public funds, but only as each installment is actually processed, received by the campaign, and reported timely on the correct disclosure statement. Each eligible installment, up to \$175, should be identified as a matchable contribution when entered into C-SMART. For example, if an individual contributes \$200 in \$50 installments, the first three installments should be entered with \$50 matchable amounts, and the fourth installment should be reported with \$25 as the matchable amount.

For contributions made by using convenience checks:

So-called “convenience checks” drawn on credit card accounts (i.e., checks that credit card companies send to their customers for use) should be reported and treated like regular checks. Their monetary contribution type is “Check” and backup documentation requirements for checks apply.

VI. HELP

If you have questions regarding credit card contributions or require clarification on any of the requirements delineated in this document, please call your CSU liaison at 212-306-7100.



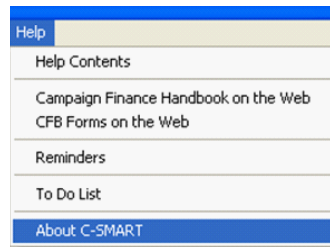
A Step-by-Step Guide to Filing Day

Before You Begin

- You must be connected to a printer to file.
- You will need your NYS BOE Filer ID and PIN.
- If you're an Internet filer, you will need your IDS password.

1 Check That You Are Running the Most Updated Version of C-SMART

In order to file, you must be using Version 9.0, Build 4.0 released November 10, 2008. Your statement will be **rejected** if filed with an outdated version of C-SMART. If you encounter difficulty upgrading, call the Candidate Services Unit immediately at 212-306-7100.



To make sure you are using the correct version of C-SMART, select **Help** on the menu bar and then select **About C-SMART**.



2 Back Up Your Database Before Filing

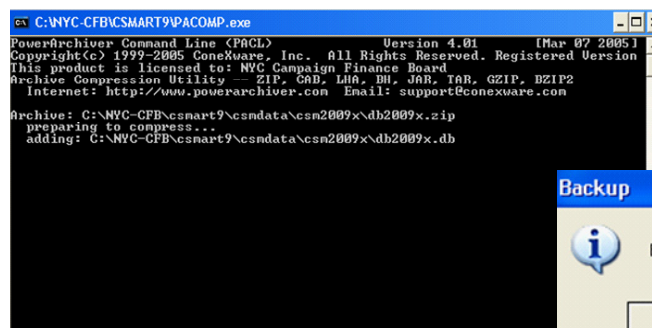
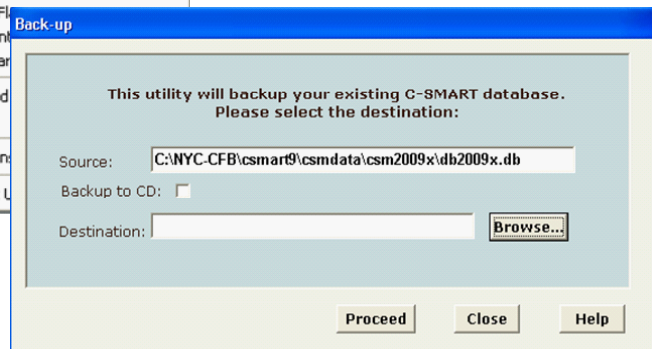
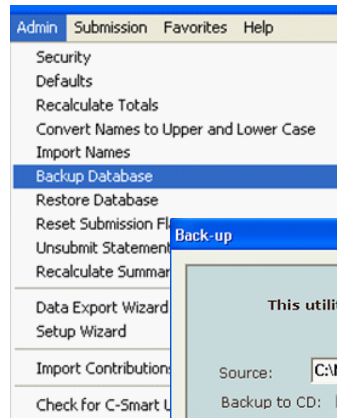
Select **Admin** from the menu bar, and then select **Backup Database**.

To prevent against loss of your information, back up your database before filing so that you have the file on an external medium.

Check the box if you are backing up to a CD, otherwise, browse to select the drive that you will back up to, and then click **Proceed**.

During the backup process, the following window will appear. You may have to press **Enter** to continue.

You will be alerted when the backup has been successfully completed.

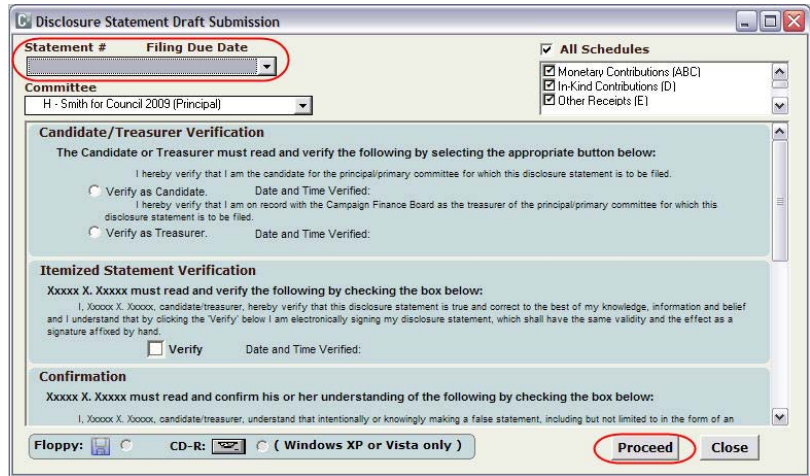
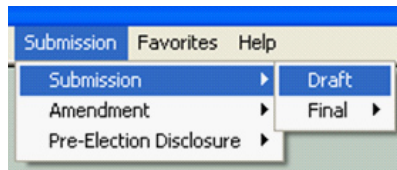


3 Review a Draft of Your Submission

Select **Submission** from the menu bar, and then select **Submission** ⇒ **Draft**.

From the drop down menu, select the Statement Number and then click **Proceed**.

Review the total amount claimed for match, net contributions and net expenditures to ensure that all information was accurately entered into C-SMART.



4 Final Submission

After you have reviewed your draft for accuracy, you can file your final submission.

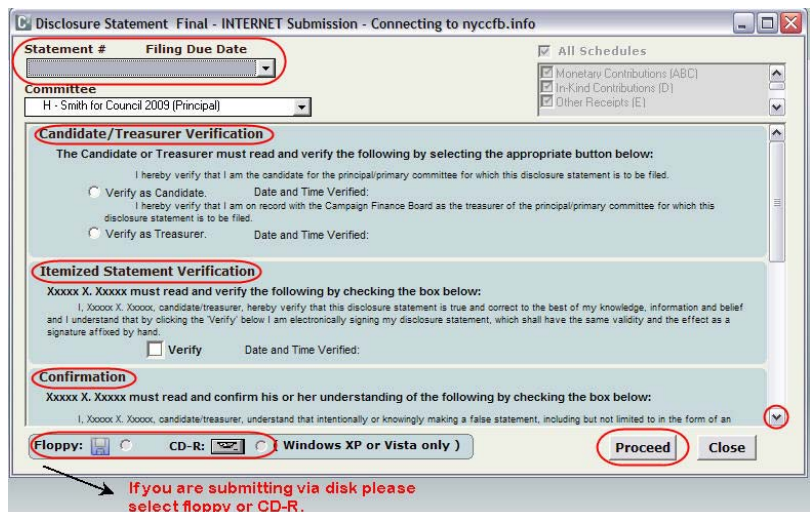
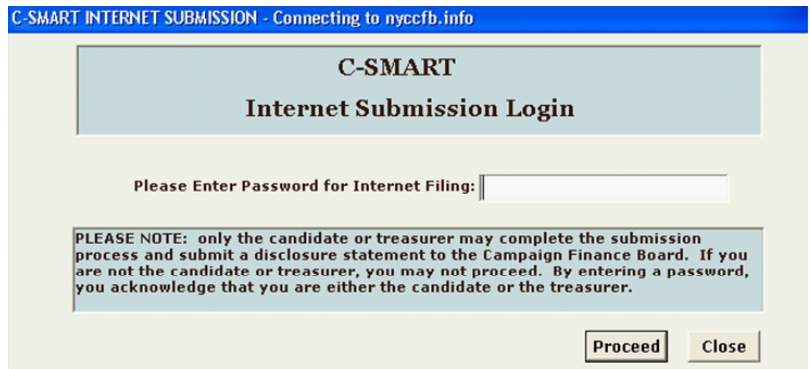
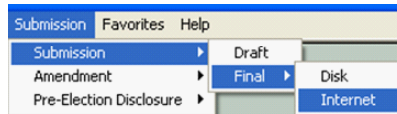
Select **Submission** from the menu bar, and then select **Submission** ⇒ **Final** ⇒ **Disk/Internet**.

If you are filing over the Internet, you will be prompted to enter your IDS password.

Select the Statement Number from the drop down menu, and check the verifications and confirmation sections. Then click **Proceed**. Remember, **ONLY** a candidate or treasurer can file a disclosure statement.

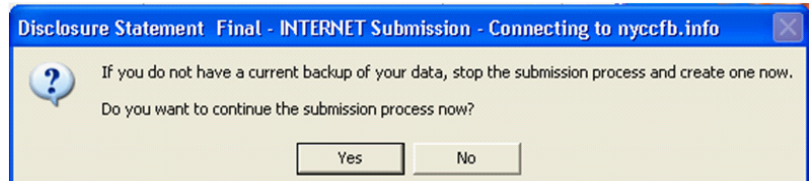
Note: If you are filing via disk, please select whether you will file with a Floppy or CD and then proceed. If you file with a disk, do not forget to sign the paper printout of your disclosure statement.

Once you click **Proceed**, a series of prompts will appear.

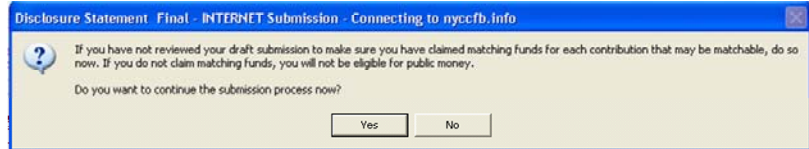


4 Final Submission (continued)

The 1st prompt is a reminder to back up your database. If you did not backup your database yet, stop the submission and go back to Step 2. If you did back up your database, click “Yes”.



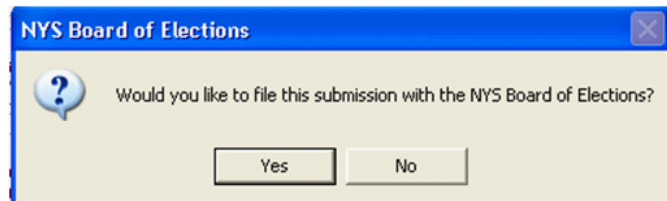
The 2nd prompt is a reminder to review your draft submission. If you did not review a draft of the disclosure statement, stop the submission and go back to Step 3. If you did review a draft, click “Yes”.



Filing with the New York State Board Of Elections

The 3rd prompt asks whether or not you wish to file with the New York State Board of Elections (NYS BOE).

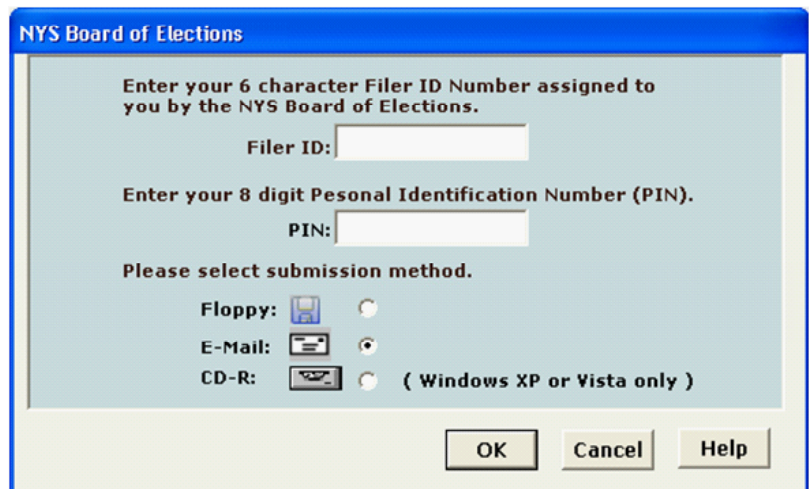
If you select “Yes”, you will be prompted to enter your Filer ID and PIN Number given to the campaign by the **NYS BOE**. If you do not have this information, call 518-474-8200 to obtain the necessary ID and PIN.



Once the Filer ID and PIN is entered, you will have 3 options for sending the NYS BOE disclosure statement. If you choose to e-mail the submission to them, please note that it will not automatically generate an e-mail. You will be prompted later in the filing to print a submission record for the NYS BOE. This record will note both the e-mail address and location of the file you will need to attach.

If you choose to submit via floppy or CD-R, you must mail the disk to:

New York State Board of Elections
Campaign Finance Unit
40 Steuben Street
Albany, NY, 12207



Once you have selected a submission method for the NYS BOE, click “OK”. You may see a black screen appear on your monitor as the submission is generated — this is normal.

4 Final Submission (continued)

Filing with the CFB on Disk and the New York City Board Of Elections

Once the submission process is over, two disclosure statements will be printed: one for the CFB and one for the New York City Board of Elections.

If you filed using a floppy or CD-R, you must submit a signed copy of the disclosure statement (entitled “**Submit to CFB only**”) to the CFB. **Only the candidate or the treasurer may sign the disclosure statement, and the original must be submitted to the CFB.**

If you filed over the Internet, you may keep the paper copy for your records.

All filers must submit a signed paper copy of their disclosure statement (entitled “**Submit to BOE only**”) to:

New York City Board of Elections
32 Broadway, 7th Floor
New York, NY, 10004

5 Back Up Your Database After Filing

After filing your disclosure statement, you must back up the database again, and discard the previous backup.

Note: If you backup onto a USB drive or rewritable CD, C-SMART will overwrite the previous backup.

To ensure you have the most updated copy of your database saved to an external medium, you must back up your database after filing a disclosure statement.

6 Backup Documentation

For every contribution claimed for match within this reporting period, you must provide **copies** of:

- checks
- money orders
- contribution cards
- credit card authorization cards and copies of all transaction reports and receipts received from the credit card processor demonstrating approval and real-time address verification
- loan documentation, if applicable (copies of loan agreements, checks and repayment checks)

All backup documentation **must** be submitted in ascending transaction ID order. **Your statement will be rejected if backup documentation is not in order.**

For your reference, please refer to this **guide** on how to copy and organize your backup documentation.

6 Backup Documentation (continued)

Please refer to the image below to see where the Transaction ID is located in C-SMART for each monetary contribution.

The screenshot shows the 'Monetary Contributions' window in C-SMART. The form contains the following fields and sections:

- Name:** Hernandez, David; Individual; Boro: Manhattan; 25 Wall Street 6WF; New York, NY 10006.
- Johnson Financial:** Banker; 237 Broadway; New York, NY 10008.
- Transaction ID:** 20 (circled in red).
- Statement No:** (empty).
- Totals:**
 - Cont: \$500.00
 - Cash: \$.00
 - Match: \$175.00
- Date Received:** DATE RECEIVED (dropdown).
- Contribution Amount:** \$500.00.
- Contribution Type:** Check (dropdown).
- Matching Amount:** \$175.
- Check/MoneyOrder:** 587.
- Pledge:** .
- Committee:** CFB Test Committee (ID:H) (dropdown).
- Event:** (dropdown).
- Notes:** Runoff\Rerun: Segregated: .
- Intermediary Information:** Intermediary Search: ID: (input); Name: (input).

At the bottom, there is a 'Refunds' section with a table header:

Refund Date	Refund Amount	Trans ID
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Buttons at the bottom: Quick Post, Save, Close.

FILING DAY CHECKLIST

Preparing for Filing Day:

If this is your first disclosure filing for the 2009 election, you must:

- Register with the [New York City](#) and [New York State](#) Boards of Elections.
- Obtain your Filer ID and PIN Number from the New York State Board of Elections.
- Submit your [Filer Registration](#) form to the CFB.

All candidates must:

- Enter **all** contributions and expenditures into C-SMART. If your campaign hopes to qualify for public funds, remember to indicate a matching claim for all eligible contributions!
- Organize your backup documentation (copies of checks, contribution cards, credit card documentation, etc.) in ascending transaction ID order. **Your statement will be rejected if the backup documentation is not in order.** Make copies of all your documents and keep the originals with your campaign; do not submit the original documents to the CFB. Your backup documentation must be delivered on time for your statement to be complete.

During the Week of the Filing Deadline

- Back up your C-SMART database.
- Run a draft submission and check that all financial activity has been accurately reported.
- File your statement, with backup documentation, **on time**. If you file your statement online via IDS, it must be submitted **before midnight** on filing day. Your statement can be hand delivered to the CFB **by 5:00 pm** on filing day, or sent by mail and postmarked by filing day. Your backup documents may be hand delivered or mailed, subject to the same deadline. Campaigns who fail to submit their filings before the deadline will be subject to penalties, and their matching claims for the entire filing period may be invalidated.

After the Filing:

- Back up your C-SMART database after submitting your disclosure statement.

If you have any further questions, please call Candidate Services at (212) 306-7100.