



# PUBLIC FINANCING PROGRAM

Supplemental guide for participating candidates

2026 Election

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**This guide is intended to provide general information, and does not have the force and effect of law, regulation, or rule. It is not the intent of the City of Berkeley to render legal advice. Accordingly, the guide is not a substitute for legal counsel for the individual, organization, or candidate using it. In case of any conflict, the law, regulation, or rule will apply.**

## **RECENT AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT (BERA)**

### **BMC 2.12.095 Committee**

The definition of a campaign committee is changed from a \$250 threshold to a \$1,000 threshold for contributions and expenditures.

### **BMC 2.12.168 Qualifying Period**

This amendment changes the deadline to qualify for the public financing program to 14 days before the election.

### **BMC 2.12.255, 2.12.260, 2.12.265 Statement of Organization**

Committees are no longer required to file a Berkeley Statement of Organization. The Berkeley Statement of Organization form has been eliminated.

### **BMC 2.12.505.H Return of Unspent Funds**

This amendment sets a deadline for a public financing candidate that does not qualify for the ballot to return unspent funds.

### **BMC 2.12.505.J**

Adds a deadline to submit matching funds requests after Election Day.

### **BMC 2.12.505.K**

Prohibits a candidate from withdrawing from the Public Financing Program after they are approved for participation.

### **BMC 2.12.507 Return of Contributions by Participating Candidates**

Clarifies the rules for participating candidates with regards to returning contributions.

### **BMC 2.12.510 Candidate Statement Notice**

Due to the amendment that changed the qualifying period, the notice of candidate participation in the public financing program is changed from the voter guide to a posting on the City website.

### **BMC 2.12.545 Cost of Living Adjustments**

Cost of living adjustments have been added for non-monetary contributions, non-qualified contributions, and the amount a participating candidate can contribute to their own committee.

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# SECTION 1: INTRODUCTION

## Overview

The Public Financing Program Supplemental Guide is prepared by the City of Berkeley for candidates considering participation in Berkeley's Public Financing Program. This guide provides basic information regarding the program, but does not substitute for local and state regulations. Please use the Supplemental Guide in conjunction with the following resources. These documents are also available online:

- [State Campaign Disclosure Manual 2](#)
- [Berkeley Election Reform Act \(BERA\)](#)
- [Fair Campaign Practices Commission Manual](#)
- [Fair Campaign Practices Commission \(FCPC\) Regulations](#)
- [California Elections Code](#)

It is strongly recommended that you obtain a copy of Berkeley Election Reform Act and the FCPC Regulations and read them along with this guide. You must also acquaint yourself with the state disclosure manuals, as all filers have state law obligations (Government Code § 81000, et seq.). The state may require separate and additional information.

## What is the Public Financing Program?

In 2016, Berkeley voters adopted the Berkeley Fair Elections Act of 2016. This ballot measure created a voluntary program providing public matching funds for candidates running for the office of Mayor or Councilmember. In 2022, the program was expanded to include Auditor, School Board Director, and Rent Stabilization Board Commissioner candidates. Participating candidates are eligible to receive a 6-to-1 match on qualifying contributions of up to \$60 (e.g. for a \$60 qualifying contribution, a participating candidate receives \$360 in public matching funds).

## What is the Fair Campaign Practices Commission?

The Berkeley Election Reform Act (BERA) was adopted by Berkeley voters in 1974. Containing requirements for local campaign committees that go beyond the requirements in state law, BERA also created the Fair Campaign Practices Commission (FCPC) to enforce its provisions. The nine-member commission ensures that monies received or spent in municipal campaigns are fully disclosed in accordance with BERA.

## How do I qualify for the Public Financing Program?

To participate in the program, a candidate must:

- Meet all requirements of applicable law to be eligible to hold the office sought of Mayor, Councilmember, Auditor, School Board Director, or Rent Stabilization Board Commissioner;
- File with the FCPC an application for certification as a participating candidate verifying that the candidate has complied with the restrictions of Berkeley Municipal Code Chapter 2.12 **during the election cycle to date**, the candidate's campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate, and the candidate will comply with the requirements of the Fair Elections Act during the remainder of the election; and

- Before the close of the qualifying period (*October 20, 2026*), collect and submit at least 30 qualified contributions of at least \$10, for a total dollar amount of at least \$650. Each qualified contribution shall be acknowledged by a receipt to the contributor, with a copy retained by the candidate.

### **May I withdraw from the Public Financing Program once approved?**

No. BMC § 2.12.505.K states:

*Upon approval of a participating candidate's Initial Qualifying Request, the candidate is prohibited from withdrawing from the Public Financing Program and receiving contributions pursuant to Section 2.12.415 for the same office at the same election for which they are a participating candidate.*

### **What does participating in the Public Financing Program mean for my campaign?**

The Public Financing Program requires participating candidates to provide additional documentation regarding the money they raise and spend, and restricts the amount a candidate may receive from an individual contributor to \$60.

To operate in accordance with the Fair Elections Act, a participating candidate must:

- Maintain such records of receipts and expenditures as required by the Commission.
- Provide all required documentation requested by the Commission.
- Abide by the restrictions on the use of personal funds.
- Only solicit, direct, or accept permissible contributions not greater than \$60.
- File electronically using the City's online filing system (NetFile), and only use the forms approved by the FCPC.
- Submit payment requests as needed by the deadlines established by the FCPC.
- Repay all unspent funds back to the Fair Elections Fund after the election.
- Adhere to additional recordkeeping requirements, and maintain additional supporting documentation required for each contribution.
- Not accept loans from any source.

The Act also imposes restrictions on how campaign funds can be used, as described below.

### **May I qualify for the Public Financing Program if I have not complied fully with its requirements?**

The City has the authority to approve a candidate's application for public financing, despite a violation by the candidate related to participation and qualification in the public financing program. If the violation is minor in scope and the candidate demonstrates a timely, good-faith effort to remedy the violation. (BMC § 2.12.500.A.10.)

### **Where can I get more help?**

City staff provides limited technical support for the electronic filing system and can also provide general information on where to find applicable regulations of governing codes regarding campaign regulations. Please consult the detailed information on the City's website and attend the trainings offered by City staff. Staff cannot provide legal advice or help manage your campaign committee.

## SECTION 2: GETTING STARTED WITH PUBLIC FINANCING

Contact the City Clerk Department to obtain copies of select reference materials and schedule your NetFile training. Review the list below to get started.

1. Review all applicable campaign filing manuals and other reference materials.
2. Candidates with existing committees must manage or disburse existing campaign funds in accordance with BMC § 2.12.515; and re-designate the campaign committee by filing an amended State Form 501 and State Form 410.
3. New candidates must establish a campaign committee by filing: 1) [State Form 501 \(Candidate Intention Statement\)](#) 2) [State Form 410 \(Statement of Organization\)](#)
4. Obtain an Employer Identification Number (EIN) from the IRS.
5. Open a campaign committee checking account.
6. Obtain a voided check from your bank.
7. Prepare to receive electronic disbursements by completing and filing, 1) City of Berkeley Vendor Information Application; 2) City of Berkeley Automated Clearing House (ACH) form (with voided check); and 3) IRS Form W9.
8. Create NetFile user accounts and complete Signature Verification Cards for the committee's signing officers (candidate, treasurer, assistant treasurer).
9. Create the committee's NetFile user account.
10. Attend one-on-one NetFile training with City Clerk staff. Training is tailored to meet the needs of candidates familiar with NetFile or new to the system.
11. In NetFile:
  - Submit an Application for Participation
  - Enter contributions and upload supporting documentation.
  - Submit a Qualifying Request for Funds by the close of the qualifying period (October 20, 2026).

After your Application for Participation is certified, you may continue to raise funds and submit requests for matching public funds in accordance with BERA and state law.

## SECTION 3: CONTRIBUTIONS AND EXPENDITURES

### **What are Qualified Contributions?**

Qualified Contributions are defined as monetary contributions, excluding loans, made directly in aid of the nomination or election of one or more candidates not greater than sixty dollars (\$60), made by a natural person resident of the City of Berkeley (BMC § 2.12.167).

### **Whom can I take contributions from?**

You may accept contributions from any Berkeley resident or non-resident natural person. Only contributions from Berkeley residents are eligible for matching public funds.

### **Whom can't I take contributions from?**

You may not accept any contributions from another campaign committee. BERA also prohibits Berkeley candidates and committees from accepting contributions from sources as defined by BMC § 2.12.440:

**Section 2.12.440 Contributions from certain organizations and business entities prohibited.**

*No proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, including non-profit corporations, or labor union shall make a contribution to any candidate or committee (supporting or opposing any candidate) directly or indirectly, and no campaign treasurer (of any such committee) shall solicit or accept such contribution.*

**What are the contribution limits?**

The limit for any type of contribution to a candidate participating in the Public Financing Program is \$60, with the exception of a monetary or non-monetary contribution from a candidate to their own controlled committee of \$290 or less. Contributions from a participating candidate to their own controlled committee are not eligible for matching funds.

**Are there limits on how I can receive money?**

You can receive contributions made in cash, checks, money orders, and various forms of online payment.

All contributions of \$50 or more must be made by written instrument – this means the largest cash or money order contribution that you may receive is \$49.99.

Although you can receive electronic contributions from a variety of electronic payment methods, not all payment methods will allow contributors to supply all of the information required to receive matching public funds.

**May I loan my committee money to open its bank account?**

No. Loans from any source are prohibited and may disqualify a candidate from the Public Financing Program. (BMC § 2.12.500.A.9.)

**What information must be collected for contributions?**

Each contribution received eligible for public funds must be accompanied by a Qualified Contribution Receipt as specified in BMC § 2.12.500.A.3.a:

*Each qualified contribution shall be acknowledged by a receipt to the contributor, with a copy retained by the candidate. The receipt shall include the contributor's **signature, printed name, home address, and telephone number**, if any, and the **name of the candidate** on whose behalf the contribution is made. In addition, the receipt shall indicate by the contributor's signature that the contributor understands that the purpose of the qualified contribution is to help the candidate qualify for Fair Elections campaign funding and that the contribution is made without coercion or reimbursement.*

“Signature” means the contributor must sign the receipt using a hand-written signature (either signing a paper receipt or hand-drawing an electronic signature on an electronic receipt).

Digital seals or digital stamps are not accepted. You are not required to retain the original paper receipt – a photograph, photocopy, or other reproduction of the signed receipt is sufficient.

Receipts must be accompanied by supporting documentation appropriate to the type of contribution – copy of check, electronic receipt, cash receipt, etc. All supporting documentation must include the residential street address of the contributor.

You must also collect information required under BERA in BMC § 2.12.280, including the contributor's occupation and employer; if a contributor is self-employed, you must also record the city in which the business is located.

### **What can I spend campaign funds on?**

Funds are limited to direct campaign purposes as outlined in BMC § 2.12.530.A:

#### ***2.12.530 - Use of Fair Elections funds.***

*A. A participating candidate shall use Fair Elections funds and contributions only for direct campaign purposes to further the candidate's own campaign for the relevant office and election cycle.*

### **Are any expenditures prohibited?**

Participating candidates shall not use Fair Elections funds or contributions as specified by BMC § 2.12.530.B, including:

1. Costs of legal defense in any campaign law enforcement proceeding under this Act, or penalties arising from violations of any local, state, or federal campaign laws;
2. The candidate's personal support or compensation to the candidate or the candidate's family, or a business in which the candidate or candidate's immediate family member has a ten (10) percent or greater ownership interest;
3. Indirect campaign purposes, including but not limited to:
  - a. Any expense that provides a direct personal benefit to the candidate, including clothing and other items related to the candidate's personal appearance;
  - b. Capital assets having a value in excess of six hundred and fifty (\$650) and useful life extending beyond the end of the current election period determined in accordance with generally accepted accounting principles;
  - c. A contribution or loan to the campaign committee of another candidate or to a party committee or other political committee;
  - d. An independent expenditure as defined in Berkeley Municipal Code Section 2.12.142, as may be amended;
  - e. Any payment or transfer for which compensating value is not received.

## **SECTION 4: SUBMITTING AN APPLICATION FOR PARTICIPATION**

### **What is an Application for Participation?**

Candidates must be certified by the City as participants in the Public Financing Program. You will submit your application electronically using the City's online filing system, NetFile. After submission, staff will review the application and determine if you qualify for the Program.

### **What do I submit after the Application for Participation?**

Candidates must also submit an initial Qualifying Request for matching public funds. The Qualifying Request must be submitted before the close of the qualifying period (October 20, 2026) and include at least 30 qualified contributions of at least \$10, for a total dollar amount of at least \$650. (BMC § 2.12.500.A.3) Each contribution included on your Qualifying Request must be accompanied by a fully completed Qualified Contribution Receipt and supporting documentation (copy of check, cash or online payment receipt, etc.). All supporting documentation accompanying the qualified contributions must include the contributor's residential address.

### **How do I submit an Application for Participation?**

The application and Qualifying Request are submitted through the City's online filing system (NetFile). Complete the preliminary steps described in Section 2: Getting Started with Public Financing (establish a campaign committee, create your NetFile account, etc.) and refer to Appendix D: NetFile Filer Guide for step-by-step instructions.

## **SECTION 5: SUBMITTING A MATCHING REQUEST**

### **What is a Matching Request?**

A Matching Request is a request for public matching funds from the Fair Elections Fund. Matching Requests must be submitted electronically through the online filing system (NetFile) and be accompanied by all required supporting documentation.

### **What documentation do I submit with Matching Requests?**

Each contribution included on your Matching Request must be accompanied by a fully completed Qualified Contribution Receipt and supporting documentation (copy of check, online payment receipt, etc.). **Incomplete submissions will be rejected.**

### **How often can I submit Matching Requests?**

You can submit Matching Requests as frequently as desired. Disbursements are made on a rolling basis, as long as requests are received by the deadline. Refer to Section 6 below.

### **How do I submit Matching Requests?**

You may submit Matching Requests at any time. Requests must be submitted through the City's online filing system (NetFile). Refer to Appendix D: NetFile Filer Guide for step-by-step instructions. ***Please note: the maximum attachment size accepted by the NetFile system is up to 10 MB. Ensure the attachment is under 10MB. Incomplete submissions will be rejected.***

### **What if my request is denied?**

The City will provide written determination specifying basis for any non-payment of Fair Elections Funds. The candidate has an opportunity to appeal that denial to the FCPC. See section 2.12.505.G and refer to the Petition for Reconsideration of Payment Denial form in Appendix B.

## SECTION 6: DISBURSEMENT OF FUNDS

### **When do I receive public funds?**

The initial payment of Fair Elections Funds is disbursed within seven business days of the certification of the participating candidate's eligibility, or as soon thereafter as is practicable.

After the initial payment, funds are disbursed on a rolling basis. Payments are reviewed by staff, and processed by the Finance Department. Requests and all supporting documentation must be submitted no later than 5:00 pm on a Tuesday for disbursement on Thursday of the following week.

### **How are the funds disbursed?**

Public matching funds are disbursed by electronic funds transfer (ETF). The funds are transferred directly into your campaign checking account.

### **What if I reach the disbursement limit?**

If you reach the matching funds limit (\$10,000 for Rent Stabilization Board, \$26,000 for School Board Director, \$26,000 for Auditor, \$52,000 for City Council; \$155,000 for Mayor), you may continue to raise money subject to the \$60 limit and other restrictions, but you are not eligible for additional public matching funds.

### **When are previously withheld funds disbursed?**

Funds withheld due to outstanding fines or penalties related to campaign filings will be disbursed at the next regularly scheduled distribution for that election cycle upon submission of outstanding campaign filings and fines.

## SECTION 7: AFTER THE ELECTION

### **Can I receive funds after the election?**

You may submit Matching Requests for funds no later than December 3, 2026. Disbursements of requests will occur on the regular schedule, meaning your committee will receive the funds after Election Day. (BMC § 2.12.505.J.)

### **What is the deadline to repay Fair Elections Funds?**

Participating candidates are required to repay all remaining funds to the Fair Elections Fund as outlined in BMC section 2.12.505.H:

*H. 1) Unspent campaign funds of any Participating Candidate who does not qualify as a candidate for the ballot at the election for which the funds were distributed, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions in that election cycle and after accounting for campaign debts and expenditures, must be returned to the City no later than the date of the election for which the funds were distributed.*

*All funds returned under this paragraph must be accompanied by any required supporting documentation. In such cases, the participating candidate must return the unspent funds to the City, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions, prior to refunding any contributions to individual contributors.*

*2) Any campaign funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed, up to the total amount of funds that the Participating Candidate received as Fair Elections Funds distributions in that elections cycle and after accounting for campaign debts and expenditures, must be returned to the City, within sixty (60) days after the date of the election. All funds returned under this paragraph must be accompanied by any required supporting documentation.*

*3) All unspent campaign funds returned to the City shall be deposited in the Fair Elections Fund pursuant to the City Charter.*

*4) The City Clerk shall immediately refer to the Commission for enforcement any participating candidate who does not return unspent funds as required by this subsection.*

*5) After the deadline to return unspent funds in 2.12.505.H.2, a participating candidate may continue to raise funds in accordance with Article 8 of Chapter 2.12 to pay campaign-related debt from the most recent election. Any such contributions received shall not be eligible for matching funds.*

For the November 3, 2026 election, the unspent campaign funds must be returned to the City by Saturday, January 2, 2027. **Your campaign will be required to provide a draft Form 460 to document the committee's ending cash balance at the time of returning the funds.** The ending cash balance on your draft Form 460 must match the amount of unspent campaign funds being returned to the City.

### **What if I receive an invoice for a campaign bill after I've returned the public funds?**

Per BMC § 2.12.505.H, a committee may, after returning unspent funds, raise funds in accordance with the Fair Elections Act to pay campaign-related debt from the most recent election. Any such contributions received are not eligible for matching funds.

In addition, a Participating Candidate may request a refund of any amount of unspent campaign funds previously repaid to the City, for a qualified campaign expenditure or other permissible campaign purpose. The request must be submitted to the Commission to approve, in whole or in part, or deny. The Commission is required to make a final determination on the refund within 45 days of receipt.

### **May I return contributions?**

Return of contributions are described in BMC § 2.12.507 and 2.12.505.H.1:

#### **Section 2.12.507 Return of Contributions by Participating Candidates**

*A. Notwithstanding the requirements in Section 2.12.505.H.1, if a participating candidate returns a qualified contribution for which they have requested and received matching funds, they must immediately return all said matching funds to the City.*

*B. Notwithstanding the requirements in Section 2.12.505.H.1, a participating candidate may return a non-qualified contribution to the contributor at any time without triggering any requirement that they return matching funds.*

### **Section 2.12.505 H.1**

*1) Unspent campaign funds of any Participating Candidate who does not qualify as a candidate for the ballot at the election for which the funds were distributed, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions in that election cycle and after accounting for campaign debts and expenditures, must be returned to the City no later than the date of the election for which the funds were distributed. All funds returned under this paragraph must be accompanied by any required supporting documentation. In such cases, the participating candidate must return the unspent funds to the City, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions, **prior to refunding any contributions to individual contributors.***

## **SECTION 8: ENFORCEMENT AND PENALTIES**

### **What are the penalties for violating the Fair Elections Act?**

Penalties for violating the Fair Elections Act are described in BMC §§ 2.12.550 and 2.12.555:

#### **2.12.550 - Fair Elections Act penalties.**

*In addition to other enforcement and penalty provisions of this Article:*

- A. It is a violation of the law for candidates to accept more Fair Elections Act benefits than those to which they are entitled or misuse such benefits or Fair Elections funding.*
- B. If a participating candidate knowingly or willfully accepts or spends Fair Elections funding in violation of this Act, then the candidate shall repay to the Fair Elections Fund an amount equal to twice the value of Fair Elections funding unlawfully accepted or spent.*
- C. The Commission shall, after a hearing held pursuant to Section 2.12.230, have the authority to impose the fine created by this section upon a two-thirds vote.*

#### **2.12.555 - Violation--Persons ineligible for public funds--Time limit.**

*No person who commits a substantial violation of this chapter shall be eligible to receive public funds for a period of four years from and after the date that the Commission determines, upon a two-thirds vote, that such a violation has occurred, following a hearing held pursuant to Section 2.12.230. The Commission shall by regulation state the criteria to be satisfied in order to make a finding of a substantial violation.*

Other provisions of BERA—which also apply to the Public Financing Program—provide for various penalties including a fine of up \$1,000 per violation, or up to the amount or value of the unlawful or undisclosed contribution or expenditure, whichever is greater; termination of candidacy; and forfeiture of office (if elected).

In accordance with BMC § 2.12.505.C.2, Fair Elections Funds are withheld from candidates with outstanding fines or penalties related to campaign filings. Withheld funds will be disbursed at the next regularly scheduled distribution for that election cycle upon submission of outstanding campaign filings and payment of fines.

## SECTION 9: FREQUENTLY ASKED QUESTIONS

**QUESTION: Is a wet signature required on the Qualified Contribution Receipt?**

ANSWER: A handwritten signature on the receipt is required. The contributor must sign the receipt by hand, but they can send you a scan or image of their signed receipt via e-mail or other electronic means. The Treasurer must upload the image of the form in NetFile and must also print a copy to keep as a record. Electronic or Digital signatures are NOT permitted.

**QUESTION: Will voters be informed which candidates are participating in Public Financing Program?**

ANSWER: BMC § 2.12.510 states that a candidate certified as a Fair Elections program participant shall be identified as such by a notice prominently posted on the City website.

**QUESTION: Can participating candidates accept contributions (up to \$60) from both Berkeley and non-Berkeley residents?**

ANSWER: Yes, see BMC § 2.12.500.A.7. Only QUALIFIED contributions from Berkeley residents are eligible for the City's 6-to-1 match; contributions from non-Berkeley residents are allowed (at the \$60 limit), but are not eligible for public matching funds.

**QUESTION: How much can a candidate contribute to their own campaign committee?**

ANSWER: BMC § 2.12.500.A.6 states that candidates are limited to contributing a maximum of \$270 to their own committee from their personal funds (or from funds jointly held with their spouse, domestic partner, or dependent children) in connection with their election. This includes non-monetary contributions. Contributions from a participating candidate to their own controlled committee are not eligible for matching funds.

**QUESTION: If a participating candidate reaches the maximum of public matching funds, can the candidate continue to raise funds?**

ANSWER: Yes; however, they will no longer be eligible for public matching funds, and the \$60 limit and other restrictions of the program remain in effect.

**QUESTION: Can campaign funds from a prior campaign be carried over into the Fair Elections Program?**

ANSWER: No, remaining funds from a previous election must be disposed of in accordance with BMC § 2.12.515.

**QUESTION: How does the treasurer submit the Qualified Contribution receipt and supporting documentation?**

ANSWER: Each contribution must be accompanied by the receipt and supporting documentation. A scanned image or photo of the receipt and documentation must be uploaded into NetFile when the contribution is entered.