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NYS Public Campaign Finance Program Budget

I. Budget Request

The New York State Public Campaign Finance Unit requests a budget appropriation of \$39.5 million dollars for the State Fiscal Year 2024/25 to support staffing, services, and payments of public funds. In addition to the new appropriation, we request a reappropriation from the SFY 23/24 budget of \$25M in aid to localities funding to support public matching fund payments and \$6.1M in non-personal service to support our software acquisition.

This appropriation request includes personnel service support of \$8.4 million to maintain the staff of 118 full time equivalents. The non-personal service appropriation request of \$6.1 million maintains support the State Board of Elections (SBOE)/Public Campaign Finance Board software acquisition and development project to automate auditing and payment for public matching funds while also enhancing SBOE legacy campaign finance infrastructure. The appropriations would continue our project management support and increase outreach to communities across the State.

The Public Campaign Finance program will be making public fund payments to eligible participating candidates in the 2024 State Legislative primary and general elections. The appropriation request of \$25M would position the Board with \$50M to make payments in May 2024.

The deadline to join the program is February 26, 2024. At that time, the program would be in position to provide maximum amount of funding needed for the year without knowing if there will be competitive primary or general elections. That information will be provided via ballot access procedure in May 2024.

The continued lack of office space for the program poses the largest operational risk to its implementation. The software procurement will create efficiencies for the program to evaluate for the next budget cycle.

II. Overview of the Public Financing Law

On December 1, 2019, the Campaign Finance Reform Commission (“CFRC”) established by Part XXX of Chapter 59 of the Laws of 2019, sent recommendations to the Governor and Legislative Leaders outlining the parameters of a public campaign finance system to be created within the New York State Board of Elections. As provided by Chapter 59, the recommendations of the Commission “have the full effect of law” unless “modified or abrogated by statute” on or before December 22, 2019. The Commission’s report and recommendations were not modified or abrogated by statute and the recommendations became law on January 1, 2020¹. However, as a result of a March 12, 2020 Supreme Court Decision & Order, the Commission’s recommendations were struck down (*Hurley, et al v. The Public Campaign Financing and Election Commission, et al*, No. E169547/2019).

Subsequently, the Governor proposed the Commission’s recommendations as part ZZZ of the 2021 Budget Bill(S7508B/A9508B), which were ultimately passed by the legislature and signed by the Governor on April 3, 2020(Chapter 58 of the Laws of 2020). The public campaign financing provisions, including the new Title II Public Financing provisions, are now law.²

Applicable Offices

The public campaign financing program applies to four (4) statewide offices and two hundred and thirteen (213) legislative offices.

The program effective date was November 9, 2022, and the first application of the public matching funds program will be the 2024 State Senate and Assembly Primary elections. The first Statewide office application of the public matching funds program will be the 2026 election.

Small Donor Matching Fund Program with Caps

The public campaign financing program is based on a small donor matching funds model. For statewide offices, the match ratio is \$6 of public funds for each \$1 contributed by in-state residents, with contributions up to \$250 from these residents eligible to be matched. For legislative races, the match similarly only applies to contributions of \$250 or less from residents of the particular legislative district, but the match is progressive and higher: The first \$50 contributed is matched at 12:1. Contributions between \$51 and \$150 are matched 9:1 and contributions between \$151 to \$250 are matched at 8:1.

Participating candidates must meet financial thresholds of eligibility:(fully described in EL 14-203(2)

Governor – not less than \$500,000 in contributions from residents of the state, including at least five thousand (5,000) matchable contributions.

¹ The Commission adopted the recommendations in a public meeting held on November 25, 2019.

² The legislation provides: “This act shall take effect immediately; provided, however that sections one, two, three and four of this act shall take effect on November 9, 2022 and shall apply to participants in the primary and general elections to be held in 2024; and provided further, that the terms and appointments of the members of the public campaign finance board as established by section four of this act, and the final date for regulations to be promulgated by such board, shall take place in accordance with dates as prescribed in section four of this act.” See Chapter 58 of the Laws of 2020 (Part ZZZ at §12).

Lt. Gov., AG, Comptroller – not less than \$100,000 in contributions from residents of the state, including at least one thousand (1,000) matchable contributions.

State Senator – not less than \$12,000 in contributions from residents of the particular district, including at least one hundred fifty (150) matchable contributions. (Subject to 1/3 threshold reduction based upon average median income “AMI” determination in EL 14-203(2)(c))

State Assemblyperson - not less than \$6,000 in contributions from residents of the particular district, including at least seventy-five (75) matchable contributions. (Subject to 1/3 threshold reduction based upon average median income “AMI” determination in EL 14-203(2)(c))

The total of public funds awarded to a candidate is capped. A candidate for Governor, Attorney General or Comptroller can receive no more than \$3.5 million for a primary and \$3.5 million for a general election. A Lieutenant Governor candidate can only receive \$3.5 million for a primary.³ Senate candidates are capped at \$375,000 in a primary and \$375,000 for the general election. Assembly candidates are capped at \$175,000 for the primary and \$175,000 for the general election. Participating candidates for statewide office are required to participate in at least one debate.

Governance, Funding and Timing

The public financing program is overseen and enforced by a Public Campaign Finance Board (“PCFB”) “within the State Board of Elections.” The PCFB is comprised of the seven commissioners.

The legislation created a “New York State Campaign Fund” which would receive monies designated by a “tax check off, abandoned property funds, and the general fund...to be expended on matching funds to participating candidates and administrative expenses associated with the program.” *See* New York State Finance Law §§ 92-t; 95(5); New York State Tax Law §630-h.

III. Implementation

When the public financing program is fully implemented, PCFB certifies participating candidates have met the appropriate threshold of matchable small donor contributions to qualify for reimbursement of acceptable expenses. The PCFB has made available “computer software, to facilitate the task of compliance with the disclosure and record-keeping requirements” mandated by the program. *See* Election Law §14-207(3). Payments to candidates for qualifying matchable contributions in the form of reimbursements for qualifying expenditures must be made timely. Election Law §14-205(3). This will occur by electronic funds transfer through the Statewide Financial System (SFS). *See* Election Law §14-205(5).

Full post-election audits are required for all statewide candidates and committees receiving more than \$500,000 in public funds, and “not more than one third” of all committees are audited annually. *See* Election Law §14-208. The PCFB must enforce the public financing program, including imposition of civil penalties for failures to file or other delinquencies.

³ Under New York Law the Governor and Lieutenant Governor appear together upon the General Election ballot and run as a single unit.

PCFB staff provide “public information, candidate education and counseling.” This includes “plain language” “compliance manuals and summaries.” Election Law §14-207(3). Rules and regulations must be in place “no later than July 1, 2021.” Election Law §14-207(1). An educational webpage and “an interactive, searchable computer database that shall contain all information necessary for the proper administration of [the program]” must be made available. Election Law §14-207(3).

This implementation work will be conducted in three phases: Design and Build, Program Launch, and Payments Made. The phases will overlap as software acquisition is pending and may not be in place when payments are to be made in 2024.

A. PHASE ONE: Design and Build

Phase One of implementation created the detailed program processes, building the IT system to those specifications, promulgated regulations that provide the legal framework and developing the forms, manuals and other documents that will translate the program into usable instructions for users. These tasks are complete with the software procurement as a pending item.

The PCFB will need approximately five (5) software systems to be created or enhanced to implement public campaign financing. Those systems are: (1) a website to inform the candidate community and interested parties, including the public; (2) an internal ticketing system for use by PCFB staff that tracks interaction from a candidate’s first contact with the PCFB through the audit and enforcement process(es); (3) an enforcement case management system, (4) an enhanced disclosure system for use by participating candidates/committees to meet the needs of Title II; and (5) an auditing system to ensure public funds are paid out, accounted for and safeguarded efficiently.

In February 2022, the State Board made the decision to conduct a one-time software acquisition that would also update the Compliance Unit’s FIDAS system, electronic filing software and case management systems and the Operations Unit’s Candidate Management system as currently there are four stand-alone systems that should be fully integrated with the PCFB audit and payment system. The website was developed working with the State ITS department and launched on July 6, 2022. See <http://pcfb.ny.gov>

The PCFB completed detailed workflows for software acquisition and issued an RFP on October 14, 2022. The software bids were received and evaluated. A successful vendor was determined. The Office of General services has been negotiating the award with the successful vendor since May 2023. The vendor was to have been onboarded in May 2023 so that the audit and payment software would be implemented in Q2 2024, which coincides with the first payments to be made out of the fund. The Office of General Services continues to negotiate the contract with the vendor. As negotiations are ongoing, it is unlikely that the software can be in place for 2024.

In the interim, the PCFB has enhanced existing legacy SBOE software to conduct intake, auditing, and payment for the 2024 payment cycle. The interim solution relies on a manual audit and payment calculation process done by PCFB staff. A manual process adds time to the auditing process which is regulated in statute. While the interim manual system can accommodate the 2023 auditing of filings and 2024 periodic report filings, it will be

challenged to manage the volume of anticipated weekly claims in 2024. The PCFB will utilize temporary payment books to audit and determine the amount of public funds to be paid. The PCFB created a temporary database interface with the Statewide Financial System to make electronic fund transfers to committees. . The software solution is the critical piece to ensuring weekly claims can be audited and paid and to replace temporary payment books and interfaces with SFS.

Regulations

The PCFB adopted certain rules and regulations in order to implement the public campaign finance program. Election Law § 14-207(1) provides that: "the PCFB shall promulgate such regulations as are needed no later than the first day of July, two thousand twenty-one." The PCFB posted an initial draft of necessary regulations in the beginning of July of 2021. That draft was submitted to the Department of State and was published in the New York State Register on August 18, 2021, which started the 60-day public comment period. After a second public comment period, the regulatory process concluded and the PCFB issued two staff reports on the public comment received. The final regulations were adopted on September 14, 2022.

These regulations lay out the basic groundwork of how the public campaign finance program will operate; including provisions related to: the governance of the PCFB; certification and registration of campaigns; eligibility to participate in the program; the respective duties of participating candidates and their authorized political committees; the audit process, as well as the lottery system to determine who gets audited; and the repayment of funds by candidates, where warranted. Regulations concerning the debate and enforcement requirements were also adopted.

The procedures for the payment of funds to campaigns have been developed in conjunction with the Office of the State Comptroller, the Statewide Financial System and the OGS Business Service Center staff.

Office Space

Office space planning efforts have failed to identify and site the PCFB with dedicated space. ⁴ The PCFB is situated at 40 N. Pearl Street, Suite 5. Plans for a renovation of the 5th floor have been finalized with the buildout scheduled for August 2023 and completed by November 2024. PCFB staff are situated as space permits in vacant cubicles and are currently located on three different floors in six different office areas. Three of the six areas are temporary loaned space from other agencies. The PCFB has a staffing level of 118 and has onboarded 47 staff. There is immediate need for seventy-one (71) desks.

The PCFB has slowed hiring as there is no space to sit staff. The lack of space for the Board since inception has negative impacts on implementation. The Office of General Services has raised and retracted additional space in the building and new leased space outside the building multiple times since 2019. The PCFB has implemented telecommuting; however, this does not diminish the need for additional space to seat employees, provide

⁴ On June 22, 2021, the SBOE Co-Executive Directors sent a letter to the Legislative Leaders of the Senate and Assembly requesting assistance with space planning issues for the entire agency, including the PCFB. On June 30, 2021, twelve (12) good government groups sent a letter to the Governor and Legislature supporting the SBOE in obtaining adequate space to operate.

training, and to publicly meet as a Board. The lack of space to operate is an operational risk the Board continually seeks to mitigate.

As the statute split campaign finance enforcement jurisdiction, the PCFB conducts confidential investigations and conducting enforcement activities on Statewide and State Legislative candidates for office. A secure space is needed to conduct investigations and enforcement activities in a confidential setting similar to what is afforded to the SBOE Division of Election Law Enforcement. Currently our enforcement and investigative staff are in disparate cubicles around the floor of the agency as space permits.

B. Program Launch

Staffing

The PCFB Co-Directors are tasked with leading the program design effort, including marshalling the existing resources of the State Board to create the workflows and corresponding needs for each distinct process associated with the public finance program. Broadly, these processes fall into seven major categories: candidate participation intake and qualification, certifying and making payments, auditing, enforcement, training of candidates and treasurers, debates/ public information, and outreach.

In the State Fiscal Year 2023-24 budget, the Public Campaign Finance Unit has a budget authority to support 118 FTEs. The Board implemented an onboarding plan to deliberately onboard staff at crucial times, enabling the design and build, while also ensuring staff are adequately trained and in place for program launch. Through Q3 of 2023, 47 FTEs have been onboarded, with the remainder to be onboarded as office space permits..

The NYS public financing program will be the largest program in the nation and will be initially implemented with a manual audit process. While the PCFB is looking to leverage technology to increase auditing efficiencies, technology will not be a replacement for people to ensure candidates and treasurers are trained, disclosures are audited, payments are proper, and enforcement is precise. In comparison to the NYC program which services fifty-nine (59) offices on a four-year election cycle, the NYC CFB staff count is 200 FTEs. The NYC CFB paid out \$179 million in public funds in 2023. Currently, the NYC CFB budget was \$65 million which supports 200 full time equivalents.

Other Resources – Project Management

The PCFB has entered into a contract with NYSTEC for program management for the duration for the design and build, rollout, and testing. The NYSTEC contract will expire on March 31, 2027, for a rate not to exceed \$3.9 million. Additional Non-Personal Services Funds (NPS) are needed to fit up work areas, provide phones and computers, support meeting travel, equipment, educational costs and office expenses. This amount estimated is \$5,000 per new staff member.

Outreach

The Public Campaign Finance Board has reached out to many stakeholders and interested parties to get their experience and perspective on the program. Outreach from the beginning of the program will enhance transparency, collaboration and the successful implementation of the program for the State.

Fourteen (14) States and numerous localities have implemented public campaign finance systems. See <https://www.ncsl.org/research/elections-and-campaigns/public-financing-of-campaigns-overview.aspx> (It should be noted that only five other states have a public finance option for their state legislature). While the New York State program does not mirror any other program, it has requirements similar to the New York City program. Staff has met with the New York City Campaign Finance Board (CFB), the Connecticut State Elections Enforcement Commission (SEEC), Florida Division of Elections, the now repealed Suffolk County Campaign Finance Board, and other states to discuss the implementation of their systems and best practices. The PCFB will continue to meet with those jurisdictions to take a deeper dive on candidate education, intake and processing, auditing, training, enforcement and software initiatives. The PCFB has joined the Council of State Government Ethics Laws (COGEL) which brings together and provides forums for the public campaign finance administrators to collaborate.

The PCFB has also reached out to our Senate and Assembly legislative partners, the Brennan Center, the NY State and City Bar Association, public interest groups and technology experts to share early versions of staff consensus regulations. The PCFB created an external working group consisting of public finance administrators, advocacy groups, election law attorneys, and consultants to share ideas and test product and software.

Outreach will be conducted in a number of ways, including: via our website, utilizing social media accounts, by sending all registered statewide and state legislative candidates an email advising them of the program, attending statewide events promoting the program, and conducting a media campaign to inform potential candidates across the state.

The PCFB contracted with OpAD media to conduct a statewide media campaign to increase public awareness and drive the public to our website and social media sites.