

**New York City  
Campaign Finance Board**

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September 24, 2013

Moreland Commission  
Co-Chairs  
Kathleen Rice  
William J. Fitzpatrick  
Milton L. Williams, Jr.  
90 Church Street, 15<sup>th</sup> Floor  
New York, New York 10010

Dear Co-Chairs:

Thank you for allowing me the opportunity to testify before the Moreland Commission on Friday August 16. I apologize for the delay in sending you this additional information. This letter should clarify my testimony and provide you further information about the operations of the New York City Campaign Finance Board (CFB) and our public matching funds program. Please find enclosed the following documents requested by your members (or as referenced herein):

- A copy of my testimony
- A copy of the Campaign Finance Act (Act) and the Board's Rules (Rules)
- A copy of the Fiscal Year 2014 budget as submitted to the Mayor (adopted without change by the City Council)<sup>1</sup>
- An organizational chart
- A copy of a June 10, 2013 letter to State Senator Jeffrey Klein.

My testimony should provide an overview of our work. At my appearance, members of the Commission asked several relevant questions about the Act and Rules, and I thought it might be helpful to provide you with the complete text. One line of questioning that arose dealt with the issue of how much would it cost to implement a public financing program, like ours on the state level. During the debate in Albany on various public financing proposals in the spring, we created a breakdown of our administrative costs and an estimate of running a similar program at the state level, which we provided to members of the independent Democratic Conference and the State Senate Committee on Elections. This analysis is attached.

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<sup>1</sup> There was a small change in the adopted budget in the classification of certain funds as for other than personal rather than personal services due to a misunderstanding by the Mayor's Office of Management and Budget. This has been corrected.

Another Commissioner asked about my personal belief that the public matching funds program would be simpler if the Act provided an affirmative list of items on which public funds could be spent rather than a list of prohibited items. See NYC Admin. Code §3-704. I referenced a proposal made by the Board in its 2003 post-election report; the relevant section is excerpted here (the full report can be found on our website at [http://www.nycfcfb.info/PDF/per/2003\\_PER/PER\\_complete.pdf](http://www.nycfcfb.info/PDF/per/2003_PER/PER_complete.pdf) at p.50):

Currently, the Campaign Finance Act provides that public funds may be "used only for expenditures...to further the participating candidate's nomination for election or election.... The Act contains a number of prohibitions on the use of public funds. As part of its audit process, the Board requires candidates to document that their public funds have been spent appropriately. In 2001, the Board noted during the audit process that candidates had a difficult time documenting sufficient qualified expenditures to justify the expenditure of all the public funds they had received. Consequently, the Act would provide City Council candidates with a finite list of the expenditures that can be made with public funds. Of course, candidates would still be required to document these expenditures, but the limited purposes of the permitted qualified spending would allow the Board to provide strict, circumscribed guidelines for documenting the expenditures, thereby greatly simplifying a process that has been demanding for Council candidates. To protect the taxpayers, certain types of expenditures would be flatly prohibited. These would continue to include, e.g., expenditures made in cash and payments made to the candidate or to his or her family members. **Public funds would be available to be spent only on "hard" goods. Allowable expenditures would include: media advertisements; mailing costs; and rent. Because a certain level of personal involvement is necessary to produce literature or advertisements, candidates would be allowed to spend 10% of their public funds on personnel and consulting costs. (emphasis added)**

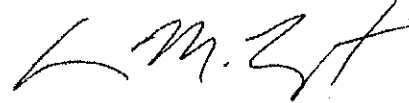
Though the 2013 election cycle is not over, there are some initial lessons we can identify. New York City saw an unprecedented level of spending by independent actors, more than \$12.7 million thus far. However, the matching funds program continued to increase the numbers of small donors, provide more candidates with the resources to be heard, and balance the influence of special interests. In all, 124 primary campaigns received approximately \$32.2 million in public funds to get their message out. A complete analysis will be done after the election.

Moreland Commission Co-Chairs  
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September 24, 2013

I appreciate your interest in the work of the New York City Campaign Finance Board and I am happy to answer any additional questions you may have. You can also find more information about our work on our website, [www.nyccfb.info](http://www.nyccfb.info).

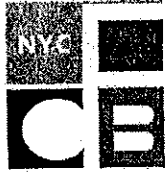
Sincerely,



Amy M. Loprest

Enclosures

c. Danya Perry, Moreland Commission  
Board members (w/o attachments)



## **New York City Campaign Finance Board**

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### **Testimony of Amy Loprest, Executive Director New York City Campaign Finance Board**

**Moreland Act Commission to Investigate Public Corruption  
August 16, 2013**

Good morning. I am Amy Loprest, Executive Director of the New York City Campaign Finance Board (CFB). Joining me today is Peri Horowitz, our director of Campaign Finance Administration.

We are pleased to have the opportunity to share our experiences administering New York City's landmark public financing program. Over 25 years, the hard work and commitment of the Board, its staff, and our partners in city government have shaped the City's program into one of the most robust campaign financing programs in the country, at any level of government.

We have not found that the matching funds program can fix all the ills of our political system. It does not keep corrupt individuals from entering public life. But it does increase the voice of all New Yorkers in City elections, it brings elected officials closer to the voters they represent, and it holds candidates accountable for their conduct.

#### **The New York City Campaign Finance Act**

The Act established the Campaign Finance Board to administer the Program. As established in the Charter, the Board is strictly non-partisan. The Mayor and Speaker of the City Council each have two

appointments, who may not be members of the same political party. The Mayor appoints the Board's chair in consultation with the Council Speaker. From its inception, our Board has maintained its independence, and has insisted on building a professional staff without consideration for political affiliation.

The Act covers candidates seeking election to 59 offices in New York City's municipal government, including three citywide offices (mayor, comptroller and public advocate), five borough-wide offices, and 51 seats on the City Council.

The Act sets common-sense contribution limits for candidates. For the 2013 election, mayoral candidates may not accept more than \$4,950, which is slightly less than the limit for candidates for Federal office. For City Council candidates, the limit is \$2,750.

These contribution limits, which apply to all contributors (individuals, labor organizations, and political committees) and all candidates alike, are combined for the primary and general elections. The Act prohibits direct contributions to candidates from corporations, LLCs and partnerships. These stand in stark contrast to the limits at the state level where contributions up to \$60,000 are allowed and corporations and LLCs also can contribute.

In addition, the Act sets lower contribution limits for anyone who has, or is actively seeking, a business relationship with the City. The "Doing Business" limits range from \$400 for mayoral candidates to \$250 for City Council candidates. These limits have been highly successful at limiting the role of so-called "pay-to-play" contributions in City elections.

Our mandate includes significant responsibilities to inform, educate, and engage New York City voters. All candidates are subject to strong disclosure requirements; every campaign must report its financial activity to the Board on a regular schedule. The information reported by campaigns is made available to the public on our online searchable database. The disclosure requirements are more comprehensive than those on the state level as they include employment and intermediary information for contributions. Our web application, C-SMART, available free to all campaigns, also reinforces quality disclosure by having a number of error messages and warnings to ensure that all required fields are fully completed.

The CFB also administers a debate program for citywide candidates; publishes and distributes a print edition of the non-partisan voter guide to every household with a registered voter (the voter guide also has video and on-line versions); and works to register new voters throughout the city and keep them engaged in city elections.

### **The New York City Campaign Finance Program**

The centerpiece of our system is the City's voluntary public matching funds program. Simply stated, there are two main goals of the program: to increase the role of small-dollar contributions in City elections, and to decrease the perception and possibility of corruption associated with large contributions. The Program matches the first \$175 contributed by New York City residents with public funds at a rate \$6-to-\$1. This means an individual's \$10 contribution is worth \$70 to the candidate. Contributions from non-city residents, political committees and unions are allowed, but are not matched by public funds, nor are contributions from people doing business with City government. Also,

contributions transferred from prior elections are not eligible for match and are combined in last-in-first-out order with current contributions to ensure violations of the contribution limits don't occur. Further, after the election, candidates who have received public funds are required to return any money in their bank accounts up to the amount of public funds received.

Matching funds are available only to candidates who are listed on the ballot, and have an opponent on the ballot. Candidates must also demonstrate compliance with the campaign finance law; any candidate with outstanding penalties or repayment obligations assessed in previous campaigns will not receive public funds.

To receive matching funds, candidates must also demonstrate that they have earned a sufficient level of public support. Candidates must satisfy a two-part fundraising threshold to qualify. For example, City Council candidates must raise \$5,000 in matchable contributions and collect 75 contributions from the district they seek to represent.

Public funds payments to any campaign are capped at 55 percent of the spending limit established for that office. This limitation ensures that every campaign has a mix of private and public funds behind it. In the 2013 elections, the maximum public funds payment available to mayoral candidates is \$3.5 million per election. For City Council candidates the maximum public funds payment is \$92,400 per election.

In joining the program, candidates agree to abide by strict spending limits. These limits vary by office, and ensure that the amount of money raised is not the deciding factor in a race between participating

candidates. In 2013, participating mayoral candidates may spend up to \$6.4 million each in the primary and general election; the limit for City Council candidates is \$168,000 in each race. The Act calls for these limits to be automatically adjusted according to inflation after each four-year election cycle, which allows the Program to keep pace with the increasing costs of running a campaign in one of the most expensive cities and media markets in the world.

Following each citywide election, the Act requires that the CFB review the Program, its effects on candidates' ability to campaign, and recommend appropriate changes to the law. This regular review of our rules and practices has helped the Program evolve over time and meet new challenges. Now, more than ever, most candidates believe that the public matching funds program offers the best chance to compete. More than 90 percent of active candidates joined the Program for the 2009 primary elections, as did 80 percent of active candidates for the general elections.

### **Independent, Non-partisan Enforcement**

The CFB's record of tough-but-fair enforcement creates a culture where following the rules matters and compliance with the law is the norm, not the exception. In the 2009 elections, two-thirds of the more than 200 candidates registered with the CFB were not assessed a penalty.

This is not an accident. The professional staff in our Candidate Services Unit provides training and guidance to candidates and campaign staff, helping them to comply with the Program's rules. They contact candidates with reminders before each filing deadline, and they are available to answer questions at any time. All campaigns in the public financing are required to have the candidate, treasurer, campaign managers, or persons with significant managerial control must attend a training.



Candidates for office in New York City also know that their campaign finances will be audited thoroughly by the CFB before, during and after each election. Pre-election, we carefully review every claim for public funds, to ensure candidates qualify for matching funds honestly. Candidates who have committed serious violations before the election do not receive public funds. In the most egregious circumstances—Pedro Espada, Jr. in 2001 is one example—candidates can be denied funds altogether.

During the election, we verify that the candidates are abiding by the rules. After the election, our audits ensure that candidates have accounted for each and every dollar in public funds they receive. If the money was not spent for their election, we require that they pay it back. As a result of our audit and enforcement authority, most candidates in New York City don't take liberties with their campaign funds. Those who flout these rules expose themselves to severe penalties, and may be personally liable to repay the misused funds.

The Board's non-partisan, independent structure has been very important to allowing our Board to function effectively. We are asked to safeguard the public's investment in the political process, and we take that responsibility very seriously. Our enforcement efforts have helped keep the Program strong over the years.

## **Conclusion**

The City's matching funds program greatly increases participation in our elections by New Yorkers living in every neighborhood which is the key to a healthy democracy. Their participation ultimately

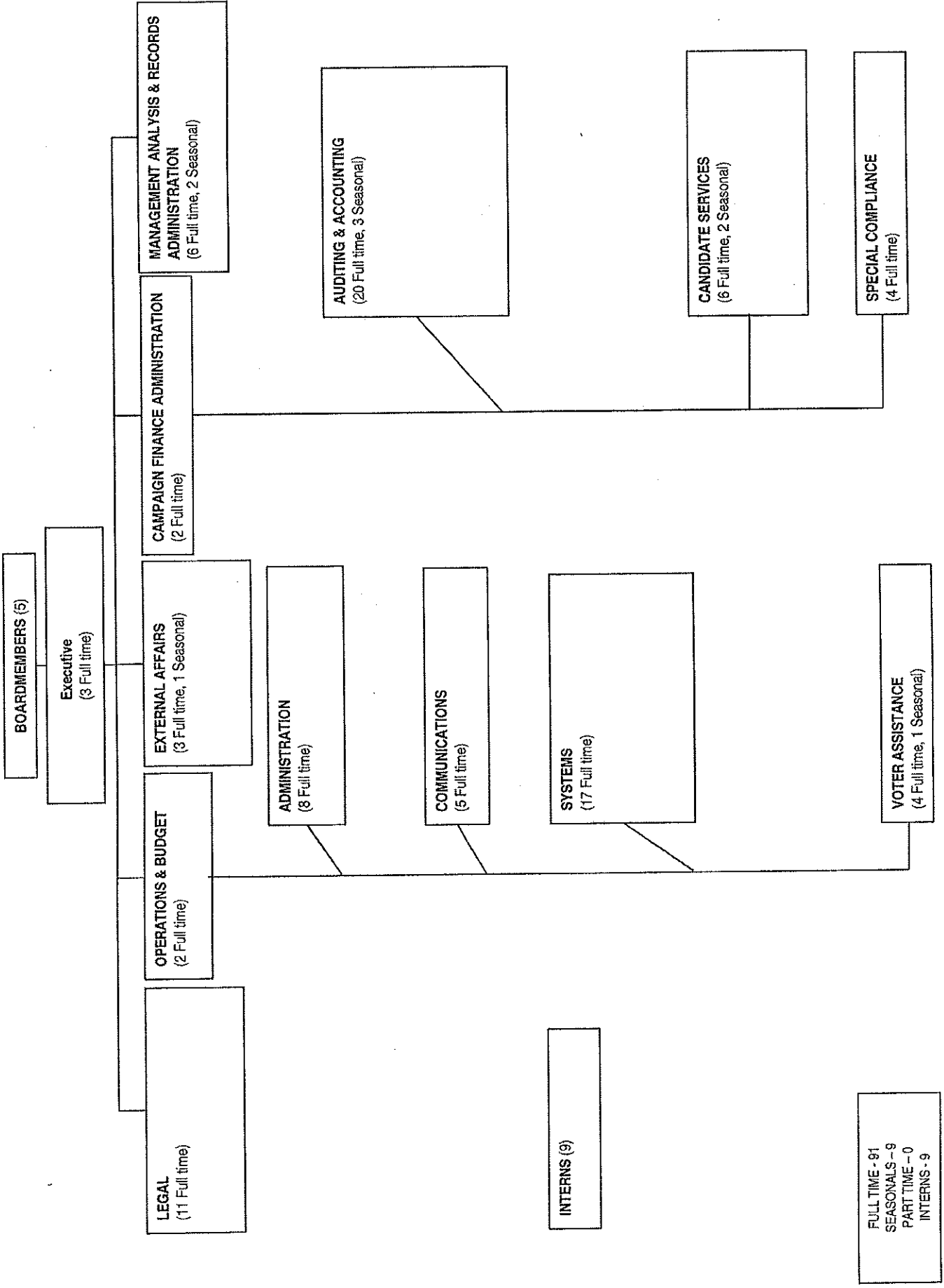
determines whether candidates are accountable to the public interest. Government works best when the public takes an active role.

Unfortunately, New Yorkers have grown disconnected from their state government in Albany. The cycle is all too familiar: porous campaign finance laws breed cynicism, causing voters to tune out. With no one watching, corrupt actors escape accountability and it becomes much more difficult for good people to be effective.

New York City was in a similar cycle 25 years ago, but the Campaign Finance Act and the public matching funds program have helped reverse the trend. We support the important work of this Commission and are hopeful that it helps to restore New Yorker's confidence in their government. We are happy to answer any questions you may have.

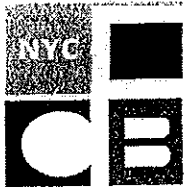
9/17/2013

# CFB ORGANIZATION CHART



INTERNS (9)

FULL TIME - 91  
SEASONALS - 9  
PART TIME - 0  
INTERNS - 9



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June 10, 2013 Amy M. Loprest  
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NYS Senator Jeffrey D. Klein  
Independent Democrat Conference Leader  
Legislative Office Building, Room 913  
Albany, New York 12247

Dear Senator Klein:

As a supplement to our testimony last month about New York City's public matching funds program and the operations of the Campaign Finance Board, I wanted to provide you with a more detailed breakdown of the agency's administrative costs. I hope these figures can be helpful in your deliberations about the existing legislative proposals to enact a public matching funds system for New York State offices.

## OVERVIEW

Subtracting funds set aside to make payments to candidates participating in the Campaign Finance Program, the CFB's FY 2014 budget (which includes the 2013 elections) totals \$20.86 million.

Of that, \$9.95 million is for the print and video editions of our non-partisan Voter Guide. The Board publishes and mails the print Voter Guide to every New York City household with a registered voter. We anticipate producing 8.1 million copies of the print Guides for the 2013 primary and general elections combined. These will be produced in five languages: English, Spanish, Chinese, Korean, and Bengali.

The remainder, \$10.9 million, constitutes funding for CFB's core operations and personal services.

## PERSONAL SERVICES

The CFB's personnel costs for FY 2014 total \$7.69 million. A review of agency staff structure could help lawmakers better approximate the actual administrative costs required to run a larger, statewide system.

*Staff costs for the CFB's audit, compliance, and enforcement functions are, to differing degrees, dependent on the number of candidates running for office.*

June 10, 2013

Roughly 47 percent of our staff plays a significant role in the compliance and enforcement functions of the agency.

These include auditors and compliance staff who review disclosures and documentation provided by campaigns to assess compliance with the law, investigate complaints, and make recommendations for payments, and Candidate Services liaisons who work directly with candidates throughout the election cycle to provide guidance on complying with the Act and Rules. To an extent, it also includes Legal staff, which recommends enforcement actions against campaigns found to have violated the Act and Rules, among other duties. (Both the IDC proposal and Speaker Silver's bill anticipate certain enforcement functions being assumed by the State Attorney General's office.)

To administer a statewide system, with a larger number of candidates competing for office, the staffing needs of these units would likely be greater.

*Certain agency staff costs are not necessarily dependent on the number of candidates.*

About 30 percent of CFB staff are in departments whose workload is not literally dependent on the size of the candidate pool. CFB's Systems staff builds and maintains the IT systems used by campaigns, members of the public, and agency staff, to report, view, and analyze candidates' campaign finance data. The agency's press, policy, and administrative staff are also in this category.

For a larger system, the staffing needs of these units would not necessarily increase. Systems' workload, for instance, depends not on the number of candidates in the program, but on the number of systems they maintain.

Both existing legislative proposals (the Silver bill and the IDC bill) would create a new unit inside the NYS Board of Elections to administer the new public matching funds program. Though a new agency would require some initial investment in IT and other needs, these basic functions could likely be met through some combination of existing infrastructure and new staffing.

*Other personnel costs are unique to New York City's system.*

Certain staffing costs are either wholly or partially devoted to meeting specific mandates in the New York City Charter. For instance, the CFB is required to produce, print, and mail a non-partisan Voter Guide to every household with a registered voter. The City Charter also mandates the CFB execute specific responsibilities to encourage and facilitate voter registration and voting in New York City.

Neither of these mandates are included in the existing legislative proposals to establish a public matching funds program for New York State. An analysis of staffing needs to administer a state system should minimize or zero out costs for these functions.

June 10, 2013

**Analysis**

To derive an estimate for the staffing costs necessary to administer a statewide public matching funds system, we applied multipliers to current CFB staffing costs based on the above assumptions, an analysis of the legislative proposals introduced in the Assembly and Senate, and on two sets of projections of the number of candidates likely to run for office--one from Senate Republicans, and another derived by Michael Malbin's research for the Campaign Finance Institute.

As noted above, CFB's staffing costs for FY 2014 total \$7.69 million. Generally, we estimate that the staffing budget to administer a state-wide public matching funds program should need to be between 66 and 109 percent larger, depending on the expected number of candidates. (See table below.)

	Number of candidates, 4-year cycle (estimate)	Multiplier (4-yr cycle)	Estimated personnel budget
NYC CFB	248*	1	\$6,947,979**
NYS estimate (CFI)	780	3.15	\$12,726,272
NYS estimate (GOP)	1080	4.35	\$16,096,944

\* Average of 2001, 2005, 2009 elections

\*\* FY 2014 budget request

In constructing these estimates, we applied a multiplier based on the expected number of candidates during a four-year cycle to the expected share of the staff budget for auditors and investigators. Auditors must review each campaign separately before, during and after the election; a single candidate may run for election twice in a four-year cycle, but each campaign committee will receive scrutiny. The Candidate Services staff focuses on providing guidance to active candidates before and during the election, so we applied a multiplier based on the number of expected candidates for a two-year cycle (*i.e.*, half the multiplier for the four-year cycle). The Legal staff, which does work related to enforcement during and after the election, received the two-year multiplier. With the exception of Voter Assistance (which was not included in the estimate), we assumed all other staffing remained constant.

There are other factors that could affect these estimates.

- The cap on public funds payments could affect the calculations; the IDC proposal has higher caps on public funds payments than the Silver bill.
- As noted, both the Senate and Assembly bills direct some of the enforcement work to other agencies, which could lower the staffing costs related to that function. Other policy choices could similarly impact staffing needs.

June 10, 2013

- The multipliers are calculated using the average number of candidates for the three citywide election cycles (2001, 2005, 2009) as the denominator. It is expected, however, that participation in the 2013 election will be well above average; to date, there are 237 active candidates registered with the CFB.

### NON-PERSONNEL COSTS

Once costs of the Charter-mandated Voter Guide are discounted, the agency's OTPS (other than personal services) budget for FY2014 is \$3.22 million.

The largest driver of the agency's non-personnel costs--office rent--is dependent on New York City real estate prices.

Rent represents some 30 percent of CFB's OTPS budget, about \$1.2 million. It is likely that the cost of office space in Albany relative to Manhattan would result in a significant comparative savings for a new state agency, even with a larger staff head count. By some estimates, costs for office space in Albany are approximately one-third of what they are in Lower Manhattan.

Other administrative costs, such as computer equipment or office supplies, would increase to scale. There are likely some savings here, though the lower costs of operating in Albany could be offset somewhat by the costs of maintaining a larger staff. (See table below.)

	CFB FY2014	NYS estimate*
Rent	\$1,200,000	\$800,000
Other OTPS	\$2,023,000	\$4,046,000
TOTAL	\$3,223,000	\$4,846,000

\*based on 2x staff head count, 1/3 cost for office space

Based on these estimates, it is reasonable to suggest that a public matching funds system for New York State may require administrative costs of between \$17.52 million and \$20.94 million.

### SAVINGS FROM ENFORCEMENT

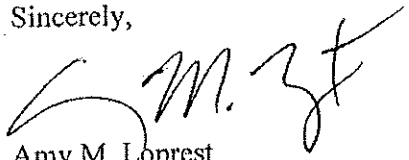
When thinking about the administration of a new public matching funds system for State campaigns, it is important to remember that vigorous auditing and oversight can help to safeguard the public's investment in the political process. The above analysis does not include funds recovered through the audit and enforcement process; in New York City's system, monies repaid by campaigns are returned to the City's General Fund.

June 10, 2013

- Careful auditing ensures that candidates receive only the funds for which they are truly eligible. An analysis done for CFB's 2009 post-election report showed that pre-election audits of candidates' claims for matching funds saved taxpayers \$7 million.
- Candidates who have funds left over, misspend funds, or fail to document their spending must return funds to the taxpayers. Through post-election auditing, 86 candidates in the 2009 election have been required to return \$1.56 million in public matching funds. To date, \$556,000 has been collected.
- Strong enforcement ensures that candidates are held responsible for their conduct with public funds. To date, 86 candidates in the 2009 election have been issued penalties totaling \$595,000. Of that total, \$279,000 has been collected so far.
- Candidates with unpaid, outstanding penalties or public funds repayment obligations may not receive public funds for a future election, which ensures taxpayers recover unspent funds, and ensures scofflaws can't abuse the system again. Over the previous three election cycles, approximately 75 percent of penalties and repayments assessed against campaigns have been repaid.

We hope this information is helpful. Please be in touch if you have any further questions.

Sincerely,



Amy M. Loprest