the impact of high-spending non-participants on the Campaign Finance Program

NEW YORK CITY CAMPAIGN FINANCE BOARD

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Elections are won or lost for a multitude of reasons. Merit, incumbency, campaign spending, party support, newspaper endorsements, ethnicity, as well as any number of events not directly related to an election influence a campaign's ultimate success or failure.[1] In recent years, the role of campaign spending has again come to the forefront of New York City's political debate. Money is, of course, an important factor in shaping electoral outcomes. But neither self-financing nor a high level of spending alone is determinative. Indeed, the strongest predictor of electoral success is incumbency, while spending is a close (though often overlapping) second.[2]

In each of the past two mayoral elections, a self-funded candidate with seemingly unlimited resources has challenged the ability of New York City's ground-breaking Campaign Finance Program to create a level playing field for all candidates. High-spending candidates[*] who decline to participate in the Program are neither new nor common, however. Since the inception of the Program, participating candidates for mayor, borough president, and City Council member have occasionally faced high-spending non-participants.[†] Participants have run against high-spending non-participants in 61 of the 621 races (or less than 10 percent) conducted under the Program since 1989. The levels of spend-

* Defined in the Campaign Finance Act as a non-participant who raises or spends more than 50% of the applicable spending limit. (NYC Admin. Code §3-706(3).)

† In 1989 — the first election conducted under the Program — Ronald Lauder spent $13 million, the vast majority of it his own money, in his failed bid for the Republican nomination for mayor. Lauder's spending triggered the Program's first bonus public funds matching rate ("the bonus") for his opponent in the primary election, Program participant Rudolph Giuliani (a race Giuliani won). The bonus was also triggered in three City Council primary election races that year. In 1993, Andrew Stein decided not to abide by the Program's contribution and spending limits and accepted contributions of up to $100,000 for his mayoral campaign, well over the Program's contribution limit of $6,500. Stein later announced that he would not run for mayor, but would instead run for re-election as public advocate (formerly "City Council President"). He vowed not to use any of the money he raised for his mayoral campaign, agreeing to "voluntarily" adhere to the Program's limits. A month later, Stein dropped out of politics. Many believed that his fundraising strategy backfired and that "his lavish fundraising events left a sour taste in the mouths of recession-weary New Yorkers." (Editorial, "Mr. Stein Quits," *New York Times*, July 1, 1993, 14.)

ing by mayoral candidate Michael Bloomberg, however — $73.9 million in 2001* and $84.6 million in 2005 — set records for self-financing in campaigns for local, state, or federal office.†

One observer suggests that "the presence of such candidates in a campaign can dampen the enthusiasm and discourage the candidacies of their less well-financed opponents."[3] Others have called the phenomenon of self-funded candidates who decline to join the Campaign Finance Program "perhaps the greatest challenge the program has faced to date,"[4] a problem which "undermines campaign reform and understates the continuing impact of money in political campaigns."[5] One assessment of their impact on the Program explains how:

> The impact of high-spending, non-participant candidates is hard to quantify, but there can be no doubt that they discourage all but similarly wealthy challengers from entering the race, they dominate the airwaves and smother democratic debate and competition, they provide an incentive to challengers to opt out of the public financing program themselves, and they discourage contributions from individuals who feel that their relatively small donations no longer make a difference.[6]

The Board believes this is an issue of importance. This paper attempts to evaluate the extent to which self-financed candidates indeed present a challenge to New York City's Campaign Finance Program, and to what extent the responses and recommendations for reform might be effective and practical. This paper discusses the Program's history with high-spending non-participants, reviews previous legislative changes intended to address the issue, and offers new legislative recommendations for further improvements to the Program.

BACKGROUND

The Supreme Court's 1976 decision in *Buckley v. Valeo* invalidated expenditure limits on self-financed candidates. While upholding limits on contributions in the interest of limiting real or perceived corruption, the Court found that similar limits could not apply to self-financed candidates. Candidates who rely on their own bank accounts for campaign funds, the Court held, are free of the corrupting influence of large, private contributions ("candidates cannot corrupt themselves"), and therefore the Court struck down limits on personal expenditures by candidates as an unconstitutional restriction on political expression.[7]

* In constant 2005 dollars, Bloomberg's spending on the 2001 race was $81.6 million.

† The 2005 election cycle saw the election of at least one other prominent self-financed candidate, New Jersey Governor Jon Corzine, who spent more than $42 million of his personal fortune during his 2005 campaign for the vacant governor's office. In 2000, Corzine spent $68 million (in 2005 dollars) in his successful run for U.S. Senate, also for an open seat. However, spending at these levels certainly does not guarantee success. (All figures to follow are in inflation-adjusted 2005 dollars.) In 2002, Paychex founder Thomas Golisano spent $82.9 million in his third unsuccessful bid for governor of New York State against incumbent George Pataki, receiving just 13 percent of the general election vote. Northwest Airlines CEO Al Checchi spent $40 million of his own money in the 1998 Democratic primary for governor of California, winning 21 percent of the vote in an election won by Gray Davis. Steve Forbes, CEO of Forbes, Inc., spent $92.5 million over two election cycles in unsuccessful campaigns for the Republican nomination for President in 1996 and 2000. Michael Huffington spent $37 million in a bid for a U.S. Senate seat in California, losing narrowly to incumbent Dianne Feinstein. In 1992, Ross Perot spent $78.2 million in the presidential general election, garnering 19 percent of the vote and finishing third.

Buckley struck down mandatory limits on overall campaign spending on First Amendment grounds as well, rejecting the argument that the government's interest in creating an "even playing field" provides a compelling rationale for mandatory restrictions on spending. The Court's findings in *Buckley* have made it difficult for under-funded campaigns to offset the financial advantages of wealthy, self-funded candidates.

Over the past 30 years, several cases have provided the Court with the opportunity to reconsider its decision in *Buckley*, but the decision stands intact. Most recently, in June of this year in *Randall v. Sorrell* 126 S. Ct. 2479 (2006), the Court struck down Vermont's Act 64, which combined strict limits on campaign contributions with caps on campaign expenditures for state elected offices.[*]

In a dissent, Justice John Paul Stevens warned that without overturning *Buckley*'s ban on expenditure limits, candidates without the means or the will to fund their own campaigns may eventually find it impossible to participate in the electoral process:

> When campaign costs are so high that only the rich have the reach to throw their hats into the ring, we fail 'to protect the political process from undue influence of large aggregations of capital and to promote individual responsibility for democratic government.' *Automobile Workers*, 352 U.S., at 590. States have recognized this problem, but Buckley's perceived ban on expenditure limits severely limits their options in dealing with it.[8]

As long as the Supreme Court continues to find mandatory spending limits unconstitutional, the only practical avenue for leveling the playing field for candidates of modest means is with voluntary taxpayer-funded public financing programs, such as the Program in New York City.[†]

Program History

The New York City Campaign Finance Board was created in 1988 as an independent, nonpartisan city agency entrusted with administering the Campaign Finance Program, publishing the Voter Guide, and, beginning in 1997, overseeing a debate program for candidates for citywide office. Legislative changes enacted at the end of 2004 require all candidates running for the covered offices to comply with the contribution limits and disclosure rules, whether or not these candidates choose to participate in the Campaign Finance Program. [‡9]

The voluntary Program provides public matching funds to candidates for city office who agree to abide by strict spending limits and who show they have adequate support from the public by meeting

* Act 64 set limits on campaign contributions at $400 for statewide offices, $300 for state Senate seats, and $200 for state House seats. It set expenditure caps at $300,000 for a gubernatorial race, $100,000 for lieutenant governor, $45,000 for other statewide offices, $4,000 for a state Senate seat, and $2,000-$3,000 for a state House seat. All figures are for a primary and general election combined.

† Buckley also held that public financing programs that include voluntary limits on expenditures are constitutional, saying they further "sufficiently important governmental interests" and do not present a burden to "the political opportunity of any party or candidate."

‡ Candidates who choose not to join the Program, however, can contribute an unlimited amount to their own campaigns.

a two-part threshold requirement.* Initially, the Program granted public matching funds to qualified participants at a rate of $1-to-$1 (for contributions by New York City residents up to $1,000). In 1998, the public funds matching rate was increased by the City Council to a generous $4-to-$1 match (but only for contributions by city residents up to $250).†

The Campaign Finance Act provides bonus matching rates for Program participants who face high-spending non-participants. A bonus is triggered when a non-participating candidate spends more than 50 percent of the expenditure limit. Prior to 1998, participants received bonus matching funds at a $2-to-$1 rate. With the increase in the baseline matching rate to $4-to-$1, the bonus match was increased to $5-to-$1. In a "bonus situation," spending limits are also increased. The bonus is an attempt to ease the disadvantage Program participants — who must adhere to strict contribution and expenditure limits — may face when opposed by a non-participating candidate.

Program Changes for the 2005 Elections

To address the challenges posed to the Program by the disparity in campaign spending at the mayoral level in the 2001 election, legislation was introduced to modify the bonus grant.‡ The result, Local Law 58 of 2004, provided for two major changes to the Program: a two-tiered bonus matching rate system, and a new optional candidate category of "limited participant."

Two-Tiered Bonus Matching Rate

The two tiers for distributing bonus matching funds to participating candidates who face high-spending non-participants are defined by the amount the non-participating candidate spends.

The Tier 1 bonus provides a $5-to-$1 match and is triggered when a non-participant opponent raises or spends 51 percent of the applicable spending limit. The maximum amount in public funds available to the participating candidate increases from 55 percent to two-thirds of the spending limit, and the spending limit increases by one-half.

The Tier 2 bonus is triggered when a non-participating opponent raises or spends more than 300 percent of the applicable spending limit, and provides a $6-to-$1 match, up to $1,500 per contributor. The maximum amount in public funds available increases to 125 percent of the usual spending limit, and the expenditure limit is entirely removed.

In monetary terms, the two-tiered bonus matching rate has the potential to substantially increase the availability of public matching funds to candidates facing high-spending non-participants, especially at the mayoral level.

* The five offices covered by the Campaign Finance Program are mayor, public advocate, comptroller, borough president, and City Council member.

† The 1999 special elections for City Council Districts 48 and 50 were the first races to benefit from the $4-to-$1 matching rate.

‡ Initially, legislation was introduced that would have raised the existing $5-to-$1 rate up to $8-to-$1 in certain extraordinary circumstances. The proposed $8-to-$1 match — doubling the regular match and yielding up to $2,000 in public funds per contributor — would have been applied only in cases in which a non-participant raised or spent three times the spending limit. Some argued that exponentially increasing the match would put an unfair burden on taxpayers.

1. TWO-TIERED BONUS FOR PARTICIPANTS FACING A HIGH-SPENDING OPPONENT				
	Matching Rate	**Trigger (Percentage of Spending Limit Raised or Spent)**	**Maximum Public Funds (Amount of Regular Spending Limit)**	**Spending Limit (Percentage of Regular Spending Limit)**
No Bonus	4:1	n/a	55%	n/a
Tier 1	5:1	50%	⅔	150%
Tier 2	6:1	300%	125%	no limit
BONUS AS APPLIED BY OFFICE				
MAYOR				
No Bonus	4:1	n/a	$3,150,400	$5,728,000
Tier 1	5:1	$ 2,864,001	$3,818,667	$8,592,000
Tier 2	6:1	$17,184,001	$7,160,000	no limit
PUBLIC ADVOCATE/COMPTROLLER				
No Bonus	4:1	n/a	$1,969,550	$3,581,000
Tier 1	5:1	$ 1,790,501	$2,387,333	$5,371,500
Tier 2	6:1	$10,743,001	$4,476,250	no limit
BOROUGH PRESIDENT				
No Bonus	4:1	n/a	$ 708,950	$1,289,000
Tier 1	5:1	$ 644,501	$ 859,333	$1,933,500
Tier 2	6:1	$3,867,001	$1,611,250	no limit
CITY COUNCIL				
No Bonus	4:1	n/a	$ 82,500	$150,000
Tier 1	5:1	$75,001	$100,000	$225,000
Tier 2	6:1	$450,001	$187,500	no limit

"Limited Participants"

Without the legal authority to compel a self-funded candidate to curb his or her spending, the City Council created a candidate category called "limited participant" for the 2005 election.[10] Limited participants are purely self-funded candidates who agree to adhere to Program expenditure limits.[*] The new category recognizes that some candidates may simply wish not to accept contributions or the strings that may be — or may appear to be — attached to them. In return for compliance with the Program's expenditure limits, the limited participant does not trigger the bonus situation for his or her opponents (saving the city money) and is automatically eligible to participate in the CFB's official Debate Program. No candidate — at any level — opted to join the Program as a limited participant for the 2005 election, the first for which this option was available. In the 2005 election, Mayor Bloomberg declined to curb his spending voluntarily or to join the Program, despite calls to do so.[11]

ANALYSIS

Trigger for Bonus Match

Participants have run against high-spending non-participants in 61 of the 621 races (or less than 10 percent) that have occurred under the Program since 1989. Fifty-six of the 61 races (or 92 percent) where the bonus has been triggered were for City Council seats. Overall, the bonus has been triggered *less* frequently in recent years. (See Chart 2.)

Not only is the occurrence of a bonus situation unusual, but the amount of public funds distributed through the bonus matching rate is a very small percentage of the total public funds distributed by the Board. The extra public funds distributed because of the bonus matching rate accounts for only four percent of the *total* public funds distributed since 1997. Of the nearly $3 million in bonus matching funds distributed since 1997, almost $607,000 (or 21 percent) was distributed at the Council level. By contrast, at the mayoral level, the bonus matching rate accounted for more than $2.1 million (or 71 percent) of the total bonus funds distributed, which nonetheless still accounts for only two percent of the total public funds distributed since 1997. Bonus matching funds to Council candidates represent less than one percent of the total public funds distributed since 1997. (See Chart 3.)

In races featuring incumbent candidates, incumbency — even more than spending — is the best predictor of electoral success.[12] From the 1997 to the 2005 elections, the bonus was triggered in 28 races. (See the Appendix.) Eighteen of those races involved an incumbent; in 17 of them, the incumbent was re-elected (15 non-participants and two participants).[†] In races without an incumbent, Program participants and non-participants have been equally competitive. In the 10 races for open seats, Program participants won five races and non-participants won five races.

* Limited participants cannot accept contributions from anyone other than themselves and may not accept any loans. In addition, they are ineligible to receive public funds. (New York City Admin. Code §3-718.)

† In 1997 in Council District 17, Program participant Pedro G. Espada won the Democratic primary against incumbent Federico Perez. Espada, however, did not qualify for public funds, bonus or otherwise, although another opponent did receive public funds at the bonus matching rate.

2. FREQUENCY OF BONUS MATCHING RATE TRIGGERED PER ELECTION — 1989–2005					
Election Year	**Office**	**Primary Election Races**	**General Election Races**	**Total Races in which Bonus was Triggered**	**Total Races**
1989	Mayor City Council	1 4	– –	5	60
1991	City Council	16	5	21	91
1993	City Council	4	3	7	84
1997	Borough President City Council	– 7	2 5	14	93
1999	City Council	–	1	1	4
2001	Mayor City Council	– 3	1 –	4	125
2003	City Council	3	2	5	75
2005	Mayor City Council	– 3	1 –	4	89
			Total	**61**	**621**

* *From 1989 through 2005, the "bonus" has only been triggered on average about 10%.*

Of the 28 bonus races, 24 were at the council level. Council incumbents, again, won in 15 out of 16 races (13 non-participants and two participants). In the eight open seat races, Program participants won four races and non-participants won four races. It is noteworthy that in two of the open seat races won by participants, the participating candidate ultimately spent more than the "high-spending" non-participant who triggered the bonus in the first place.*

Public discussion has been focused on the mayoral level, which has featured self-funded candidates in three of the five citywide elections since the Program's inception. The huge disparity between Bloomberg's spending and his opponents' has led some commentators to question the ability of the Program to meet the challenge of leveling the playing field when a high spending non-participant is a candidate. The questions to address are: (1) to what extent this is a real problem or a perceived one; and (2) to what extent the responses and recommendations for reform might be practical and effective. The remainder of this paper will focus on the impacts of a high-spending non-participant on the Program at the mayoral level.

* These races are Darlene Mealy's 2005 Democratic primary win and Annabel Palma's 2003 Democratic primary win. (See the Appendix.) In one of the four races, Eva Moskowitz' 1999 general election win, no data are available for the non-participant. This fact raises questions whether the lifting of the spending limit might be a more important benefit than the additional matching funds, and whether the threshold for triggering the bonus (at least on the City Council level) is too low.

The 2001 and 2005 Mayoral Elections

> The simple fact is that I abided by the campaign finance law. I believed then — when I supported it in '88 and '89 — and today, it is the finest law in the nation. It really is a model of clean, ethical campaigning in this country. I abided by it. What can I say? Someone asked me today, 'Did you make a mistake in this campaign?' I said, 'Yeah, I didn't have $50 million.' But to have $50 million we would have had to opt out of the Campaign Finance Program. I wouldn't do it because I believe so much in its ability to clean up government and politics.[13]
>
> — Fernando Ferrer

In 2001, Michael Bloomberg, the billionaire founder and chief executive officer of Bloomberg L.P., then a political unknown, spent $73.9 million of his own money on his mayoral campaign. In 2005, as the incumbent mayor, Bloomberg surpassed his earlier record, spending $84.6 million in his successful bid for re-election.

3. AMOUNT AND PERCENTAGE OF BONUS PUBLIC FUNDS DISTRIBUTED — 1997–2005

Election Year	Office	Total Public Funds Payment	Bonus Amount	Bonus Matching Rate	Total Bonus Amount vs. Total Public Funds	Bonus Amount: City Council	Bonus Amount: Borough President or Mayor
1997	Borough President City Council	$ 6,951,380	$ 452,096	2:1	7%	$237,802	$ 214,294
1999	City Council	$ 272,961	$ 18,267	5:1	7%	$ 18,267	
2001	Mayor City Council	$ 42,251,905	$ 916,297	5:1	2%	$ 151,758	$ 764,539
2003	City Council	$ 5,110,863	$ 90,054	5:1	2%	$ 90,054	
2005	Mayor City Council	$24,065,860	$1,407,863	5:1 or 6:1	6%	$108,751	$1,299,112
Total		**$78,652,969**	**$2,884,577**			**$606,632**	**$2,277,945**

From 1997 through 2005, less than 4% of all public funds distributed was for bonus payments. Only $606,632 in bonus public funds were received at the Council level. This amount is 21% of all bonus public funds from 1997–2005.

Candidates for mayor in 2001 and 2005 collectively received $2,063,651 in bonus public funds. This amount is about 71% of all bonus public funds payments from 1997–2005.

2001 Mayoral Election

Bloomberg's 2001 opponent was then-Public Advocate Mark Green. Green, a Program participant, placed second in the Democratic primary and won a primary runoff election against Fernando Ferrer before facing Bloomberg in the general election. In the Republican primary, Bloomberg easily defeated Herman Badillo, who did not meet the threshold for public matching funds eligibility until after election day.

Green raised a total of $11.2 million in contributions and spent a total of $16.2 million, making him the second highest spending mayoral candidate to that point in New York City history — exceeded only by Bloomberg.* Green received $4.5 million in public funds for the 2001 election, and an additional $766,000 for the general election resulting directly from the $5-to-$1 bonus matching funds rate triggered by Bloomberg's spending. On election day, though Bloomberg outspent Green by a margin of almost 5-to-1, he narrowly defeated Green by only 2.4 percentage points, or approximately 35,000 votes.

Numerous factors contributed to Bloomberg's victory. The attacks of September 11, 2001 fundamentally changed the dynamics of the mayoral election. What was seen as Mayor Rudolph Giuliani's strong leadership in the aftermath of the attacks boosted Giuliani's popularity, and as a result, Giuliani's endorsement and visible support became instrumental to Bloomberg's success.† Further, Bloomberg's record as a successful manager and businessman likely became more attractive to voters as New York City's economy sputtered and projected budget deficits soared.

The 2001 Democratic primary and runoff elections also revealed deep divisions in the city's Democratic Party. Race became an issue when the Green campaign was accused of distributing flyers with an unflattering *New York Post* cartoon depicting Fernando Ferrer with the Reverend Al Sharpton. As a result, many of Ferrer's backers withheld their support from Green in the general election.[14]

Following the election, the Green campaign maintained the Program had failed because of the vast disparity in expenditures between the two mayoral candidates. Some observers disagreed. Because the margin of victory was so small, former Board Chairman Father Joseph A. O'Hare, S.J., commented that "in [the Green campaign's] view, a swing of only 35,000 votes, presumably, would have spelled success for the Program."[15] O'Hare and others suggested that the Green campaign's decisions about the content of his advertising, his refusal to engage in more public debates, and many of the factors mentioned above — not spending alone — contributed to the result. Evan Davis, a proponent of campaign finance reform and a former candidate for statewide office, concluded that the system worked, noting that "[t]he campaign finance system was never created to ensure that candidates abiding by it would win…. Green had every opportunity to win…under the system, even in the face…of a supremely well-financed opponent."[16]

* The totals for both Green and Bloomberg are combined totals for the primary, runoff (in Green's case), and general elections.

† Giuliani was barred from running for re-election by term limits. He did, however, propose an extension of his term during the aftermath of September 11, 2001, which was supported by Bloomberg and Green, but not by Ferrer.

2005 Elections

In 2005, Fernando Ferrer defeated four primary election opponents and narrowly avoided a runoff before facing incumbent Mayor Bloomberg in the general election. Ferrer received $3.9 million in public matching funds, with $1.3 million coming from the newly created $6-to-$1 bonus match.* Ferrer raised $5.3 million in contributions in 2005, about $125,000 less than he had in 2001 — even though he was not a candidate in the 2001 general election. Though the bonus situation removed the expenditure limits for his general election campaign, Ferrer only spent $9.2 million on his campaign — barely more than he had in 2001. Ferrer did spend approximately $2 million more (as adjusted for inflation) than Ruth Messinger, the last candidate to run against an incumbent mayor, did in 1997, but still lost the 2005 mayoral election by almost 20 percentage points, or about 250,000 votes.

In addition to his status as an challenger against a well-financed incumbent, there were various reasons suggested to explain Ferrer's inability to raise as much money as Mark Green had, or to compete as effectively against Bloomberg. Observers of the 2005 election cited Ferrer's failure to connect with voters before the campaign and several missteps during the campaign as major problems.[17] Furthermore, Bloomberg's campaign seemed to be particularly effective, and with his vast resources he targeted just about every segment of the voting population with unprecedented precision:

> Every dollar seems to have a purpose, from customized buttons and placards for every conceivable ethnic-pride parade to…the most sophisticated computerized voter file ever used in a municipal election.[18]

Public interest, or lack of it, also became an issue during the campaign. As early as July 2005, polls predicted Bloomberg would soundly defeat any Democratic challenger in the general election.[19] Editorial and news coverage by the City's major newspapers seemed to reflect generally favorable impressions of the incumbent. One critic asserted that the major mainstream press outlets turned "their predictable editorial endorsements of Bloomberg into a campaign-long splurge of double-standard news coverage."[20] Overall, Bloomberg's incumbency and popularity among Democratic contributors surely affected Ferrer's ability to raise contributions and, thus, to reach voters with his own message and generate interest in his campaign.[21]

The 2005 campaign produced the lowest voter turnout for a mayoral election — 1.3 million out of nearly four million eligible voters — in the history of the Program.

The Program came under fire from a number of sources, including Ferrer, for its failure to neutralize Bloomberg's financial advantage.[22] On the other hand, as Bloomberg's lead grew, the Program's alleged "giveaway" of taxpayer money to subsidize contenders in a non-competitive race also drew criticism.[23] In the end, whether or not it was influenced by Bloomberg's spending, the race followed a familiar pattern: another easy victory for the incumbent.

* The figures for Ferrer's contributions, spending, and public funds are for the primary and general elections combined. Bloomberg did not have a Republican primary. His only potential opponent failed to collect enough signatures to appear on the ballot.

2001 vs. 2005

Bloomberg's incumbent status clearly hampered Ferrer's 2005 campaign, while in 2001 Green faced no such disadvantage. This surely contributed to the significant financial disparity between Bloomberg's two general election opponents. Month by month, Green was consistently more successful than Ferrer at fundraising. Even against Bloomberg's unprecedented spending in 2001, donors may have perceived that Green was the favored candidate, making it easier for him to raise money. Indeed, one poll taken less than two weeks before the general election showed Green with a lead of 16 percentage points over first-time candidate Bloomberg.[24] In a column published the week of the 2001 election, one political columnist encapsulated the conventional wisdom when he suggested it was "staggeringly unlikely" that Bloomberg would find a way to prevent a Green victory, an outcome that seemed "increasingly foregone."[25] In contrast, many donors may have felt that Ferrer did not have much of a chance in 2005 against an incumbent mayor — with or without the resources Bloomberg would ultimately bring to bear.

4. 2001 AND 2005 MAYORAL GENERAL ELECTIONS: COMPARISON OF CAMPAIGN FINANCES AND VOTES FOR TOP TWO VOTE RECIPIENTS

	Total Contributions	Number of Contributors	Total Matching Claims	Total Public Funds Payments	Total Expenditures	General Election Vote Totals*	Vote Percentage
2005 BLOOMBERG VS. FERRER (as of 3/10/2006)							
Bloomberg, Michael	$84,155,868	1	N/A	N/A	$84,587,319	753,089	58.4%
Ferrer, Fernando	$ 5,287,875	6,614	$745,373	$3,897,336	$ 9,165,301	503,219	39.0%
2001 BLOOMBERG VS. GREEN (as of 1/15/2002)							
	Total Contributions	**Number of Contributors**	**Total Matching Claims**	**Total Public Funds Payments**	**Total Expenditures**	**General Election Vote Totals***	**Vote Percentage**
Bloomberg, Michael†	$73,149,291	1	N/A	N/A	$73,094,786	744,757	50.4%
Green, Mark	$11,232,542	9,588	$1,028,322	$4,534,230	$16,219,861	709,268	47.9%

* *Based on New York City Board of Elections data.*

† *Based on New York City Board of Elections data, which were not verified by the CFB.*

Despite the benefits of the $6-to-$1 bonus match, Ferrer's spending was modest even compared with Green's. Ferrer raised $5.3 million in contributions — almost $5.9 million less than the $11.2 million raised by Green four years earlier. Because of his fundraising, Green actually received more total public funds under a $5-to-$1 bonus matching rate than did Ferrer under the new $6-to-$1 bonus matching rate. Had the $6-to-$1 rate been in effect in 2001, Green's bonus public funds would have exceeded $1.5 million (double the $765,000 he actually received).

Green was able to spend more money against Bloomberg in 2001 than Ferrer did in 2005 — $16.2 million to $9.2 million — because he *had* more money. Green spent a longer time — three years to Ferrer's two years — fundraising, and was able to raise more contributions than Ferrer could at critical times in the campaign. (See Charts 5 and 6.) For example, during the two weeks preceding the 2001 general election, Green raised $3.9 million. Over those critical 14 days, the Green campaign spent $5.8 million, or about 36 percent of its overall campaign expenditures. During the equivalent time period

5. CONTRIBUTIONS BY STATEMENT FILINGS — GREEN 2001

Statement #	Disclosure Period	Monetary Contributions	Running Total
2	07/12/98 – 01/11/99	$ 41,896	$ 41,896
3	01/12/99 – 07/11/99	$ 803,100	$ 844,996
4	07/12/99 – 01/11/00	$ 932,690	$ 1,777,686
5	01/12/00 – 07/11/00	$1,043,496	$ 2,821,182
6	07/12/00 – 01/11/01	$ 777,058	$ 3,598,240
8	01/12/01 – 07/11/01	$1,725,183	$ 5,323,423
9	07/12/01 – 08/06/01	$ 583,395	$ 5,906,818
10	08/07/01 – 08/27/01	$ 532,110	$ 6,438,928
11	08/28/01 – 09/17/01	$ 428,234	$ 6,867,162
12	09/18/01 – 10/01/01	$ 87,885	$ 6,955,047
13	10/02/01 – 10/22/01	$ 536,645	$ 7,491,692
14	10/23/01 – 11/29/01	$3,930,671	$11,422,363
15	11/30/01 – 01/11/02	$ 37,175	$11,459,538
	Total	**$11,459,538**	

Note: Green's filings cover a three-year period prior to General Election; Ferrer's filings cover only two years.

in 2005, Ferrer brought in only $310,000; over the two weeks leading up to the election, his campaign could only spend approximately $1.3 million, or about 14 percent of its total. (See Chart 7.)

Furthermore, traditionally active Democratic donors seem to have failed to support Ferrer in 2005 at the level at which they supported Green in 2001. Steven Rattner, an investment banker who often raises money for Democrats, is an example. "'I can't think of a single active Democrat in New York who's supporting Freddy Ferrer,' Rattner told the *New York Observer* [in October 2005]. Rattner… defined active Democrats as 'the people in our world, who help raise money for presidential candidates and things like that.'"[26]

There were 220 individual contributors who contributed both to Green's 2001 campaign and to Ferrer's 2005 campaign.* In the two weeks preceding each election, these "overlapping" individual contributors contributed almost $191,000 to Green in 2001, but only $4,175 to Ferrer in 2005.

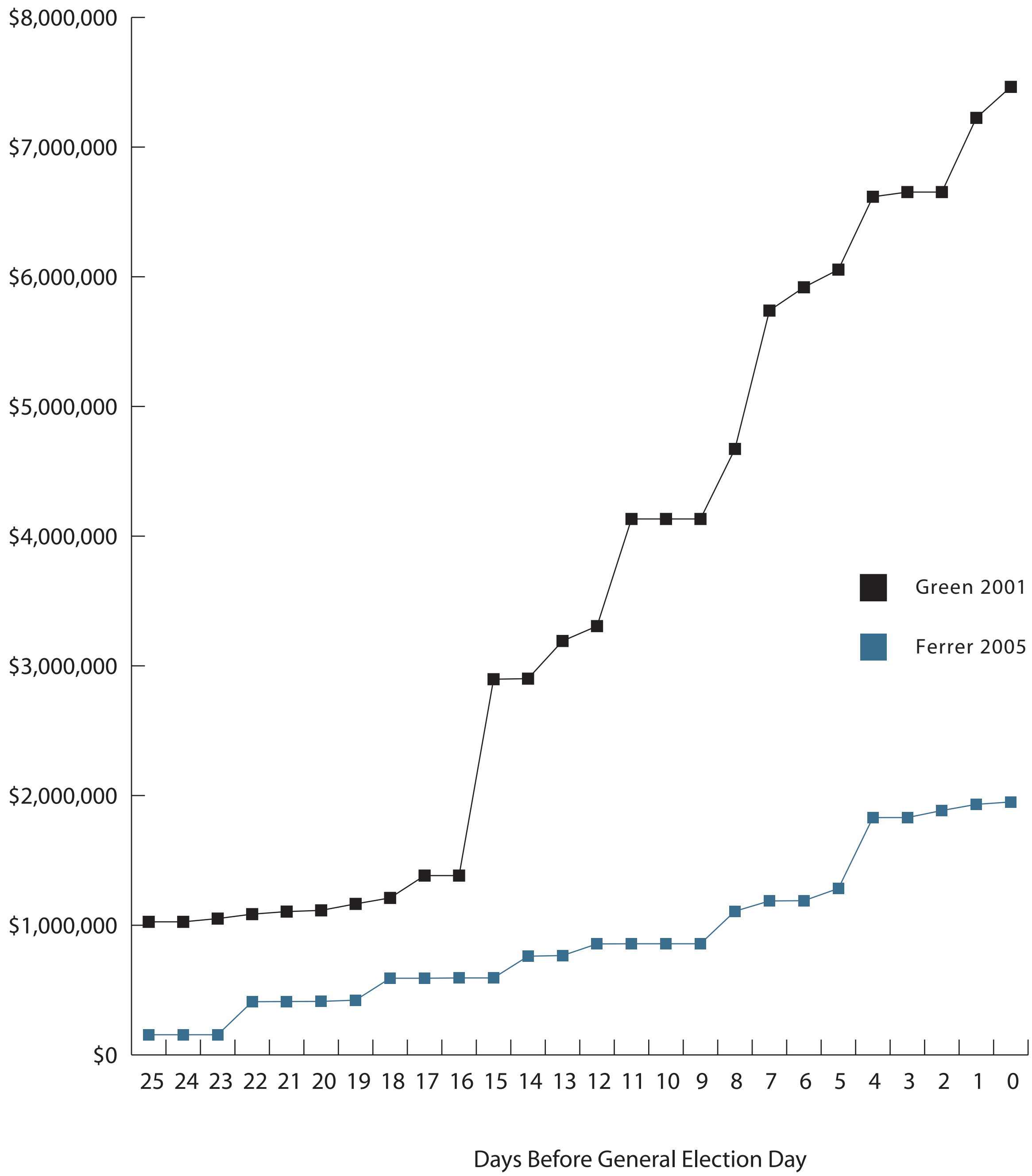
6. CONTRIBUTIONS BY STATEMENT FILINGS — FERRER 2005

Statement #	Disclosure Period	Monetary Contributions	Running Total
4	07/12/03 – 01/11/04	$ 750,296	$ 750,296
5	01/12/04 – 07/11/04	$ 603,058	$1,353,354
6	07/12/04 – 01/11/05	$1,179,507	$2,532,861
7	01/12/05 – 03/11/05	$ 539,325	$3,072,186
8	03/12/05 – 05/11/05	$ 401,910	$3,474,096
10	05/12/05 – 07/11/05	$ 241,760	$3,715,856
11	07/12/05 – 08/08/05	$ 96,725	$3,812,581
12	08/09/05 – 08/29/05	$ 171,411	$3,983,992
13	08/30/05 – 09/19/05	$ 303,675	$4,287,667
14	09/20/05 – 10/03/05	$ 232,670	$4,520,337
15	10/04/05 – 10/24/05	$ 676,874	$ 5,197,211
16	10/25/05 – 12/01/05	$ 129,330	$5,326,541
17	12/02/05 – 01/11/06	$ 30,075	$5,356,616
	Total	**$5,356,616**	

Note: Green's filings cover a three-year period prior to General Election; Ferrer's filings cover only two years.

* These "overlapping" contributors are based on individual contributors disclosed with the same name and address during each election period.

7. CAMPAIGN SPENDING DURING 25 DAYS BEFORE GENERAL ELECTION CUMULATIVE, GREEN 2001 VS. FERRER 2005



Note: The 25-day time period corresponds to the time between the 2001 runoff and general elections.

8. AVERAGE CONTRIBUTION AMOUNT

GREEN 2001		FERRER 2005	
Net Contributions	$11,232,542	Net Contributions	$5,287,875
Total # of Contributors	9,588	Total # of Contributors	6,615
Average Contribution Amount	**$1,172**	**Average Contribution Amount**	**$799**

Net Contributions is the total of itemized and unitemized monetary contributions, in-kind contributions, transfers received from a party or constituted committee, and unreimbursed advances, less refunds. It does not include any surplus funds from previous elections; transfers from non-covered committees controlled by the candidate; any loans that are deemed contributions because they are outstanding after the election, taken out after the election, or paid back by a third party; or any bills that are deemed contributions because they are outstanding more than 90 days, paid back by a third party, or forgiven.

In 2001, Bloomberg spent $98 per vote to defeat Green by only 2.5 points. In 2005, Bloomberg spent $112 per vote and defeated Ferrer by almost 20 points.* Green and Ferrer spent about $23 per vote and $18 per vote respectively in their campaigns against Bloomberg. (See Chart 9.)

With public financing, however, Bloomberg's general election opponents had the opportunity, at the very least, to raise the funds necessary to communicate their message to voters and compete — even if not on a monetary "level playing field." It is impossible to know what effect, if any, additional funding would have achieved. Despite losing their respective races to Bloomberg, Mark Green and Fernando Ferrer each realized a significant benefit from participating in the Program. Public financing provided Green with $4.5 million in 2001, and Ferrer with $3.9 million in 2005. Public funds represented 28 percent of Green's spending and 42 percent of Ferrer's. Neither candidate had the means to self-finance his campaign, so each was limited by the generosity of his political donors, within state and city contribution limits. There is nothing to suggest that either candidate could have done better by relying solely on private contributions.

* These figures reflect spending for both the primary and general elections measured against vote totals for the general elections only, so their utility for the sake of comparison is somewhat limited. An increasing cost-per-vote average can reflect both rising campaign expenditures as well as decreasing voter turnout. Board of Elections data show that mayoral general election vote counts have declined substantially since 1989. In Bloomberg's case, his spending increased as well.

9. AVERAGE SPENDING PER VOTE ADJUSTED FOR INFLATION (MAYORAL ELECTIONS 1989–2005)				
Year	**Vote Total†**	**Vote Count (General Election)**	**Candidate**	**Party**
1989	1,819,759	917,544 870,464	Dinkins, David Giuliani, Rudolph	D R, L, I
1993	1,827,348	876,896 930,236	Dinkins, David* Giuliani, Rudolph	D R, L, I
1997	1,357,155	783,815 549,335	Giuliani, Rudolph* Messinger, Ruth	R, L D
2001	1,480,582	744,757 709,268	Bloomberg, Michael Green, Mark	R, I D, WF
2005	1,315,360	753,089 503,219	Bloomberg, Michael* Ferrer, Fernando	R, L, I D

Note: Data as of April 7, 2006   * *Incumbent*   † *Includes all votes received by all mayoral candidates*

How the Money Was Spent

How campaign money is spent is also a consideration in understanding the outcome of a race. Before his second campaign for mayor, Bloomberg indicated that he did not expect to spend at his 2001 level to get re-elected, but he did say that he would do whatever it took to get his message out.[27] That commitment generated a $34.3 million expenditure (or 40 percent of his campaign total) on television and radio ads alone in 2005.* In 2001, Bloomberg spent a similar sum, $33 million (or 45 percent of total expenditures). Ferrer spent roughly $4.9 million (or 53 percent of his total expenditures) on radio and TV ads† in 2005, while Green spent almost $11 million (or 66 percent of total expenditures) on these ads in 2001.

There is also a real disparity in the amount each candidate spent on campaign mailings. Bloomberg spent almost $16.8 million (or 23 percent of total expenditures) on mailings and postage in 2001 and

* Bloomberg's spending remained a dominant theme of media coverage throughout the election cycle. His spending allowed him to saturate both television and radio with political advertising during the 2005 election. Bloomberg eventually outspent Ferrer by a margin of almost 7-to-1 on television and radio ads. According to a report by Media Monitors, LLC Bloomberg purchased 996 ad spots during the week of November 1, 2005; Ferrer bought 143 during the same period. (Erik Sass, *Media Post Publications*, November 14, 2005.)

† Although Ferrer spent the least on advertising, his campaign, in fact, gained national media attention (some of it negative) with a 30-second animated ad entitled "Buddies," which showed Bloomberg sitting on President George W. Bush's lap riding a horse through an oil field while Bloomberg hands the President money. The ad was even featured on CNN's "The Situation Room" with Wolf Blitzer on November 1, 2005.

Net Expenditures (Primary and General Elections)	Net Expenditures Adjusted for Inflation	Spending per Vote	Spending per Vote Adjusted for Inflation
$ 9,017,665	$ 14,153,225	$ 10	$ 15
$ 6,175,418	$ 9,692,319	$ 7	$ 11
$ 10,988,675	$ 14,892,951	$ 12	$ 17
$ 8,960,895	$ 12,144,701	$ 9	$ 13
$11,597,007	$14,188,938	$ 15	$ 18
$ 6,056,196	$ 7,409,756	$ 11	$ 14
$ 3,391,461	$ 81,750,748	$ 98	$109
$16,219,861	$18,067,236	$ 23	$ 26
$84,587,319	$ 84,587,319	$ 112	$112
$ 9,165,301	$ 9,165,301	$ 18	$ 18

$8.5 million (or 10 percent of total expenditures) in 2005.* Green spent almost $900,000 (or only five percent of total expenditures) in 2001. Ferrer spent less than $225,000 (or two percent of total expenditures) in 2005.† (See Chart 10.)

While large sums of money — public or private — can certainly help candidates increase their name recognition or approval rating, the strongest predictor of electoral success is still incumbency, not total spending.[28] As a political novice, CEO Michael Bloomberg spent $73.9 million to win a narrow, 2.5 point, 35,000-vote victory; as an incumbent in the 2005 election, spending $84.6 million, Mayor Bloomberg won by almost 250,000 votes — almost a 20-percentage-point spread. Though the gap between his spending and his opponent's was considerably larger in 2005, the sheer magnitude of his re-election victory makes it reasonable to infer that his record as a generally well-regarded incumbent was substantially responsible for the difference in the vote margins.

* The unprecedented sums (according to disclosure statements) spent by the Bloomberg campaign in 2005 on voter list development helped target its campaign mailings for maximum effect.

† It is interesting to examine each candidate's spending on "consultants/professional services" which can, in fact, be directed toward communication with the voters. Bloomberg's spending in this area increased 645 percent from $3.3 million (or four percent of total expenditures) in 2001 to $21.3 million (or 25 percent of total expenditures) in 2005. By way of comparison, Green spent only $764,000 (or five percent of total expenditures) on "consultants/professional services" in 2001, while Ferrer spent $1.8 million (or 20 percent of total expenditures) in 2005.

10. EXPENDITURE COMPARISON (2001 & 2005 GENERAL ELECTIONS — MAYORAL)				
	Bloomberg 2001*	Bloomberg 2005	Green 2001	Ferrer 2005
TV Ads/Radio	$33,139,898	$34,349,173	$10,711,997	$4,939,479
Consultants/Professional Services	$ 3,379,513	$21,262,252	$ 763,978	$1,852,917
Rent/Office Expenses	$ 3,092,493	$ 6,181,502	$ 448,482	$ 522,307
Literature/Printing	$ 2,226,558	$ 2,650,192	$ 636,521	$ 403,166
Mailings/Postage	$16,779,937	$ 8,459,913	$ 891,196	$ 224,452

Note: Data as of April 7, 2006

** Data from NYC Board of Elections filings, which were not verified by the CFB.*

POSSIBLE RESPONSES TO EXPLORE

As long as the Supreme Court holds that wealthy candidates cannot be prevented from financing their own campaigns, or limited in the sums they can spend, there will be imbalances that make a precisely level playing field difficult — if not impossible — to achieve. If pure "equality" in spending is the only yardstick, it is hard to justify the allocation of large sums of taxpayer dollars to chase an illusory goal.

Still, the city has found it desirable to enact reasonable, lawful measures to address the problems created by an overwhelming imbalance of money in a political campaign. There are several policy responses that could help under-funded candidates increase their competitiveness against high-spending non-participant candidates without relying on the Program to fund the entire difference, dollar for dollar. Some of these are focused on making it easier for under-funded candidates to communicate with voters on a broad scale without increasing the cost to participating campaigns or taxpayers.

Strengthen the Debate Program

The Board supports strengthening the Program's official Debate Program, which is currently mandatory for all qualified Program participants. In addition to its primary purpose of fostering a substantive discussion of issues, the Debate Program helps ensure that participants are given an opportunity to appear on the same stage with their competitors to address potential voters.

A *New York Times* article from the 2005 campaign covering the second of two Board-sponsored debates highlighted their importance: "[T]his debate was… Mr. Ferrer's final chance to appear on equal footing on television with the mayor, who has used his personal fortune to help build his lead with unlimited campaign advertising... Norman Adler, a veteran political consultant in the city [said,] 'These debates are really his only chance to hit back directly against the mayor and try to make a case directly to the voters.'"[29]

Currently, non-participants cannot be compelled to take part in the Program's mandatory debates. Seemingly mindful of their value to his challenger, Mayor Bloomberg appeared in only one Board-sponsored debate during the 2005 campaign, declining to participate in another.*

To create more opportunities for modestly funded participating candidates, policy initiatives could include creating incentives for non-participating candidates to appear at debates, or extending additional support to participating candidates facing non-participants who refuse to debate. One suggestion is a bonus "grant" for participating candidates if and when a high-spending non-participant opponent declines to take part in a CFB-administered debate.[30] The Board believes this would foster the Program's values. (See the Board's 2005 post-election report, *Public Dollars for the Public Good*.)

Mandate Equal Access to Broadcast Media for Under-Funded Candidates

One approach that might prove beneficial is to mandate that television networks provide additional or even equal broadcast access to candidates facing opponents with unlimited financial resources.

This is not a new idea; civic organizations around the nation like the Alliance for Better Campaigns and Campaign Legal Center have long advocated free television airtime for candidates as the principal way to curb the growing demand for money in political campaigns. On the national level, Senators John McCain (R-AZ) and Russ Feingold (D-WI), two of the leading advocates for campaign reform, proposed a program in 2003 to distribute vouchers for political broadcast advertising to qualifying federal candidates and political parties, funded by a modest fee on broadcasters' gross annual incomes.[31] Others have suggested that the Federal Communications Commission (FCC) can act on its own to require that networks set aside time for candidates to communicate with the public.

Perhaps pressure from a new constituency would help move the FCC to act on this important issue. The CFB is interested in creating opportunities to work with other government elections or ethics agencies to petition the FCC and request that broadcasters grant more airtime to political candidates, including opportunities for subsidized or free advertising time on various broadcast media.† One commentator suggested a five-minute block that could be used in any way the stations decide, "for mini-debates, excerpts from candidate speeches, interviews with candidates, and one-minute slots for candidates to use as they [wish]."[32]

Another suggestion is to mandate equal time for political commercials by allowing stations to charge a high-spending candidate double the market rate for political ads and meet the equal-time requirement by spending half the doubled fee to finance commercials of the underfinanced candidate.[33]

The Board would support measures providing free or equal airtime for candidates who face high-spending non-participants. The provision of free or low-cost TV time would significantly mitigate the impact of a candidate's personal wealth by giving underfinanced candidates better access to broadcast media, especially at the mayoral level, where the differences in spending can be most glaring.

* Mayor Bloomberg took part in one additional non-CFB-sponsored debate with Ferrer in the weeks before the 2005 election.

† Print media provides opportunities to level the playing field as well. As part of a set of reforms governing campaigns for City Council, the CFB's 2005 post-election report, *Public Dollars for the Public Good*, recommended that the Program provide qualifying campaigns with postage for a single mailing to all registered voters in their respective districts (see page 135). In races with a high-spending non-participant, this program could be expanded.

Make "Limited Participant" Status a Better Option

Perhaps the simplest and most cost-effective solution would be to make the category of limited participant more enticing for candidates who might otherwise choose to opt out of the Program. As noted earlier, a self-financing candidate who joins the Program as a limited participant does not trigger the bonus grant for his opponent. One idea to make this option more attractive may be to allow both candidates a slightly higher spending limit if one chooses to run as a limited participant.

* * * *

Other solutions are focused on increasing the amount of funds available to an under-funded participating candidate who runs against a wealthy, self-financed non-participant. It is important, of course, that any cure not be worse than the disease. Some proposed solutions would affect core principles of the Program. For instance, a solution that substantially increased the contribution limits under certain circumstances would undermine the Program's efforts to diminish the influence of wealthy contributors.

Provide More Public Money

One obvious and commonly suggested Program response to a high-spending non-participant is to increase the amount of public funds provided to his participating opponent.

(a) Change the Formula for Matching Grants

There have been many different matching rate formulas proposed and enacted throughout the Program's history. One interesting proposal is to grant a public $1-to-$1 match for every dollar over the spending limit a high-spending non-participant spends on his or her campaign.[34] The $1-to-$1 match would theoretically pressure self-funded candidates to limit their spending voluntarily, instead of forcing an exorbitant bill for their opponents' campaigns on the voters. A proponent of this idea argues:

> The premise of the campaign finance system is that New Yorkers are better off footing the bill than allowing money to hijack elections. The risk of increasing the tab for taxpayers is arguably preferable to leaving the electoral process vulnerable to the highest spender.[35]

Although this is an intriguing proposal, it seems unlikely to be adopted. The prospect of granting public funds to a single candidate — let alone multiple candidates — to match a very high-spending campaign would be difficult to justify on either fiscal or political grounds. This approach is creative, but the Board cannot recommend it.

An alternative approach would be to revert back to a $1-to-$1 match up to $1,000 per contributor in ordinary circumstances (the Program's original matching rate) and provide a $3-to-$1 bonus matching rate for candidates faced with a high-spending non-participant. Such a matching system could potentially yield up to $3,000 in public funds per contributor — twice what is currently available under the current bonus matching system. This proposal may be more fiscally responsible than the previous suggestion, but it would sacrifice the universal benefits of the $4-to-$1 match to provide a benefit to the very few candidates who face high-spending non-participants, and it would undermine the Board's focus on amplifying the role of small contributors in the political process. Moreover, such a matching system would reintroduce the risk of excessive influence from larger contributors that earlier reforms had sought to remedy.

(b) Offer Direct Flat Grants

Another proposed solution: direct grants to underfinanced candidates on an expedited basis of (for example) one-fifth of the estimated spending by a non-participant above the Program's expenditure limit.[36] In practice, this formula would have provided Green with a $14.6 million public taxpayer grant in 2001 (compared to the $4.5 million he received), while Ferrer would have received a $16.9 million public grant in 2005 (compared to the $3.9 million he received).* The simplicity of this approach is attractive, but a flat grant proposal raises some difficult questions that should be analyzed through the legislative process. For example, how much public money can or should be used? Would the flat grants be in addition to the public matching and bonus funds already available, or would it be distributed in lieu of them? When would the grants be paid, and how often? What level of spending would trigger a flat grant? Could a candidate carry the grant money over from a primary election to a general election? Would a flat grant, in any event, be significant enough to help a Program participant compete against a high-spending non-participant, and at the same time be an effective and acceptable expense for taxpayers?

Raise or Abolish the Contribution Limits for Participants Who Face High-Spending Non-Participants

There has been much discussion about increasing the maximum contribution a Program participant can receive when facing a non-participating opponent with seemingly unlimited funds.[37] Proponents of raising or abolishing Program contribution limits contend that, if allowed to do so, contributors would give higher amounts of money and make under-financed candidates more competitive.

But there is no real evidence that a higher contribution limit would have significantly benefited Ferrer in the 2005 election. One idea would be to allow under-funded candidates to raise funds under New York State's general election contribution limit of $33,900. In his 2002 re-election campaign, Governor Pataki raised $23.3 million in contributions of over $4,950. Of these, 1,733 — or $8.67 million — were contributions of exactly $5,000. Only about 120 people contributed $30,000 or more to Governor Pataki in 2002. In 2005, Ferrer received 501 contributions within $50 of the $4,950 maximum city-wide Program contribution limit. If Ferrer was able to fundraise under statewide contribution limits, with approximately 120 contributors giving the state maximum, he would have raised an additional $4.1 million — only $170,000 more than he received in public funds, and still far shy of Bloomberg's $84.6 million (or even the amount spent by Green in 2001).† These calculations do not reflect the *significantly* limited time period Ferrer had to fundraise between the primary and general elections; any rule would have prevented Ferrer from raising funds under the higher limits until after the primary

* The Board paid out more than $42.2 million in public matching funds *in total* in 2001 and less than $24.1 million *in total* in 2005. Therefore, this approach would have increased the total amount of public funds paid by about 24 percent for 2001 and 54 percent in 2005.

† Theoretically, if everyone who gave Ferrer the Program's maximum contribution instead gave the full $33,900 allowed by the state, Ferrer would have raised an additional $14.5 million. This scenario, however, is extremely unlikely, as demonstrated above.

(see discussion at page 13). Nor do these theoretical figures reflect the added burden of increased costs and time spent associated with fundraising.

The Program cannot — and is not intended to — provide exact financial parity between candidates. Its goal is to provide candidates with a sufficient baseline ability to communicate with voters. The contribution limit represents a core principle of the Program. The Board would be concerned that raising or eliminating it would invite the influence-seeking (or the appearance of it) that the Program is intended to deter. In any event, unless the candidate has the ability to raise significant funds, this change would do little to level the playing field in terms of spending. While providing little actual assistance, raising and/or abolishing contribution limits for candidates facing a non-participant with unlimited funding would also undermine the Program's goal of amplifying the voice of small, local contributors and limiting the influence of large contributions on the election process. In its 2005 post-election report, *Public Dollars for the Public Good*, the Board recommended lowering contribution limits for all offices. *If* limits are lowered, one possible alternative could be to allow candidates facing high-spending non-participants to accept contributions at the 2005 level.

Permit Political Parties to Assist Candidates Directly

The Program was also criticized for limiting the participation of the New York State Democratic Party in aiding Ferrer's campaign. One observer commented that:

> While Bloomberg spends with abandon and debates who he wishes and when, the hard-driving CFB reviews whether the Fernando Ferrer campaign coordinates press releases with the state Democratic committee.[38]

New York State Democratic Committee Chairman Herman D. Farrell has suggested changing the rules to allow political parties to set up a separate account that conforms to the Program's contribution guidelines, to be used exclusively for advertising and get-out- the-vote drives for candidates facing high-spending non-participants. Alternatively, he suggested allowing parties to spend freely on advertising, field operations, and other election activities — as is permitted by federal election law — as long as the efforts are not coordinated with the candidate.[39]

There is currently nothing in the Act that would prevent such independent spending by a political party. Any efforts coordinated with the candidate, however, do count against the participant's spending limit and can result in a violation of the contribution limits. The Board's rules do include a presumption of coordination in the case of a political party and its nominee. However, the rule also provides that the presumption can be rebutted.[*40]

There is no real evidence, however, that permitting a political party to help a candidate directly would have made a difference in 2005. A party would have to have both the desire and the resources to fund a candidate at the amount required to "level the playing field" during the 2005 election, and the Board has no record that the Ferrer campaign received any help at all — even the monetary or

* Two recent court rulings place in question New York State's long-standing prohibition against party spending in primary elections.

in-kind contributions clearly permitted under the Program — from the New York State Democratic Party in 2005. In addition, a review of the New York State Democratic Party's filings with the State Board of Election shows that at the time of the 2005 general election, the Party had only about $300,000 in available funds.

So, as a practical matter, such a change would not likely have helped the Ferrer campaign in 2005. What's more, permitting unlimited coordinated expenditures by the party on behalf of its candidate could undermine the Program's objective of minimizing influence by moneyed resources in city elections by simply allowing wealthy donors to give large donations to a political party with the intention of funneling their contributions to a particular candidate.

* * * *

At the CFB's post-election hearings, one New York City election lawyer testified:

> There is no longer a civic consensus that candidates ought to participate in the campaign finance system. Next time, what will keep others who can raise or spend big bucks from breaking the spending limits?…The political arguments against opting out of the campaign finance system have been very severely weakened by what has occurred in the past two Mayoral campaigns, most especially by the silence of many of the supporters of this system as it has been overwhelmed by unprecedented spending.[41]

Apart from focusing on a purely legislative "fix" for the issue of self-financed candidates, it will clearly be important to support and strengthen the Program by fostering its values and re-educating the public on its benefits. It remains true that candidates who choose to participate in the Program are in a better position to be competitive than if they had chosen not to participate and receive public funds. The positive results of the Program — helping keep the political system free of corruption, increasing the voice of small, individual contributors, and decreasing the role of large "special interest" contributions in the political process — continue to play a constructive role in the political life of New York City despite the rare appearance of non-participating candidates with the ability to spend unlimited personal funds. In those instances, public funds do give participating candidates the opportunity to make their case to voters. A renewed public focus on those benefits can help make participation in the Program — as either a full or limited participant — not only desirable but essential for a candidate's success.

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appendix

BONUS MATCHING FUNDS DISBURSED—2005 ELECTIONS

(by Office or Council District)

Primary Election

District	Candidate	Party	Status	Net Contributions	Net Expenditures	Public Funds Payments for Primary Election ONLY	Total # of Votes
29 †	Katz, Melinda *	D	Non-Participant	$633,629	$331,304	$0	5,757
	Nocerino, Joseph R	D	Participant	$18,635	$89,137	$75,042	1,269
31	Hooks, David R	D	Participant	$38,819	$58,692	$54,350	3,223
	Sanders, James *	D	Non-Participant	$159,087	$147,783	$0	5,025
41 †	Ampry-Samuel, Alicka	D	Non-Participant	$35,082	$22,970	$0	309
	Antoine, Royston P	D	Participant	$21,865	$60,863	$59,900	573
	Boyland, William F	D	Non-Participant	$60,520	$61,182	$0	1,806
	Duggan, Essie M	D	Participant	$7,150	$4,313	$0	276
	Junior, Pamela M	D	Participant	$32,726	$25,345	$0	294
	Kinard, Stanley	D	Participant	$18,680	$74,143	$58,700	489
	King, Danny	D	Participant	$29,377	$55,191	$39,623	868
	Mealy, Darlene	D	Participant	$82,851	$130,919	$100,000	4,480
	Miller, David R	D	Participant	N/A	N/A	$0	335
	Samad, Maryam A	D	Participant	$5,765	$2,466	$0	149

General Election

Office	Candidate	Party	Status	Net Contributions	Net Expenditures	Net Public Funds Payments	Total # of Votes
Mayor †	Bloomberg, Michael *	R,L,I	Non-Participant	$84,155,868	$84,587,319	$0	753,089
	Blum, Seth A	E	Non-Participant	N/A	N/A	$0	1,176
	Ferrer, Fernando	D	Participant	$5,287,875	$9,165,301	$3,897,336	503,219
	Gronowicz, Anthony	G	Non-Participant	N/A	N/A	$0	8,297
	Koppel, Martin	S	Non-Participant	N/A	N/A	$0	2,256
	McMillan, Jimmy	RTDH	Non-Participant	N/A	N/A	$0	4,111
	Ognibene, Thomas V	C	Participant	$78,284	$78,469	$0	14,630
	Silk, Audrey	L	Non-Participant	$240	$1,179	$0	2,888

Notes: "N/A" indicates no filing from the candidate. Winner of each race is highlighted.

* Incumbent.

† Tier 2 bonus declaration; public funds matching rate set at $6-to-$1.

BONUS MATCHING FUNDS DISBURSED—2003 ELECTIONS

(by Office or Council District)

Primary Election

District	Candidate	Party	Status	Net Contributions	Net Expenditures	Public Funds Payments for Primary Election ONLY	Total # of Votes
13	Betancourt, Jr., Ismael	D	Participant	$26,018	$141,637	$100,000	871
	Provenzano, Madeline *	D	Non-Participant	$89,049	$44,524	$0	2,210
	Sementilli, Egidio	D	Participant	$15,101	$42,467	$38,365	634
18	Espada, Pedro G.	D	Non-Participant	$33,280	$17,256	$0	3,133
	Palma, Annabel	D	Participant	$108,637	$182,494	$93,750	6,260
21	Jimenez, Luis	D	Non-Participant	N/A	N/A	$0	1,046
	Monserrate, Hiram *	D	Participant	$120,320	$205,479	$94,860	3,121

General Election

District	Candidate	Party	Status	Net Contributions	Net Expenditures	Net Public Funds Payments	Total # of Votes
4	Cohen, Michael	R	Non-Participant	$69,570	$38,096	$0	4,205
	Karako, Jak	LIB	Non-Participant	$3,550	$3,549	$0	434
	Moskowitz, Eva *	D,I	Participant	$184,573	$286,254	$120,625	13,745
13	Provenzano, Madeline *	D	Non-Participant	$103,299	$63,790	$0	6,624
	Sementilli, Egidio	C	Participant	$16,136	$53,998	$41,035	1,198

Notes: "N/A" indicates no filing from the candidate. Winner of each race is highlighted.

* Incumbent.

BONUS MATCHING FUNDS DISBURSED—2001 ELECTIONS

(by Office or Council District)

Primary Election

District	Candidate	Party	Status	Net Contributions	Net Expenditures	Public Funds Payments for Primary Election ONLY	Total # of Votes
1	Chin, Margaret	D	Participant	$100,124	$187,387	$90,053	2,554
	Chin, Rockwell	D	Participant	$140,516	$205,999	$91,333	2,618
	Fratta, John [1]	D	Participant	$68,375	$143,722	$91,333	2,055
	Gerson, Alan	D	Participant	$161,317	$237,283	$91,333	3,310
	Hoylman, Brad	D	Participant	$240,385	$322,621	$91,333	2,640
	Hui, Kwong	D	Participant	$51,889	$130,596	$91,333	926
	Posner, Elana	D	Non-Participant	$586,371	$582,529	$0	1,311
13	Provenzano, Madeline *	D	Non-Participant	$166,930	$71,834	$0	6,234
	Sementilli, Egidio	D	Participant	$30,457	$113,737	$89,502	2,495
18	Diaz, Ruben	D	Non-Participant	$95,743	$116,770	$0	9,608
	Montano, Armando	D	Participant	$73,350	$161,138	$90,883	2,893
	Rodriguez, Elizabeth	D	Participant	$10,495	$34,591	$31,685	2,859

General Election

Office	Candidate	Party	Status	Net Contributions	Net Expenditures	Net Public Funds Payments	Total # of Votes
Mayor	Bloomberg, Michael	I, R	Non-Participant	$73,149,689	$73,109,266	$0	744,757
	Goetz, Bernard	FUSP	Non-Participant	N/A	N/A	$0	1,049
	Golding, Kenneth [2]	AD	Participant	N/A	$13,536	$0	474
	Gray, Terrance	C	Non-Participant	N/A	N/A	$0	3,577
	Green, Mark	D, WF	Participant	$11,232,542	$16,240,742	$4,534,230	709,268
	Hevesi, Alan [3]	BS, L	Participant	$7,181,254	$6,269,713	$2,641,247	10,331
	Kramer, Kenny [2]	LIB	Participant	$16,590	$12,025	$0	1,408
	Leighton, Thomas [2]	MRP	Participant	$500	$836	$0	2,563
	Willebrand, Julia [1]	GP	Participant	$8,658	$7,396	$0	7,155

Notes: "N/A" indicates no filing from the candidate. Winner of each race is highlighted.

* Incumbent.

[1] Candidate did not file all required disclosure statements with the NYC Campaign Finance Board.

[2] Candidate was eligible for the primary expenditure limit.

[3] Candidate accepted public funds in the primary election period only.

BONUS MATCHING FUNDS DISBURSED—1999 ELECTIONS

(by Council District)

General Election

District	Candidate	Party	Status	Net Contributions	Net Expenditures	Net Public Funds Payments	Total # of Votes
4	Moskowitz, Eva S	D, WF, I	Participant	$339,973	$404,369	$91,333	14,865
	Williams, Reba W	R, L	Non-Participant	N/A	N/A	$0	7,323

Notes: "N/A" indicates no filing from the candidate. Winner of each race is highlighted.

BONUS MATCHING FUNDS DISBURSED—1997 ELECTIONS

(by Office or Council District)

Primary Election

District	Candidate	Party	Status	Net Contributions	Net Expenditures	Public Funds Payments for Primary Election ONLY	Total # of Votes
13	DeMarco, Michael [1]	D	Non-Participant	$159,895	$204,977	$0	4,471
	Medici, George	D	Participant	$18,127	$26,232	$17,500	1,174
17	DeJesus, Luis	D	Participant	$23,675	$29,934	$34,334	2,130
	Espada, Pedro	D,I	Participant	$57,665	$51,314	$0	5,412
	Perez, Federico *	D	Non-Participant	$24,809	$34,855	$0	3,500
20	Chu, Pauline	D	Participant	$56,833	$90,062	$40,000	1,008
	Harrison, Julie *	D	Non-Participant	$44,890	$31,225	$0	2,907
	Liu, John	D	Participant	$128,936	$102,097	$40,000	1,116
	Markell, Debra	D	Participant	$22,520	$30,127	$25,358	892
28	Jennings, Jr., Allan	D	Participant	$24,603	$46,543	$26,637	3,647
	White, Jr., Thomas *	D	Non-Participant	$46,500	$67,645	$0	5,022
32	Addabbo, Jr., Joseph [2]	D	Non-Participant	$56,801	$61,581	$0	3,926
	Gebert, Thomas	D	Participant	$26,317	$63,409	$37,220	2,236
42	Barron, Charles	D	Participant	$20,736	$47,582	$30,182	3,885
	Wooten, Priscilla *	D	Non-Participant	$84,565	$79,284	$0	6,292
44	Aboulafia, Sandy Abby	D	Participant	$20,764	$44,504	$30,123	1,932
	Dear, Noach *	D	Non-Participant	$629,882	$544,954	$0	3,979

General Election

Office	Candidate	Party	Status	Net Contributions	Net Expenditures	Net Public Funds Payments	Total # of Votes
Brooklyn BP	DeAngelo, Nora	R	Non-Participant	N/A	N/A	$0	49,686
	Dillon, Rev. Dennis	FU	Participant	$107,194	$246,036	$122,479	14,592
	Golden, Howard *	D	Non-Participant	$510,234	$390,448	$0	198,708
	Grabel, Marie	L	Non-Participant	N/A	N/A	$0	4,018
	LaBella, Anthony	C	Non-Participant	N/A	N/A	$0	7,246
	Mahoney, Robert	RL	Non-Participant	N/A	N/A	$0	2,934
Manhattan BP	Fields, C. Virginia	D,L	Participant	$984,472	$1,344,822	$306,110	179,239
	Hirschfeld, Abraham	C,F,I,R	Non-Participant	$2,655,229	$2,274,801	$0	67,173
	Leighton, Thomas	M	Non-Participant	N/A	N/A	$0	7,808

District	Candidate	Party	Status	Net Contributions	Net Expenditures	Net Public Funds Payments	Total # of Votes
4	Eristoff, Andrew *	F,L,R	Non-Participant	$497,577	$808,803	$0	19,359
	Laviano, Peter	RL	Non-Participant	N/A	N/A	$0	303
	Moskowitz, Eva	D,I	Participant	$219,672	$259,707	$80,000	17,229
20	Chen, Ethel [3]	I	Participant	$63,212	$116,490	$46,905	1,685
	Chu, Pauline	C	Participant	$61,379	$104,474	$43,698	1,436
	Harrison, Julia *	D,L	Non-Participant	$45,930	$43,073	$0	11,466
	Pyun, Chun Soo	R	Non-Participant	$31,136	$31,136	$0	4,073
27	Jenkins, Cynthia	I	Participant	$23,079	$48,922	$13,819	3,795
	Morgan, Ishmael	C,R	Participant	$10,986	$24,301	$6,367	1,743
	Spigner, Archie *	D,L	Non-Participant	$109,330	$80,378	$0	15,155
28	Jennings, Jr., Allan	C,I,RL	Participant	$29,106	$58,271	$31,353	4,134
	White, Jr., Thomas *	D,L	Non-Participant	$51,890	$90,302	$0	11,950
51	Bardel, Henry	GP	Participant	N/A	N/A	$0	329
	Canning, Marietta	RL	Non-Participant	N/A	N/A	$0	657
	Fiala, Stephen	F,R	Non-Participant	$41,200	$45,307	$0	19,021
	Pocchia, Anthony	D,I	Participant	$33,633	$74,077	$38,744	12,054
	Shanahan, Mary Lou	C	Non-Participant	$1,570	$1,329	$0	2,366

Notes: "N/A" indicates no filing from the candidate. Winner of each race is highlighted. The bonus matching rate for 1997 was $2-to-$1.

* Incumbent.

[1] After winning the primary, Mr. DeMarco was appointed a judge and was substituted on the General Election ballot by participant Madeline Provanzano, who won against three non-participants, none of whom triggered the bonus.

[2] Mr. Addabbo was defeated in the general election by non-participant incumbent Alfonse Stabile.

[3] Candidate was eligible for the primary spending limit.