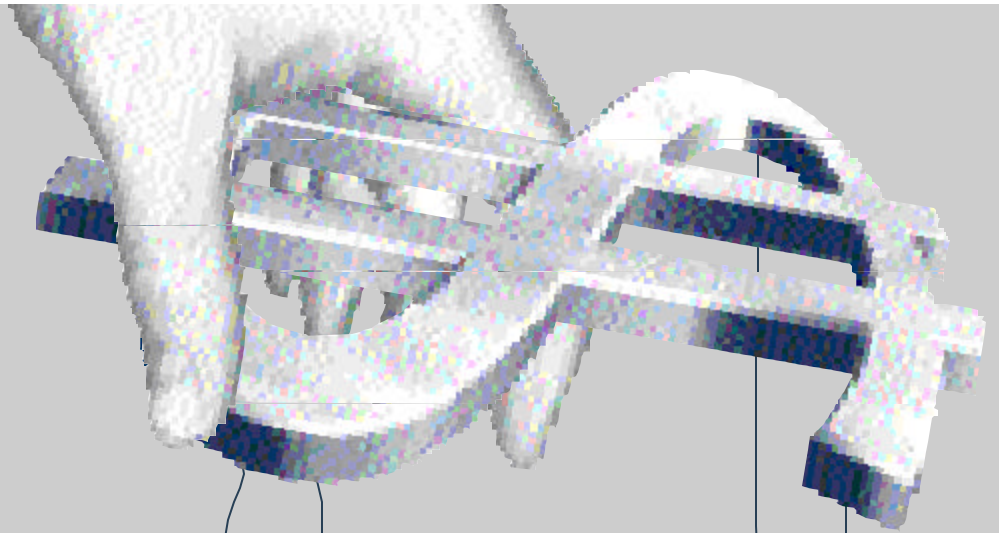
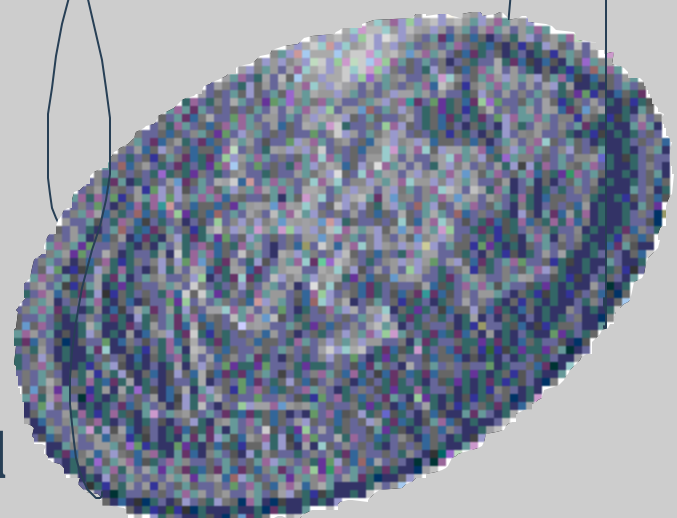


**SEPTEMBER 1998**  
**EXECUTIVE SUMMARY**



**A DECADE OF**  
***REFORM***  
**1988 - 1998**



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

A DECADE OF  
*REFORM*

**Executive Summary**

**September 1998**



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NEW YORK CITY  
CAMPAIGN FINANCE BOARD

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# Preface

**T**his is the Executive Summary of a report comprising two volumes. Volume I contains the New York City Campaign Finance Board's comprehensive mandated report to the Mayor and the Speaker of the City Council on the effect of the New York City Campaign Finance Program on the citywide elections of 1997. (See N.Y.C. Administrative Code §3-713(1).) Volume II contains the appendices to Volume I. This Executive Summary of the Board's mandated report contains highlights of the report and includes recommendations made by the Board for improvements in the Program and State law governing campaign financing.

The Board plans to issue an additional volume of the report in 1999. That volume will include a separate quantitative compilation of computerized campaign finance data for Program participants from 1989, when the first elections were held under the Program, to 1997.

Financial data for candidates who were not in the Campaign Finance Program, and who therefore did not file financial statements with the Campaign Finance Board, are presented in these volumes as reported by the candidates to the New York City Board of Elections. The Campaign Finance Board has made every effort to present non-participant data accurately, but the difficulty of obtaining complete filings and interpreting data required to be submitted to the Board of Elections may render comparisons with Campaign Finance Board data unreliable. See note 16 of this Executive Summary for a discussion of the limitations of non-participant data.





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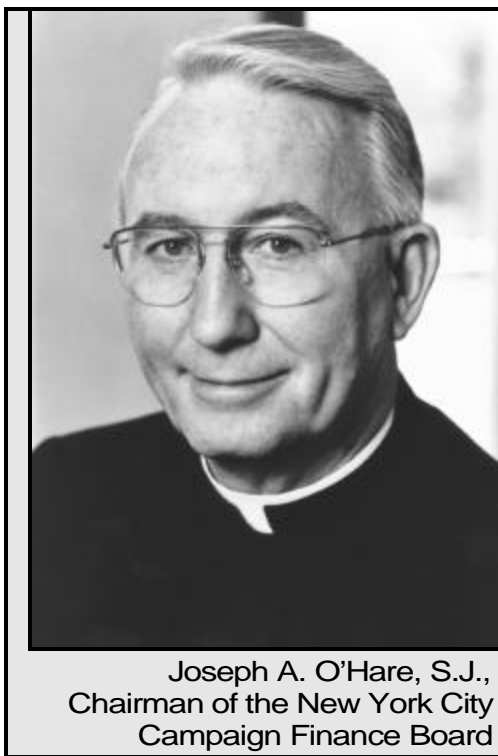
# Foreword

**T**his report of the New York City Campaign Finance Board on the 1997 municipal elections is the fourth such report published by the Board, in fulfillment of its mandate to review, after each election, the role of the Campaign Finance Program in the electoral process. The purpose of these reviews is to assess the strengths and limitations of the Program and make recommendations for whatever legislative or regulatory changes could help the Program better achieve its objectives. Those objectives, simply put, are to reduce the influence of private money on elections, increase competition among campaigns, and to increase the information available to the voters of New York City.

As the title of the present report indicates, this fourth report coincides with the tenth anniversary of the Campaign Finance Act, which was passed by the City Council and signed into law by the Mayor in February 1988. It seems appropriate, then, for the report to have a double focus: a review of the 1997 campaign and an assessment of the ten-year history of the Program.

The Program enacted into law in 1988 offered public funds to match private contributions to those candidates who chose to enter the Program and accept its specified limits on contributions and expenditures. Participation in the Program also required candidates to report detailed information about the sources of their contributions as well as their expenditures. The assigned limits to contributions and expenditures varied according to the office sought: the citywide offices of Mayor, Comptroller, and Public Advocate; the five Borough Presidents; and the City Council. The purpose of the matching funds formula was to enhance the importance of smaller contributions from local residents. Since participation in the Program would be voluntary, bonus matching funds were available to candidates in the Program who were competing against candidates who chose not to participate.

In addition to the information made available to the public through the Program's disclosure requirements, the Campaign Finance Board also publishes for each primary and general election a Voter Guide describing all candidates who may be on the ballot, including those who choose not to participate in the Program. This mandate of the Board was not in the original legislation that created the Campaign Finance Program but was a proposal of the Charter Revision Commission approved by the voters in November 1988.



Joseph A. O'Hare, S.J.,  
Chairman of the New York City  
Campaign Finance Board

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In the 1997 municipal elections, the Campaign Finance Board was also responsible for administering a new program of mandated debates that had been enacted into law by the City Council and the Mayor as a result of widespread disappointment after the 1993 elections, when the principal mayoral candidates, after debating at great length about the conditions for a debate, never did meet in any face-to-face encounter.

While supporting the value of scheduled debates among the leading candidates for citywide office, the Campaign Finance Board had reservations about linking the obligation to debate to the receipt of public funds. The actual experience of the debate program in the 1997 elections did not confirm the original misgivings of the Board. A number of other issues, however, do need to be resolved, in particular, how to balance the desire that the debates be as inclusive as possible with the recognition that fringe candidates participating in the debates can receive disproportionate attention and undermine the purpose of a serious exchange among the principal candidates. The Board and its staff, at a later date, will address the problems encountered in the debate program in the 1997 campaign.

With the introduction of the mandated debate program, along with developments in technology and improvement in procedures, the Board has been successful in steadily increasing the quantity and quality of information available to the voting public over the ten years since the Campaign Finance Program was first introduced into the political culture of New York City. By the time this report is published, for example, the data collected by the Board will be on the Internet in a searchable format. The publication of the Voter Guide, in English and Spanish, and for certain districts in Chinese, has been hailed as a model of voter education.

If considerable progress has been made over the last ten years in fulfilling the mandate of voter education, the Board recognizes that the progress made in reducing the influence of money on campaigns has been less decisive. The Board continues to be encouraged by the testimony of first-time candidates that they could never have mounted a campaign without the matching funds they received. At the same time, the analysis of the sources of financial support for candidates in the 1997 election reveals several disturbing trends: an increase in corporate contributions, a continued dependency on high-end contributions, as well as a concentration of financial support from Manhattan. While the Campaign Finance Program seeks to encourage a more democratic form of fundraising (more modest contributions from a broader range of citizens), just 15 percent of all contributors to the 1997 mayoral campaigns gave 75 percent of all the money raised. More money was raised outside New York City for citywide offices than was raised in the Bronx, Brooklyn, Queens, and Staten Island combined. A more democratic form of fundraising, of course, is admittedly not the most efficient way to raise money. Professional fundraisers, for universities and other not-for-profit institutions, will always concentrate on major-gift prospects. Other values are at stake in political fundraising, however, and the Board recommends a change in the public funds matching formula to further enrich the significance of the more modest contribution, without necessarily increasing the time candidates must spend in raising money.

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Each of the Board's three previous reports—*Dollars and Disclosure* (1990), *Windows of Opportunity* (1992), and *On the Road to Reform* (1994)—advanced recommendations for legislative changes that we believed, as a result of our review of the campaign just completed, would strengthen the Campaign Finance Program. Electoral reform must be a continuous process; even the best-intentioned reform can have unforeseen consequences. Furthermore, candidates and campaign managers are by nature competitive people; they will agree to play by the rules but will test the rules to see if any competitive advantage can be found. In the 1997 campaign, as in previous campaigns, journalists asked whether candidates had violated “the spirit of the Program,” if not the letter of the law? The question seems misplaced. Testing the limits of the law is the campaign's right; recommending revisions to the law is the Board's responsibility.

In that spirit, then, on the occasion of the tenth anniversary of the Campaign Finance Act in February 1998, the Campaign Finance Board recommended a set of legislative changes in the Act that we believed, based on a decade of experience with the Program, would make a good law better. These recommendations are spelled out in detail in Part III of this Executive Summary.

As this report goes to press, interest in making improvements in New York City's Campaign Finance Program is evident on several fronts. In early July, the Speaker of the City Council proposed legislative changes that incorporate many of the recommendations the Board proposed in February and repeats in this report. A newly-established Charter Revision Commission voted later in the month to make campaign finance reform one of three questions the Commission would study to recommend changes in the City Charter. A third group of interested citizens has proposed a “Clean Money” initiative that would introduce a limited but radical change in the Campaign Finance Program.

The Board welcomes this healthy interest in campaign finance reform, even when it cannot endorse all of the particular proposals of different groups. Before debating the merits of different proposals, the Board believes it would be useful to distinguish the kind of changes in the Program that would merit inclusion in the City Charter, as opposed to changes that would be more appropriate for local legislation passed by the City Council, as well as those changes that might best be left to the discretion of the Campaign Finance Board itself.

For example, provisions in the City Charter that recognize and protect the distinctive character of the Campaign Finance Board as an independent City agency, unlike mayoral agencies, could avoid conflicts of interest, or at least the appearance of conflicts of interest, in future campaigns. The nonpartisan character of the Board is essential to its credibility, and Charter provisions concerning the manner of appointments to the Board could guarantee a certain insulation of the Board's necessary activities from the partisan political pressures of any given moment. Similarly, a Charter provision protecting funding for the Voter Guide and the Board's operating budget, like the existing provision protecting the Public Fund for payments to the candidates, would also be helpful. On the other hand, setting appropriate contribution and expenditure limits, and establishing matching funds formulas, seems more appropriate for Council enactment, since these may need to be adjusted more regularly than the rhythm of Charter Revision would allow. Finally,

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allowing the Board the discretion to fix the required opt-in date would allow for greater administrative efficiency and would better accommodate the needs of candidates.

On this, its tenth anniversary, we believe the New York City Campaign Finance Program has proven its value. This should be a source of satisfaction and pride to the original architects of the Program in 1988, Mayor Edward I. Koch and Peter F. Vallone, then the Majority Leader of the City Council and now its Speaker, and the Corporation Counsel at the time, Peter Zimroth, whose office played such an important role in drafting the original legislation. The Program has been supported by both of the Mayors who succeeded Mayor Koch and by all the distinguished successors to Peter Zimroth. During the last ten years, the New York City Program has attracted national and even international attention. Over 50 state and local jurisdictions in the United States, including Alaska and Hawaii, have requested information or assistance from the Board, particularly in the matter of computerizing campaign data. Our offices have welcomed visitors from Australia, Japan, South Africa, the United Kingdom, and several Latin American countries.

The Board is under no illusion that campaign finance reform alone will so improve our electoral process that the confidence of the voting public is restored and greater participation on the part of our citizens is revived. The arcane electoral laws of New York State, for example, continue, even after limited improvements, to make access to the ballot difficult for candidates and access to campaign information difficult for voters. But campaign finance reform is a critical piece of the puzzle, and the experience of the last ten years represents a resource, we believe, for the continued improvement of the political culture of New York City. At the risk of demonstrating the hubris that some think characteristic of New Yorkers, we believe that the Board's history over the last decade has some lessons for the State and the Nation, as well.

Finally, on behalf of those who have served with me on the Board over the last ten years, I want to thank and congratulate the staff of the Campaign Finance Board for setting a standard of excellence in public service for all New Yorkers. The Executive Director, Nicole A. Gordon, has led the staff over the past ten years with unmatched integrity and high competence. She has been assisted throughout by highly dedicated colleagues, Carole Campolo, the Deputy Executive Director, Laurence Laufer, the Board's General Counsel, and Carol Ozgen, Director of Administrative Services. Andrew Levine, now Director of Campaign Finance Administration, has served in that department from the beginning, and Ken O'Brien, now Director of Systems Administration, has made a similar contribution over ten years in developing the technology so critical to the success of the disclosure requirements of the Program. Working with a succession of talented and generous members of the staff, the Board has confidence that the high standards of the past ten years will be continued over the next decade.

Joseph A. O'Hare, S.J.  
Chairman, New York City Campaign Finance Board  
Summer 1998

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# Introduction

**T**en years after its enactment, the New York City Campaign Finance Program (the “Program”) is an integral element of the City’s electoral landscape. In the case of citywide elections, every serious candidate joins the Program, which requires candidates to observe contribution and expenditure limits, submit detailed disclosure of their campaign finances, and, in the case of citywide candidates, participate in debates. In return, these candidates can become eligible to receive public matching funds. (See Fact Sheet 1.)

The 1997 elections presented unaccustomed challenges to the New York City Campaign Finance Board (“CFB” or “Board”), the nonpartisan City agency charged with administering the Campaign Finance Program. The Board’s visibility increased dramatically as it implemented its newest mandate, debates for citywide candidates. The Board again ruled on complex issues in the heat of the election season, had disbursed some \$6.6 million at press time to qualifying candidates, and was the primary source of candidate finance information for the media and the public. Over 4.5 million copies of the New York City Voter Guide, containing statements and photographs of municipal candidates as well as other pertinent voting information, were produced and distributed.

The Board also made numerous technical advances in time for the 1997 elections, including improvements to the Board’s candidate filing software, Candidate Software for Managing and Reporting Transactions (“C-SMART<sup>®</sup>”); implementation of its Public Terminal, at which anyone can search the Board’s contribution database; upgrades of the CFB’s internal Campaign Finance Information System (“CFIS”); and launching of a Web site. As of the summer of 1998, the Web site also houses its contribution database in a searchable format.

The Board’s commitment to act in a strictly nonpartisan manner and to enforce vigorously the provisions of the New York City Campaign Finance Act (the “Act”)—the law that created the CFB and the Program—earned high praise from local officials and editorial boards. A high-profile conviction was obtained when Ron Reale, a candidate in 1993 for Public Advocate, was sentenced in federal court for attempting to defraud the Board of matching funds.

Most recently, the Board was also involved in helping to shape proposals by City Council Speaker Peter F Vallone and Public Advocate Mark Green to make sweeping and much-needed reforms to the Campaign Finance Act. At press time, those proposals had been introduced in the City Council.



# Fact Sheet

## THE CAMPAIGN FINANCE PROGRAM AT A GLANCE

### Campaign Finance Program Contribution and Spending Limits and Public Funds Requirements for the 1997 Elections

#### Contribution Limits

Mayor	Public Advocate	Comptroller	Borough President	City Council
\$7,700	\$7,700	\$7,700	\$5,900	\$3,550

#### Spending Limits

	Mayor	Public Advocate & Comptroller	Borough President	City Council
<b>1994-1995*</b>	\$90,000 <sup>†</sup>	\$90,000 <sup>†</sup>	\$60,000 <sup>†</sup>	N/A
<b>1996*</b>	180,000	180,000	120,000	\$40,000
<b>1997 Primary Election</b>	4,732,000	2,958,000	1,065,000	124,000
<b>Total Primary Limit<sup>‡</sup></b>	5,002,000	3,228,000	1,245,000	164,000
<b>1997 General Election</b>	4,732,000	2,958,000	1,065,000	124,000

\* Spending in excess of these amounts was charged against the first limit applicable in 1997.

<sup>†</sup> Effective June 23, 1994.

<sup>‡</sup> If no primary election was held and a primary election spending limit was not otherwise applicable, the amounts set forth in this row were applicable instead for the general election.

***In return for abiding by the above limits and meeting the relevant threshold below...***

#### Thresholds

	Mayor	Public Advocate & Comptroller	Borough President	City Council
<b>Dollar Amount</b>	\$250,000	\$125,000	\$10,000-46,013*	\$5,000
<b>Number of Contributors</b>	1,000	500	100	50

\* For borough president, the threshold dollar amount is equal to the number of persons living in each borough (based on the 1990 census) multiplied by two cents, or ten thousand dollars, whichever is greater. The dollar amount for each borough is: Bronx, \$24,076; Brooklyn, \$46,013; Manhattan, \$29,751; Queens, \$39,032; and Staten Island, \$10,000.

***...candidates could qualify to receive public matching funds up to...***

#### Maximum Public Funds\*

Mayor	Public Advocate	Comptroller	Borough President	City Council
\$2,366,000	\$1,479,000	\$1,479,000	\$532,500	\$40,000

\* Per election, in election year.

#### Disclosure

Candidates who join the Program must submit detailed campaign finance information including names, addresses, and employer and occupation information for contributors and for intermediaries (who deliver contributions from others to the candidates).

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## Part I — The 1997 Elections

# Capping a Decade of Reform


**T**he number of candidates appearing on the ballot, as well as the number of participants in the New York City Campaign Finance Program, were up in 1997, probably at least in part because of the institution of term limits (which will force two-term incumbents out of office in 2001) and ballot access reform at the State level.

The Republican incumbent Mayor Rudolph W. Giuliani won re-election in 1997, defeating his Democratic rival, Manhattan Borough President Ruth Messinger, by 17 percentage points. Messinger emerged from the Democratic field after a competitive primary with slightly over the 40 percent of the vote she needed to avoid a run-off primary against Al Sharpton, who gained 32 percent of the primary vote. Indeed, until absentee ballots were counted, it appeared that a run-off would take place. City Council member Sal Albanese finished third in the primary, receiving 21 percent of the vote. The other citywide races saw Public Advocate Mark Green and Comptroller Alan Hevesi easily win re-election against Jules Polenetsky, Mayor Giuliani's running mate, and Republican Annemarie McAvoy, respectively.

The race to succeed Messinger as Manhattan Borough President included three City Council members, a State Assembly member, and two community activists vying for the Democratic nomination. C. Virginia Fields, a Council member representing Harlem, defeated her closest rival, Assembly member Deborah Glick, by 12 percentage points. Fields went on to defeat Republican Abe Hirschfeld in the general election by 43 points. In the race for Bronx Borough President, incumbent Fernando Ferrer, who had initially run for mayor but dropped out of that race to run for re-election, easily defeated City Council member Israel Ruiz. There were also 51 races for City Council, including nine races for "open" seats.

### PROGRAM PARTICIPATION: THE NEW "POLITICS AS USUAL"

One hundred and ninety candidates joined the Program in 1997, of whom 141 ultimately appeared on the primary or general election ballots. (See Fact Sheet 2.) The majority of all candidates who were on the ballot, and three-quarters of the competitive candidates (those who received at least ten percent of the vote), joined the Program.<sup>1</sup> All three incumbents for Mayor, Public Advocate, and Comptroller joined the Program. In addition, seven of the

1988		1998
Lax contribution limits, no spending limits, limited disclosure requirements, reliance by candidates on private money alone, and no mandatory debates under State law.		Voluntary New York City Program marks ten years of contribution and spending limits, extensive computerized public disclosure, clean public matching funds, and newly mandated debates for citywide offices.
<b>A Decade of Reform</b>		



# Fact Sheet

2

## PROGRAM PARTICIPATION BY OFFICE OVER TIME

Year	Election/Office	Number of Participants	Participants on Ballot*	All Candidates on Ballot	Percent On Ballot Participating
<b>Citywide Elections</b>					
<b>1997</b>	<b>Mayor</b>	10	6	9	67%
	<b>Public Advocate</b>	3	3	6	50%
	<b>Comptroller</b>	3	3	6	50%
	<b>Borough President</b>	22	15	27	56%
	<b>City Council</b>	138	114	181	63%
	<b>Undeclared</b>	14	N/A	N/A	N/A
	<b>Total</b>	<b>190</b>	<b>141</b>	<b>229</b>	<b>62%</b>
<b>1993</b>	<b>Mayor</b>	5	4	7	57%
	<b>Public Advocate</b>	11	6	9	67%
	<b>Comptroller</b>	3	3	7	43%
	<b>Borough President</b>	11	7	15	47%
	<b>City Council</b>	136	87	132	66%
	<b>Undeclared</b>	20	N/A	N/A	N/A
	<b>Total</b>	<b>186</b>	<b>107</b>	<b>170</b>	<b>63%</b>
<b>1989</b>	<b>Mayor</b>	10	5	11	45%
	<b>City Council President†</b>	0	0	6	0%
	<b>Comptroller</b>	5	4	10	40%
	<b>Borough President</b>	7	6	15	40%
	<b>City Council</b>	34	33	97	34%
	<b>Undeclared</b>	1	N/A	N/A	N/A
	<b>Total</b>	<b>57</b>	<b>48</b>	<b>139</b>	<b>35%</b>
<b>City Council Redistricting Election</b>					
<b>1991</b>	<b>City Council</b>	256	136	239	57%

\* On the ballot in either primary or general election.

† Office became Public Advocate.

Source: NYC Campaign Finance Board and NYC Board of Elections data

nine candidates (78 percent) for citywide office who received ten percent or more of the vote in a primary or general election were Program participants. One of those candidates not participating in the Program, Republican Comptroller candidate Annemarie McAvoy, said she would have joined, but she decided to run for office after the April 30th “opt-in” deadline.<sup>2</sup>

At the City Council level, 63 percent of the candidates who appeared on the primary or general election ballots for the 1997 elections were Program participants. As with citywide candidates, the participation rate for those who received at least ten percent of the vote was higher, at 74 percent. Sixty-five percent of Council incumbents who sought re-election were Program partici-

pants. In addition, all five Council members who sought a higher City office participated in the Program.<sup>3</sup> If these Council members are added, then 69 percent of all Council incumbents running for an office covered by the Program opted in. Participation rates for City Council challengers receiving ten percent or more of the vote were on a par with those of incumbents.

In 1993, City voters approved a ballot referendum limiting municipal elected officials to two consecutive terms in office. This means that most current incumbents will not be able to run for re-election in 2001.<sup>4</sup> History shows that more candidates run for office—and more candidates participate in the Program—when an incumbent is not running for re-election. Indeed, it is not uncommon to see seven or more candidates running for an open seat.

In 1996, State laws were reformed to make it somewhat less onerous for candidates to appear on the ballot. It is likely this contributed to the dramatic increase in candidates appearing on the ballot in 1997 compared with 1993. Two hundred and twenty-nine candidates appeared on the ballot in the 1997 City elections, compared with 170 in 1993—a 35 percent increase. This suggests that many potential candidates who had not previously run for public office will be encouraged to throw their hats in the ring for the 2001 elections.

### CONTRIBUTIONS: POLITICAL CAPITAL

Overall fundraising declined in the 1997 election cycle, but the size of the average contribution increased significantly since 1993 for each municipal office covered by the Program. (See Table 1.) This is partly a reflection of the Program's higher contribution limits—which are adjusted every four years for inflation—but in any event contributors are giving to Program participants in ever-increasing amounts. Participating candidates raised almost \$30 million during the 1997 election cycle, a slight decrease from 1993.<sup>5</sup>

Once again, fundraising by mayoral candidates exceeded that of all other offices combined. Total funds raised by participating mayoral candidates decreased by 20 percent, however, from \$18.5

TABLE 1 TOTAL CONTRIBUTIONS TO PARTICIPANTS BY OFFICE OVER TIME					
Total Contributions (Number of Participants)					
Election	Mayor	Public Advocate	Comptroller	Borough President	City Council
<b>1997</b>	\$14,855,000 (10)	\$2,017,000 (3)	\$1,959,000 (3)	\$5,137,000 (22)	\$5,529,000 (138)
<b>1993</b>	18,450,000 (5)	2,890,000 (11)	5,070,000 (3)	1,930,000 (11)	3,500,000 (136)
<b>1989</b>	19,580,000 (10)	N/A	3,530,000 (5)	2,760,000 (7)	2,380,000 (34)

Note: Figures are not adjusted for inflation.  
Source: NYC Campaign Finance Board data

## Part I

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million in 1993 (or \$20.5 million in adjusted dollars) to \$14.9 million, despite the fact that there were twice as many mayoral candidates in the Program in 1997. (The general election was not close, however, as it was in 1993.) In contrast, for the non-citywide offices, fundraising increased. Contributions to Borough President candidates more than doubled. This jump was chiefly the result of the open seat race for Ruth Messinger's Borough President seat in Manhattan. (Bronx Borough President Fernando Ferrer's fundraising during his initial mayoral bid also contributed to the increase.) Overall fundraising by City Council candidates for the 51 district seats also increased significantly. City Council candidates in the 1997 elections raised a total of \$5.5 million compared to the \$3.5 million raised for 1993. Fourteen participating Council candidates each raised over \$100,000 in 1997, compared with only four in 1993.<sup>6</sup>

### The Geography of Campaign Fundraising

Geographic analysis of fundraising shows that non-residents continue to have a stake in who holds City office: more funds were raised outside New York City for citywide offices than were raised in Brooklyn, the Bronx, Queens, and Staten Island combined. (See Table 2.) Out-of-City contributors accounted for 24 percent of all funds (individual and organizational) raised during the 1997 election cycle.

For most candidates seeking campaign funds in 1997, Manhattan was critical: it was the source for half of all money (individual and organizational) raised by participating candidates. Manhattan's dominance is not new: the borough accounted for 47 percent of total funds raised in 1993, more than any other geographic area, and 55 percent in 1989. In citywide races, Manhattan funds out-stripped funds from all other boroughs combined by more than three-to-one in 1997. City Council candidates also raised more money in Manhattan than in any other borough, but here the predominance of Manhattan funds was far less pronounced. In fact, Council candidates raised

**TABLE 2  
TOTAL CONTRIBUTIONS TO PARTICIPANTS BY BOROUGH (1997 ELECTIONS)**

Office	Bronx	Brooklyn	Manhattan	Queens	Staten Island	Out of City	Total
Mayor	\$242,982	\$1,311,671	\$8,425,485	\$900,068	\$158,446	\$3,792,408	\$14,831,060
Public Advocate	31,276	142,596	1,260,522	79,824	26,482	476,142	2,016,842
Comptroller	25,160	158,690	897,511	223,145	14,400	632,869	1,951,775
Borough President	676,849	339,540	2,307,892	356,872	161,648	1,292,736	5,135,537
City Council	382,513	1,278,614	1,943,291	688,985	435,723	725,425	5,454,551
Total	\$1,358,780	\$3,231,111	\$14,834,701	\$2,248,894	\$796,699	\$6,919,580	\$29,389,765

Source: NYC Campaign Finance Board data

considerably more in the four outer boroughs combined (\$2,785,835) than in Manhattan (\$1,943,291), a change from 1993.<sup>7</sup>

A Board proposal to increase the rate at which matching funds are distributed would help to decrease the geographical disparity in contributions by making small contributions from City residents more valuable to candidates. At press time a proposal to increase the matching funds rate had been introduced in the City Council.

### Sources of Support

Organizational contributions have steadily increased as a percentage of total fundraising, and contributions from individuals have over the years accounted for a smaller portion of total fundraising. Contributions from individuals accounted for 61 percent of funds raised by Program participants in 1997, down slightly from 64 percent in 1993 (and 75 percent in 1989). (See Table 3.) Three-quarters of these contributions came from City residents. Organizations (including corporations, unions, partnerships, and political committees) accounted for 39 percent of funds raised by Program participants, up slightly from 36 percent in 1993 (and 25 percent in 1989). Seventy percent (\$7.8 million) of organizational contributions came from corporations. Contributions from organizations were, on average, more than double the size of those from individuals: \$801 versus \$300.

Citywide candidates reported the highest percentage of funds raised from individuals (65 percent). City Council candidates received 61 percent of their financial support from individuals, but a much higher percentage of these individual givers were City residents (87 percent versus 73 percent for citywide candidates).

	Election Cycle					
	1997		1993		1989	
<b>Individuals</b>	\$18,077,000	(61%)	\$20,391,000	(64%)	\$21,106,000	(75%)
<b>Organizations</b>	11,166,000	(39%)	11,435,000	(36%)	7,150,000	(25%)
<b>Corporations</b>	7,817,000	(27%)	7,632,000	(24%)	4,466,000	(16%)
<b>Political Committees</b>	1,614,000	(5%)	1,560,000	(5%)	1,235,000	(4%)
<b>Partnerships</b>	652,000	(2%)	834,000	(3%)	630,000	(2%)
<b>Employee Organizations</b>	687,000	(2%)	612,000	(2%)	473,000	(2%)
<b>Other Organizations</b>	396,000	(1%)	797,000	(3%)	346,000	(1%)
<b>Total</b>	\$29,243,000		\$31,826,000		\$28,256,000	

Note: Figures rounded to nearest \$1,000. Percentages may not add up to 100 due to rounding. Contributions from unspecified sources in 1997 totaled \$162,000. Figures are not adjusted for inflation. Because data from different elections may be based on different formulas, they may not be directly comparable.

Source: NYC Campaign Finance Board data

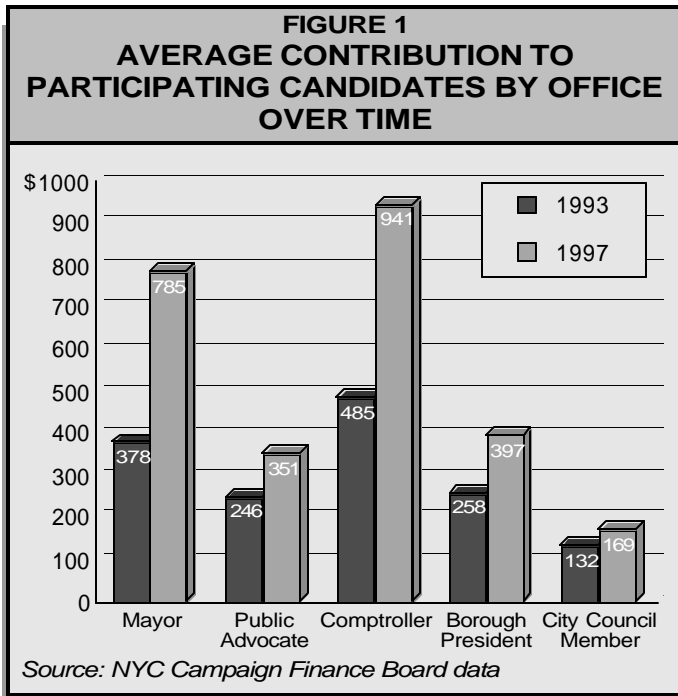
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The Board has long recommended that all organizational contributions be banned under State law.<sup>8</sup> More recently, the Board recommended that they be banned under the Program, except for contributions from political committees filing disclosure information with the Board. At press time, the City Council was considering a bill that would (1) raise the public funds matching rate for candidates who agreed not to accept corporate contributions and (2) require political committees making contributions to Program participants to register with the Board.

## Dollar Distribution: How the Money is Raised

Large contributions played an increased role in the Program in 1997, particularly at the citywide level. Small contributions continue to account for the vast majority of the *number* of contributions received, but they make up a small *percentage* of the total funds raised. Three-quarters of the contributions received by Program participants were under \$250, but these contributions accounted for only fourteen percent of the total dollars raised. Meanwhile, contributions over \$5,000, representing only one percent of all contribution transactions, accounted for 25 percent of all money raised. Citywide candidates relied on contributions over \$1,000 for nearly three-quarters of their fundraising. At the City Council level, however, the situation was reversed: over 75 percent of the total funds raised came in contributions of \$1,000 or less.

One result of the inflation-adjusted contribution limits and the larger role of high-end contributions was an increase in the size of average contributions for each office covered by the Program which is evident particularly for incumbents. (See Figure 1.) Mayor Giuliani and Comptroller Hevesi demonstrated the fundraising power of incumbency. Giuliani received an average contribution of \$1,545 per contributor. His opponent, Ruth Messinger, received an average of \$458. Hevesi, whose opponent, Annemarie McAvoy, did not participate in the Program, had an average contribution of \$941.



The Board recommendations to decrease the contribution limits and to increase the matching rate for public funds would reduce the average contribution size by substantially lowering the amount contributors can give and by increasing the value of small contributions to candidates.

## Corporate Contributions in the 1997 Elections: The Giving Goes Up

Corporate contributions to participating candidates reached an all-time high of \$7.8 million in 1997, accounting for 27 percent of all funds raised by candidates. By contrast, union giving (including contributions through union PACs)

accounted for only 4.7 percent of all 1997 funds (\$1.4 million). Since the Campaign Finance Act was passed, corporate contributions have accounted for an increasingly larger share of the funds raised by participants, while individual contributions have decreased considerably, from 75 percent overall in 1989 to 61 percent in 1997.

Because many corporate contributors do business with the City, corporate giving raises the potential for buying influence. The long-standing concern over “pay-to-play” practices in City politics is fueled by the tendency of corporations to direct their contributions to incumbents who hold decision-making power over lucrative City contracts.

The record confirms that incumbents hold the advantage in political fundraising from corporations. For example, the 1997 Giuliani campaign received one third of its funds from corporations, while Messinger received only ten percent from corporations. The portion of Giuliani’s contributions that came from corporations rose when he became an incumbent—from 28 percent in 1993—while individual contributions dropped from 65 percent to 59 percent. Public Advocate Mark Green received 20 percent of his 1997 re-election funds from corporations, compared with 13 percent in 1993. Comptroller Alan Hevesi’s corporate fundraising jumped from 20 percent in 1993—when he was a challenger—to more than 31 percent in 1997.

**TABLE 4  
TOP TEN CONTRIBUTORS TO 1997 PARTICIPANTS**

Contributor	Number of Participants Receiving Contributions	Total Contributed*
Transport Workers Union	44	\$85,023
UFT COPE Local	31	61,272
Correction Officers Benevolent Association	25	54,900
Local 1199, Health and Human Service Employees Union	14	52,530
AFSCME Local 372	24	52,015
District Council 37 - AFSCME	36	50,087
Rent Stabilization Association	28	43,100
Leonard Litwin	14	39,100
Real Estate Board	25	36,800
First District Dental Society	14	35,225

\*Note: Contributor entries reflect all contributions to participating candidates from these sources. The data in this table have not been audited to reflect affiliation as described in Board rules, and are simply a gross measure of total contributions made by entities with similar names.

Source: NYC Campaign Finance Board data

**TABLE 5  
1997 CONTRIBUTIONS TO PARTICIPANTS  
THROUGH INTERMEDIARIES BY OFFICE**

Office	Amount Intermediated	Number of Intermediaries	Percent of All Contributions
Mayor	\$3,225,547	374	22%
Public Advocate	160,870	42	8%
Comptroller	98,375	14	5%
Borough President	150,452	56	3%
City Council	74,698	60	1%
<b>Total Intermediated</b>	<b>\$3,709,942</b>	<b>546</b>	<b>13%</b>

*Source: NYC Campaign Finance Board data*

**Top Contributors: Unions Take the Lead**

The top ten contributors reflect the increased role played by a small number of unions in 1997. (See Table 4.) The six highest contributors to participating candidates were unions, compared with three of the top ten in 1993, and only one of the top ten in 1989. Only one individual, developer Leonard Litwin, made the top ten list this year, compared with three in 1993. Although total contributions from unions and employee organizations remained fairly constant compared to 1993, that level of giving has been increasingly concentrated among fewer organizations.

At the time this report went to press, City Council legislation proposed to discourage corporate contributions did not include similar provisions discouraging partnership or union contributions. The Board believes that the proposed legislation should be amended to cover these other organizational contributions.

**Intermediary Activity in the 1997 Elections**

The Program requires that participating candidates disclose individuals who collect contributions from others and deliver them to a candidate—a practice known as intermediating, or “bundling.” The Board addressed the subject of bundling in June 1996 in a special report entitled *Bundles of Trouble?*<sup>9</sup> The Board analyzed the impact of bundling in 1993, finding that intermediated contributions as reported by participating candidates are generally larger than direct contributions, are less likely to come from New York City residents, and are frequently the result of fundraising among contributors who have relationships with each other (such as employees of the same company).

Program participants reported \$3.7 million in intermediated contributions in the 1997 elections, or 13 percent of total funds raised. (See Table 5.) This is a decline in total amounts (but only a

slight decline in percentages) from \$4.1 million (14 percent) in 1993 (or \$4.5 million in adjusted dollars) and \$4.6 million (16 percent) in 1989. Ninety-four percent of bundled contributions in 1997 went to citywide candidates, including almost \$3 million to Giuliani—nearly a third of his total fundraising.

Perhaps because intermediaries tend to be people with a business interest in the City, incumbents show far more in bundled campaign funds. Giuliani reported more than ten times as much in intermediated campaign funds as Ruth Messinger in 1997. Comptroller Alan Hevesi's bundled contributions alone accounted for nearly five times the total fundraising of his Republican opponent, Annemarie McAvoy. Public Advocate candidate Jules Polonetsky bucked this trend, reporting more than twice as many bundled contributions as incumbent Mark Green, but this may be an anomaly—the result of Polonetsky's joint campaign with Mayor Giuliani.

The Board has generally limited its proposals on bundling to enhancing disclosure requirements. The Board's concern is that restricting intermediary activity—such as by limiting the amount that can be bundled or limiting the matching funds available for bundled contributions—might drive the practice underground, resulting in decreased disclosure.

## EXPENDITURES: HOW MONEY TALKS

Participants in the Campaign Finance Program volunteer to subject their campaigns to spending limits, and the Board tracks compliance closely. The 1997 mayoral elections were the first in the Program's history in which the two front runners did not spend an approximately even amount. These elections did see continued heavy reliance on television, consultants, and the print media.

In 1997, Program participants spent \$37 million, compared to \$36.3 million in 1993 and \$33.9 million in 1989.<sup>10</sup> (See Table 6.) In inflation-adjusted 1997 dollars, participant spending actually decreased from \$40.1 million in 1993 and \$44.3 million in 1989.<sup>11</sup> Adjusting for inflation, spending by mayoral participants decreased

**TABLE 6  
TOTAL PARTICIPANTS'  
EXPENDITURES BY OFFICE OVER TIME**

Office	Election	Number of Participants*	Total Expenditures
<b>Mayor</b>	1997	6	\$19,250,000
	1993	3	19,760,000
	1989	5	23,800,000
<b>Public Advocate†</b>	1997	2	\$2,560,000
	1993	7	4,000,000
	1989	0	N/A
<b>Comptroller</b>	1997	1	\$2,050,000
	1993	3	6,070,000
	1989	4	4,100,000
<b>Borough President</b>	1997	12	\$5,920,000
	1993	5	1,990,000
	1989	6	3,250,000
<b>City Council</b>	1997	109	\$7,210,000
	1993	112	4,480,000
	1991‡	135	7,600,000
	1989§	33	2,740,000
<b>Total for All Offices</b>	1997	131	<b>\$36,990,000</b>
	1993	112	<b>36,310,000</b>
	1991	135	<b>7,600,000</b>
	1989	48	<b>33,880,000</b>

Note: Figures rounded to nearest \$10,000; totals may not equal sum of figures.

\*Not including small campaigns that filed exemptions.

†Office was called City Council President in 1989.

‡Charter revision expanded the City Council from 35 to 51 seats; election for City Council only.

§City Council had only 35 seats in 1989.

Source: NYC Campaign Finance Board data



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by 12 percent from 1993, and spending by participants for Public Advocate and Comptroller declined by 42 percent and 69 percent, respectively, from 1993. This may have been the result of fewer elections for these offices in 1997 and less competition in the elections that did take place.<sup>12</sup> Meanwhile, total spending by participants for Borough President and City Council, when adjusted for inflation, increased by 169 percent and 46 percent, respectively.

### How Money is Spent

In 1997, media spending remained the largest overall expenditure for all offices. (See Table 7.) Campaign consultant fees were the second largest expenditure for Program participants, making up 11 percent of total spending. A list of the top ten vendors to candidates shows that eight were involved in either consulting or media, including the U.S. Postal Service, which ranked sixth and was used by virtually every campaign.<sup>13</sup> (See Table 8.) The top three vendors were consultant firms that served the three highest spending campaigns; Doner Public Affairs, Grunwald Communications,

**TABLE 7  
TYPES OF EXPENDITURES BY PURPOSE CODE, 1997**

<b>Purpose Code</b>	<b>Mayor</b>	<b>Public Advocate</b>	<b>Comptroller</b>	<b>Borough President</b>	<b>City Council</b>	<b>All Offices</b>
Media/Advertising	\$8,078,677	\$1,209,284	\$1,632,262	\$1,430,498	\$2,605,182	<b>\$14,955,903</b>
Office	1,899,090	84,063	2,276	637,265	613,999	<b>3,236,693</b>
Staff	2,987,121	210,604	0	515,075	470,489	<b>4,183,289</b>
Consultants	2,295,657	140,056	204,000	1,109,701	488,407	<b>4,237,821</b>
Fundraising	1,710,104	564,565	88,757	809,153	772,603	<b>3,945,182</b>
Compliance	0	0	0	8,278	12,711	<b>20,989</b>
Polling	461,451	55,154	0	112,275	127,913	<b>756,793</b>
Petition	25,847	14,744	12,105	42,872	123,946	<b>219,514</b>
Constituent Services	9,985	0	0	55,874	286,294	<b>352,153</b>
Professional Services	206,973	35,828	30,000	177,855	363,657	<b>814,313</b>
Voter Registration	0	0	0	0	7,001	<b>7,001</b>
Other	1,467,541	177,784	24,939	653,868	766,001	<b>3,090,133</b>
Advances*	123,656	41,675	13,272	205,053	338,371	<b>722,027</b>
Political Contributions/ Transfers Out*	228,069	41,936	43,995	136,381	219,555	<b>669,936</b>
Investment Expenses*	0	50	0	32	18,704	<b>18,786</b>
Unknown*	5,588	7,422	1,625	43,282	46,749	<b>104,666</b>
Unitemized Expenditures*	3,926	0	651	1,249	51,167	<b>56,993</b>
Expenditure Refunds*	(252,968)	(25,591)	(95)	(19,141)	(100,283)	<b>(398,078)</b>
<b>Total</b>	<b>\$19,250,717</b>	<b>\$2,557,574</b>	<b>\$2,053,787</b>	<b>\$5,919,570</b>	<b>\$7,212,466</b>	<b>\$36,994,114</b>

\*Not categorized in prior elections.

Source: NYC Campaign Finance Board data

and Morris & Carrick Inc. handled media purchasing and campaign strategy for the Giuliani, Messinger, and Hevesi campaigns, respectively. On the City Council level, the top six vendors were consulting firms and media-related companies.

**Spending By Office—Citywide**

Mayoral participants spent \$19.3 million (Messinger and Giuliani alone spent almost \$18 million), exceeding the total amount spent by Program participants for the four other covered offices combined.<sup>14</sup> For the first time since the Program’s inception, however, the spending disparity between the two front runners in both the primary and general elections was stark.<sup>15</sup> This, however, was a function of their fundraising ability, not the spending limits. Indeed, had spending (and contribution) limits not been in effect, the disparity might have been significantly greater.

<b>Vendor</b>	<b>Total</b>
Doner Public Affairs	\$5,839,429
Grunwald Communication	2,515,699
Morris & Carrick	2,144,515
Automatic Data Processing	1,134,540
Trippi, McMahon & Squire	920,000
U.S. Postal Service	790,425
Sheraton New York	651,145
Zale Koff Graphics	483,744
Joe Slade White Communications	469,181
Mailhandlers Inc.	426,170

\*Totals do not include transactions under \$5,000.  
Source: NYC Campaign Finance Board data

The race for Mayor has generally been the most media intensive of all contests. Television was the medium of choice in 1997, accounting for over 86 percent of mayoral candidates’ media spending. The four participating Democratic mayoral candidates together spent \$1.2 million on television advertising for the primary election. Giuliani spent \$1.9 million on television during the primary election period. He outspent Messinger nearly two-to-one on television ads and ten-to-one on radio ads in the general election.

But media spending alone is not determinative of success at the polls. Al Sharpton spent little on media compared to his opponents and reported no television spending. He nonetheless fared much better on primary day than Albanese, whose spending on broadcast media was almost ten times that of Sharpton.

Public Advocate Mark Green and Comptroller Alan Hevesi, both incumbents in 1997, had minimal opposition. Both spent about \$2 million in the election cycle, dwarfed their opponents’ spending, and won re-election by huge margins. Both candidates devoted the largest portion of their total spending to broadcast media. Green spent \$920,000 on broadcast media (split evenly between television and radio), while Hevesi spent \$1.6 million solely on television.

**Borough President**

Spending by Borough President participants reached an all-time high in the 1997 elections. This is in part because of Fernando Ferrer’s aborted bid for Mayor. At the time Ferrer decided to seek

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re-election instead of the mayoralty, his campaign had spent just over \$1.5 million. In contrast to the 1993 elections, which featured no significantly competitive races for Borough President, the 1997 Manhattan race was the most expensive Borough President contest in Program history. There was a highly contested Manhattan Democratic primary, with six participants spending over \$2.5 million in the primary election alone. Republican non-participant Abe Hirschfeld spent \$2.3 million in a losing bid for the office, with the two participants in the general election spending over \$400,000 in that election.<sup>16</sup>

### **City Council**

As in previous years, Council candidates in 1997 concentrated their media spending on campaign literature, printing, graphic design, and postage. Print media spending by the 138 Council participants accounted for \$2.46 million, or 34 percent, of total spending. In comparison, television and radio costs made up a very small percentage of overall spending.

Primary election winners reporting spending spent an average of \$64,000 in the primary period, compared with \$53,000 for those who finished second. In contrast, general election winners were outspent by second place finishers, \$36,000 to \$42,000, during the general election period. Over the four-year election cycle, however, general election winners spent an average of almost \$100,000, compared with about \$60,000 for candidates who placed second. In many cases, the more competitive races were the Democratic primaries, perhaps explaining the greater primary election period spending by eventual general election winners.

Nevertheless, as in 1993 the strongest predictor of success was not total spending, but incumbency.<sup>17</sup> All but one of the 43 incumbents running won re-election, even though six of these incumbents were outspent by one or more of their challengers. Nor were spending levels necessarily a reliable guide in predicting the outcome of open seat contests, as over half the winners of the nine open seat contests were outspent by at least one of their opponents in the primary or general election.

### **When Spending Limits are Lifted**

To provide a more level playing field for Program participants, spending limits are removed for participants when the contributions or expenditures of a non-participating opponent reach a certain point.<sup>18</sup> In 1997, the spending limits of three Borough President candidates—Virginia Fields, Ruben Vargas, and Dennis Dillon—were lifted. Fourteen City Council participants facing high spending non-participants were also deemed eligible for “bonus” provisions and had their spending limits removed. Of those, only Council candidate Eva Moskowitz, who lost to incumbent Andrew Eristoff in the general election, spent more than the office limit after the limits were suspended, highlighting the fact that most participants did not have sufficient funds to take advantage of this provision. (Of the others, only John Liu, who lost to incumbent Julia Harrison in the primary election, even approached the suspended spending limit amount.) Thus the Board is recommending an accompanying increase in public funding in a bonus situation.

### **Exempt Expenditures**

Certain types of spending are classified as “exempt” from Program spending limits, including expenditures necessary to comply with State election law and the Program’s disclosure and record-keeping requirements.

There is concern that excessive exempt claims may enable candidates to evade the Program’s spending limits. A *New York Times* columnist stated that “it is one of the paradoxes of the campaign finance law that one way candidates can try to bend the law is to claim they are trying extra hard to follow it.”<sup>19</sup>

The Board recommends narrowing substantially the range of expenses that may be claimed as exempt, while raising spending limits slightly to account for the changes. The Board has also proposed consolidating the primary and general election spending limits into one per election limit to make compliance simpler for participants.

### **Friends in Need: Independent and Joint Spending in the 1997 Elections**

The Act defines “independent spending” as spending by individuals or organizations that a candidate does not “authorize, request, suggest, foster, or cooperate in.”<sup>20</sup> Although truly independent spending is not restricted under the Program, spending by entities other than a candidate’s campaign committee may effectively boost another candidate’s contributions and spending above the limits. Joint spending, or spending involving cooperation between two or more campaigns, is explicitly permitted under the Act, provided the benefit each campaign derives from a joint activity is proportional to the amount expended for that activity.

The most prominent example of joint spending in the 1997 elections was “Fusion ’97,” the joint ticket of Mayor Giuliani and Public Advocate candidate Jules Polonetsky. The “Fusion ’97” campaigns shared some resources such as office rent, telephone and utilities, personnel, print media, and advertising signs, and accordingly reflected expenditures to each others’ campaigns on their disclosure statements.

### **Party Favors**

Controlling party spending has become a key issue of campaign finance reform efforts at every level of government. It is widely recognized that “soft money”—raised in virtually unlimited amounts by political parties and often spent for the direct benefit of their nominees—poses a threat to contribution and spending limits. Soft money is particularly troubling in states such as New York, where regulations on party spending and fundraising are especially lax. Currently, contributors may give up to \$69,900 annually to political party committees and unlimited amounts to party “housekeeping” accounts.

Generic spending by parties for election-related purposes, such as voter registration drives and poll watching, is not restricted under the Program. The soft money loophole arises when party

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spending is directed to a specific candidate's election efforts. To address the issue, the Board published a report entitled *Party Favors* in January 1995, which analyzed spending by New York State political parties in the 1993 elections and outlined recommended refinements of the Board's existing guidelines on party spending.<sup>21</sup> Subsequently, the Board adopted rules in 1996 codifying when party expenditures in support of the party's nominee are considered in-kind contributions to that candidate.<sup>22</sup>

In contrast to the 1993 mayoral elections, there were no charges of party spending benefitting specific candidates in the 1997 elections.<sup>23</sup> (Indeed, there were no reports of any kind of "independent" spending activity in support of individual candidates.) The Board continues to urge the adoption of its recommendations set forth in *Party Favors*, including proposals for changes in the State law that would decrease contribution limits to parties and require parties to increase disclosure in order to facilitate tracking of their "candidate-specific" expenditures.

### **Incumbents and Government Resources**

The 1997 elections highlighted the questionable use of government resources by incumbents during an election season. A similar debate centered on an incumbent's ability to send mail to constituents at the City's expense. Intended for official government communications, including newsletters and other constituent mail, this resource creates a potential for an incumbent to gain an unfair spending advantage over challengers.

The Board has testified in support of proposals that would set a period of time before an election during which publicly-funded communications could not bear the name, voice, or likeness of a candidate for public office. Such a ban would be an important first step in addressing what the *New York Times* called "the often porous wall separating the political from the governmental."<sup>24</sup>

At press time, a bill had been introduced in the City Council that would make it illegal for an incumbent office-holder to appear in any City-funded advertisement during an election year or to use government resources for a mass mailing 30 days prior to an election.

### **PUBLIC FUNDS: NO STRINGS ATTACHED**

At press time, approximately \$6.6 million had been paid to 85 Program participants in 1997. By comparison, in 1993 approximately \$6.1 million (or \$6.7 million in inflation adjusted dollars) was paid to 66 participants, and in 1989, 37 participants received approximately \$4.5 million (or \$5.9 million in inflation adjusted dollars). (See Fact Sheet 3.) Out of an annual City budget of over \$30 billion, this is indeed a small amount of money to improve local elections.

Despite Mayor Giuliani's substantial fundraising advantage, Borough President Messinger actually received more in public funds: \$1.78 million (or \$1.46 million, if public funds received for run-off payments are excluded), which represented 30 percent of her total campaign funds (or 26 percent if run-off payments are excluded).<sup>25</sup> Giuliani received \$1.21 million in public funds,

or 11 percent of his total. This reflects the fact that Messinger received a much higher portion of her contributions from City residents and in small amounts.

Over the life of the Program, races for the office of Borough President have rarely been competitive and have involved low amounts of public financing. This year, the race for Manhattan Borough President was the one competitive race that involved significant public funds distribution, \$706,186 in total. Deborah Glick received the highest amount (\$322,074), while the eventual winner of the general election, C. Virginia Fields, received the second highest amount (\$263,877).

There is evidence that public funds have more meaning for City Council candidates than for candidates for other offices. Public funds make up a greater share of the funds available to City Council candidates than of the funds available to candidates for other offices. Public funds make up an even greater share of City Council challengers' total funds. Among candidates meeting the threshold, public money made up 29 percent of challengers' total funds compared to 16 percent of incumbents' total funds. This higher proportion for challengers reflects their tendency to receive a greater percentage of their contributions from New York City residents and in smaller amounts.

**What Happens When Candidates Do Not Participate?**

To mitigate the disadvantage a Program participant may encounter when facing a high spending non-participant (who is subject only to the generally much higher State Election Law contribution limits), the Act in this circumstance calls for matching contributions at the accelerated rate of two dollars for every private dollar raised up to \$1,000. This bonus is triggered when the participant's non-participating opponent raises or spends half the expenditure limit, except in the case of City Council races, for which the non-participating opponent must raise or spend \$30,000 to trigger the bonus.

During the 1997 elections, 17 participants (ten in the primary election and seven in the general election) were deemed eligible for these "bonus" provisions. Eleven received accelerated public funding as a result, while four failed to meet the threshold to receive public funds, and two had

<b>Fact Sheet</b>		3
<b>PUBLIC FUNDS BY ELECTION</b>		
<b>Citywide Elections</b>		
<b>1997*</b>	Mayor	\$3,239,421
	Public Advocate	385,268
	Comptroller	247,054
	Borough President	880,483
	City Council	1,666,961
	<b>Total</b>	<b>6,419,187</b>
<b>1993</b>	Mayor	\$3,262,250
	Public Advocate	947,189
	Comptroller	1,066,802
	Borough President	64,956
	City Council	1,142,559
	<b>Total</b>	<b>6,483,756</b>
<b>1989</b>	Mayor	\$2,779,508
	City Council President†	0
	Comptroller	421,665
	Borough President	799,228
	City Council	507,764
	<b>Total</b>	<b>4,508,155</b>
<b>City Council Redistricting Election</b>		
<b>1991</b>	City Council	<b>\$2,660,514</b>
* Payments as of April 30, 1998.		
† Office became Public Advocate.		
Source: NYC Campaign Finance Board data		

## Part I

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already received the maximum funds payable at a rate of 1-for-1. The Board paid a total of \$728,139 in public matching funds to candidates who qualified for bonus matching, \$243,677 of which ultimately represented payments above the amount these candidates would have received at the 1-for-1 rate.

The Board has made recommendations to increase public funds available in “bonus” situations, and, at press time, proposed City Council legislation included an increase in the “bonus” matching rate and the maximum public funds available in these circumstances.

### **Meeting the Threshold**

Program participants must demonstrate a minimum level of public support in order to qualify for matching funds. Many groups—including the CFB—believe that the threshold requirements should be relaxed. In 1997, Al Sharpton did not qualify for public funds and Sal Albanese barely reached the threshold, although Sharpton received 32 percent and Albanese 21 percent of the vote in the Democratic mayoral primary. The Board has proposed legislation that lowers the threshold for each office but still requires campaigns to demonstrate that they have significant financial support.

\* \* \*

The role of public funds is likely to increase when term limits go into effect in 2001, because more public funds are generally distributed for races for open seats. A current City Council initiative, to match contributions at 4-for-1 up to \$250, if passed, would dramatically increase the role of public funds in elections and induce many more average citizens to take part in the political process.

### **DISCLOSURE AND THE VOTER GUIDE: IN PRINT AND ON-LINE**

For ten years, the Campaign Finance Board has continuously improved the way campaigns submit data to the Board, the efficiency with which the Board processes and reviews the data, and the ease with which the public can gain access to the Board’s comprehensive database. The Board also ensures the value of its database by confirming that the information is both timely and accurate.

The CFB made its first foray into cyberspace when the agency’s site on the World Wide Web went into operation in July 1997 at <http://www.cfb.nyc.ny.us>. By April 1998, candidates’ summary data were online, and as of the summer of 1998, the Board’s entire contribution database became available on the CFB Web site in a searchable format.

The law imposed a new “contemporaneous disclosure” requirement for citywide and borough-wide campaigns wishing to preserve matching claims for contributions collected early in the election cycle. In addition, the Board enhanced its candidate software, C-SMART<sup>®</sup>, to enable campaigns to record all transactions and submit complete disclosure statements to the Board elec-

tronically. The Board's public disclosure resources now include a searchable database on public computer terminals at its lower Manhattan offices that contains all contributions made to Program participants during the 1993 and 1997 elections.

The availability of these resources has made it possible for the media and many civic groups to perform their own analyses of fundraising and spending in City elections. The Board's electronic capabilities are also used to support the work of government agencies performing other tasks, such as law enforcement. During a routine audit following the 1993 elections, Board staff found evidence that former Transit Police Benevolent Association President Ron Reale's Public Advocate campaign had engaged in questionable fundraising practices. After this evidence was presented to the United States Attorney's Office for the Southern District of New York, a wider investigation culminated in the conviction of Reale and his former colleagues for a variety of crimes, including a scheme to defraud the Board of public funds. The Board provided numerous computer reports that were used in court as exhibits to document the illegal activity, and that the Board's Director of Campaign Finance Administration, Andrew Levine, referred to in his testimony at trial.

### **C-SMART<sup>®</sup> and New York State Board of Elections Filing Requirements**

[T]he C-SMART<sup>®</sup> software was absolutely invaluable...and if there is anything that you can do to try and get that software...accepted as the submission franca of the Board of Elections as well, it would make a tremendous difference.

—Lisa Kaplan, Treasurer for Council member Margarita Lopez's campaign.<sup>26</sup>

The Board has continued to seek State Board of Elections ("State BOE") permission for candidates to submit copies of CFB disclosure forms, in lieu of State BOE forms, when making filings required by the State to be made at the City BOE. This permission would eliminate the need for candidates to enter data onto two different sets of hard copy forms. In March 1998, the State BOE agreed to permit the filing of disclosure schedules generated by C-SMART<sup>®</sup>, but not the CFB's paper forms.

The most pressing disclosure issue now facing the CFB involves the State BOE's newest mandate: to have a system for mandatory electronic filing at the State BOE for State campaigns in place by 1999. Although development of a State computer system that is wholly compatible with the CFB's has been ruled out by the State BOE, the CFB is discussing with the State BOE how it can develop its new system in a manner that allows it to accept C-SMART<sup>®</sup> electronic filings.

The group that would experience the greatest hardship if the State BOE cannot accept C-SMART<sup>®</sup> filings is candidates, who could be required to enter their campaign finance data twice, into two separate software programs. As this report went to press, technical staff at both



## Part I

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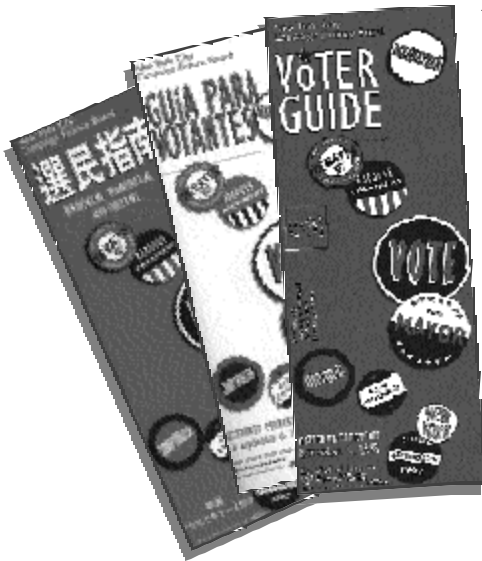
agencies had agreed on a schedule for the State BOE to adjust its system to accept C-SMART<sup>®</sup> filings after the State BOE has put its new computerization program in place.

### **The Voter Guide**

Not until I received a copy of the Voter Guide published by the Campaign Finance Board did I even know that there were so many candidates who had declared this season for mayor (six), public advocate (three), comptroller (two), Manhattan borough president (nine) and the City Council.

— *E.R. Shipp, Daily News*<sup>27</sup>

Perhaps the most visible function of the CFB is the production of the New York City Voter Guide, a nonpartisan voter information booklet mailed to every registered voter in the City eligible to vote in the covered election. This is accomplished in one comprehensive mailing, at no cost to the candidates. The fact that the Guide is translated and published, pursuant to local and federal law, in Spanish and Chinese means that candidates are also able to reach significant populations that do not speak English.



The Campaign Finance Board has produced five sets of citywide Voter Guides since 1989, when the first set of primary and general election Guides was distributed. The 1996 Term Limits Voter Guide was the first ever published by the Board to cover only ballot proposals in an “off-year” City election and included “pro” and “con” statements solicited by the Board, in addition to the official text of the ballot questions.

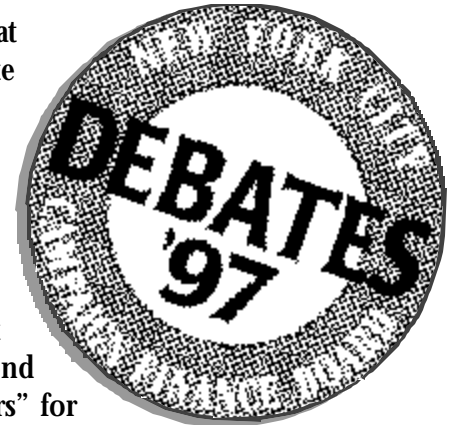
The 1997 Voter Guide covered a regular municipal election involving numerous City offices and included a page for each candidate as well as information about voting; the Campaign Finance Program; Debates '97; and a detailed map for the voter's borough.

The general election Guides also contained plain-language versions of the City and State ballot proposals that were expected to be on the general election ballot.

### **DEBATES '97: LIVE FROM NEW YORK. . .**

In 1997, a new facet was added to the Campaign Finance Program: mandatory debates. As a result of a law (the “Debate Law”) signed in December 1996, candidates in the Program for citywide office are now required to participate in a series of public debates as a condition for receiving matching funds for their campaigns. The Campaign Finance Board is charged with administering

the debate program, which includes choosing sponsors and ensuring that the debates are carried out in a strictly nonpartisan manner. The Debate Law represents the most dramatic change in the implementation of the Campaign Finance Act since its adoption in 1988.



The Debate Law requires candidates for Mayor, Public Advocate, and Comptroller who are Program participants and opposed on the ballot to appear in two debates before the primary election and at least one debate before the general election. Candidates who are not in the Program may not appear in any of these three debates. A second general election debate is also held, limited to the “leading contenders” for each office, selected on the basis of pre-determined, nonpartisan, objective criteria. Candidates who are not Program participants, but who meet the “leading contender” criteria, are permitted, but not required, to take part in this debate. The criteria for determining “leading contenders” are established by the sponsors in advance of the debate. Candidates who are on the ballot and in the Program, but who do not satisfy the standard for “leading contenders,” must take part in an “alternative nonpartisan voter education program.”<sup>28</sup> Candidates in the Program who fail to appear in any required debate become ineligible to receive public funds, and must return to the Board any public funds already received for that election.<sup>29</sup>

Under the Debate Law, debates are sponsored by organizations selected by the Board. In choosing sponsors, the Board considered a number of factors, including: the applicant’s proposed venue; media and publicity plans; the proposed debate format; geographical diversity; and ability to reach the widest possible audience, including providing access to the debates to the Spanish- and Chinese-language communities, as mandated by the federal Voting Rights Act.

The sponsors chosen included Channel 7-Eyewitness News (“WABC-TV”) and the League of Women Voters of the City of New York as one group, and New York 1 News, WNYC Radio, *El Diario-La Prensa*, the New York Urban League, New York Law School, and St. Francis College as another.

Debates '97, as the first mandatory debate program was named, began in August with the first mayoral primary debate and continued through the end of October. The first mandatory debate in New York City history—the first Democratic primary debate for Mayor—took place at St. Francis College in Brooklyn on August 19, 1997. The participants were Sal Albanese, Ruth Messinger, Eric Ruano-Melendez, and Al Sharpton. A second Democratic primary debate for Mayor was held on Sunday, September 7, with the same four participants.

The first general election debate for Mayor took place at the Schomburg Center for Research in Black Culture in Harlem. The debate featured, in addition to Mayor Giuliani and Ruth Messinger, Olga Rodriguez, the nominee of the Socialist Workers Party.

# FactSheet

## 1997 CAMPAIGN FINANCE PROGRAM DEBATE SCHEDULE

**Eleven debates and alternative voter education programs were held in 1997 pursuant to the Debate Law:**

### **Mayoral First Primary Election Debate (8/19/97)**

**Sponsors:** New York 1 News, St. Francis College, WNYC Radio, El Diario

**Participants:** Sal Albanese, Ruth Messinger, Eric Ruano-Melendez, Al Sharpton

**Location:** St. Francis College, Brooklyn

**Duration:** 90 minutes

### **Mayoral Second Primary Election Debate (9/7/97)**

**Sponsors:** WABC-TV, League of Women Voters

**Participants:** Sal Albanese, Ruth Messinger, Eric Ruano-Melendez, Al Sharpton

**Location:** WABC-TV Studios, Manhattan

**Duration:** 60 minutes

### **Mayoral First Primary**

#### **Run-off Election Debate (9/15/97)**

**Sponsors:** New York 1 News, St. Francis College, WNYC Radio

**Participants:** Ruth Messinger, Al Sharpton

**Location:** St. Francis College, Brooklyn

**Duration:** 90 minutes

### **Public Advocate First**

#### **General Election Debate (9/25/97)**

**Sponsors:** New York 1 News, St. Francis College, WNYC Radio, El Diario

**Participants:** Shoghi Fret, Mark Green, Jules Polonetsky

**Location:** St. Francis College, Brooklyn

**Duration:** 60 minutes

### **Comptroller First**

#### **General Election Debate (9/29/97)**

**Sponsors:** New York 1 News, New York Law School, WNYC Radio, El Diario

**Participants:** Alan Hevesi, Wendy Lyons, Genevieve Torres

**Location:** New York Law School, Manhattan

**Duration:** 60 minutes

### **Mayoral First General Election Debate (10/9/97)**

**Sponsors:** New York 1 News, New York Urban League, WNYC Radio, El Diario

**Participants:** Rudolph Giuliani, Ruth Messinger, Olga Rodriguez

**Location:** Schomburg Center, Manhattan

**Duration:** 90 minutes

### **Mayoral Second General Election**

#### **Debate-Alternate Program (10/26/97)**

**Sponsors:** WABC-TV, League of Women Voters

**Participants:** Olga Rodriguez

**Location:** WABC-TV Studios, Manhattan

**Duration:** 30 minutes

### **Comptroller Second General Election**

#### **"Leading Contender" Debate (10/27/97)**

**Sponsors:** New York 1 News, New York Law School, WNYC Radio, El Diario

**Participants:** Alan Hevesi, Annemarie McAvoy (Non-Campaign Finance Program Participant)

**Location:** New York Law School, Manhattan

**Duration:** 60 minutes

### **Comptroller Second General Election**

#### **Debate-Alternate Program (10/28/97)**

**Sponsors:** New York 1 News, WNYC Radio

**Participants:** Wendy Lyons, Genevieve Torres

**Location:** New York 1 Studios, Manhattan

**Duration:** Approximately 15 minutes

### **Mayoral Second General Election**

#### **"Leading Contender" Debate (10/29/97)**

**Sponsors:** WABC-TV, League of Women Voters

**Participants:** Rudolph Giuliani, Ruth Messinger

**Location:** WABC-TV Studios, Manhattan

**Duration:** 60 minutes

### **Public Advocate Second General Election**

#### **Debate-Alternate Program (10/30/97)**

**Sponsors:** New York 1 News, WNYC Radio

**Participants:** Shoghi Fret, Jules Polonetsky

**Location:** New York 1 Studios, Manhattan

**Duration:** Approximately 15 minutes

Debates sponsored by New York 1 News and WABC-TV were televised by those stations. All debates were broadcast live on WNYC Radio. Some or all of the debates were also re-broadcast on television by Crosswalks, Channel 13, and C-SPAN.

More than half a million homes tuned in to see Rudolph Giuliani and Ruth Messinger meet on October 29 in the “leading contenders” debate held at WABC-TV television studios near Lincoln Center in Manhattan. This final 60-minute debate received the highest ratings of the debate program, scoring a respectable 7.5 rating and a 12 percent share of the local market. (Each rating point is equivalent to 67,500 homes.) It was also rebroadcast nationwide on C-SPAN.

### **Issues to be Addressed**

New York City’s first experiment with mandatory debates proved very successful: both leading candidates for Mayor met in televised debate, which might well not have happened in the absence of the Debate Law. Sponsors and candidates agreed, however, that the debate program could be improved.

Perhaps the most controversial aspect of New York City’s first experience with mandatory debates was the inclusive character of the Debate Law itself. Although participation in the debate program was limited, with certain exceptions, to candidates who joined the Campaign Finance Program and were opposed on the ballot, no additional qualifications were necessary. Candidates with significant standing in the polls were obligated by law to debate candidates with little name recognition and relatively unorganized campaign committees.

At the same time, the criteria to determine “leading contenders” raised other kinds of issues. In 1997, the sponsors, in consultation with the Board, selected polling criteria to determine “leading contenders.” The use of polls to determine “leading contenders” is problematic. Mayor Giuliani’s running mate on the Republican and Liberal lines, Jules Polonetsky, did not meet the qualifying standard in either sponsor poll, and consequently, no “leading contender” debate for Public Advocate took place. On Election Day, however, Polonetsky received 24 percent of the vote. Although Polonetsky did better than polls had predicted, the election yielded a nearly 50-point margin of victory for incumbent Mark Green. While any candidate would hope to do better on election day after appearing in a debate with the front runner, these results perhaps indicate that Polonetsky never had a meaningful chance to win.<sup>30</sup> The larger question remains, however, for future sponsors: is there a better method for choosing “leading contenders?”

In May 1998, the U.S. Supreme Court handed down its ruling in the case of *Arkansas Educational Television Commission v. Forbes*, in which the City of New York had filed a brief as a “friend of the court.” The Court held that public television stations may use their subjective editorial discretion to exclude candidates from televised debates, provided that “the restrictions are reasonable and are not an effort to suppress expression merely because public officials oppose the speaker’s views.”<sup>31</sup> The Board will rely on the Court’s decision for guidance when it makes specific recommendations for improving the debate program at a later time.



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## Part II — Inside the CFB

# Putting Reform on the Map

The board...shall conduct all...activities in a strictly non-partisan manner.

—*New York City Charter*<sup>32</sup>


Essential to its ten-year record of success has been the nonpartisan character of the Campaign Finance Board. The impartial enforcement of the Act and Rules has been a hallmark of the Board since its inception in 1988, and the Board's reputation for effectiveness—in comparison, for example, with the bipartisan Federal Election Commission—is largely a result of the culture it has developed.

The City Charter, which directs that the Board operate in a nonpartisan manner, and the Campaign Finance Act, which prohibits Board members from engaging in partisan activity, established the basis for this culture. These legal injunctions have been expanded upon by the Board, through its "Ethical Guidelines," to a general restriction (covering all Board members and staff) on political activity related to the five offices covered by the Act. These ethical standards have become a key component of the agency's operations.

### STRUCTURE OF THE BOARD

As the *New York Times* noted during the past election season, the Campaign Finance Board "operates under enormous pressure in New York's hard-driving election milieu."<sup>33</sup> In its first ten years, the contemplated independence of the Board has emerged as perhaps the single most critical aspect of the Campaign Finance Act. The Board has five members, including the Chairman. Two members are chosen by the Mayor, and two are chosen by the Speaker of the City Council. Neither the Mayor nor the Speaker can appoint two members from the same political party. The Chairman is appointed by the Mayor in consultation with the Speaker. Board members serve staggered, fixed terms, and, once appointed, cannot be removed at the will of the appointing authority.

The Chairman of the Board is Joseph A. O'Hare, S.J., a Democrat. The President of Fordham University, he has also served in past administrations on the New York City

<b>1988</b> New York State lags far behind other jurisdictions in field of campaign finance reform.		<b>1998</b> New York City Campaign Finance Program is a national and international model for reform.
<b>A Decade of Reform</b>		

## Part II

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The New York City Campaign Finance Board (from left): Bill Green; Executive Director Nicole A. Gordon; Chairman Joseph A. O'Hare, S.J.; and Martin S. Begun

Charter Revision Commission and the Mayor's Commission on Appointments. Chairman O'Hare was appointed to his first five-year term by Mayor Koch in June 1988. Mayor Giuliani reappointed Chairman O'Hare to his second term in January 1994 and to a third term in April 1998.

Martin S. Begun, a Democrat, is a Senior Fellow at the NYU Wagner Graduate School of Public Service and the President of MSB Strategies, Inc. and of the Jewish Community Relations Council of New York. He is the former senior Associate Dean of the NYU School of Medicine and Vice President of External Affairs for NYU Medical Center and was appointed in June 1996 by Speaker Vallone.

Bill Green, a Republican and former United States Representative who represented New York's 15th Congressional district for nearly 15 years, was appointed by Mayor Giuliani in July 1994, filling the vacancy left by the death of Robert B. McKay, former dean of New York University Law School. He was reappointed by Mayor Giuliani to a five-year term in April 1995.

At press time there were two vacancies on the Board.

### **Staff Size: Doing More with Less**

The successful implementation of the Program in the 1997 elections required that the Board accomplish more work with a significantly smaller staff than in 1993. The Board's 36 staff members in 1997 were supplemented by up to 16 "seasonals," staff members who join the agency for the 18 month peak period around the elections. This represents a 12 percent reduction in overall staff size from the 1993 elections, and a 22 percent reduction in full-time staff. Careful management and the integration of the latest information technology have helped the CFB to meet the challenges of its mandates despite limited resources.

The Campaign Finance Board in 1997 monitored the campaign finances of 190 candidates and potential candidates; distributed (as of press time) over \$6.6 million in public matching funds; produced and mailed over 4.5 million Voter Guides; and, through sponsors, administered the first-ever series of mandatory public debates for candidates for Mayor, Public Advocate, and Comptroller. One observer has called it a "model for oversight of elections...[w]ith just 30 employees and a \$2 million annual budget...."<sup>34</sup>

## THE CFB AS A RESOURCE FOR OTHER JURISDICTIONS

This is one of the good things that people come to New York City to copy and to look at as a way of organizing their elections.

—Mayor Rudolph Giuliani<sup>35</sup>

Perhaps the single most telling indication that New York City's Campaign Finance Program has succeeded in reforming the local political landscape is the extent to which other jurisdictions look to New York City as a model. The CFB has assisted scores of other agencies both within and outside the United States as the New York City Program has established itself and come to be known beyond its jurisdictional borders.

The Board and staff have appeared at conferences; demonstrated CFB systems and audit programs; traveled to other jurisdictions to testify at hearings and to lend technical support to start-up programs; researched and provided data for journalistic and academic purposes; contributed to professional journals; offered commentary on draft legislation; and made the Board's resources, such as publications, disclosure data, and CFB candidate software, widely available.

Among the international visitors to the Board have been representatives from Japan and New Zealand, various countries in Central and South America, and Australia. CFB staff responded in person and with written comments when the prestigious Commission on Standards in Public Life, appointed first by then-Prime Minister John Major and re-appointed by Prime Minister Tony Blair of Great Britain, solicited reaction to its preliminary studies of political party spending as it evaluates how campaigns are financed. After a visit to the Board's offices and subsequent communication by letter, the Tokyo Institute for Municipal Research published a 90-page book in Japanese entitled, "The Campaign Finance Program in New York City."

One of the most gratifying events of this kind in the Board's ten-year history was the recent visit of South Africa's Chief Electoral Officer, Mandla Mchunu. Accompanied by Fred Wertheimer, President of Democracy 21 and the former President of National Common Cause, Mr. Mchunu spent a full working day at the CFB's offices with staff from every department, in an effort to apply information about New York City's Program to a public financing system to be put into place in South Africa, where this financing is now required under a new Constitution.



Mandla Mchunu, South Africa's Chief Electoral Officer (center), with Fred Wertheimer, President of Democracy 21 (third from right), Trina Rand of the National Democratic Institute (at far right), and staff members of the Campaign Finance Board.



## Part II

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The CFB has also been very active at the Council on Governmental Ethics Laws (“COGEL”), the umbrella organization for ethics and campaign finance agencies in the United States and Canada. Chairman O’Hare was the recipient of COGEL’s highest award in 1994, and Executive Director Nicole A. Gordon served as President of COGEL in 1996, when the CFB played an integral role in COGEL’s annual conference in Philadelphia. Ken O’Brien, the CFB’s Director of Systems, now serves in COGEL’s effort to develop an Electronic Data Interchange format as a national standard for computerized campaign finance information. Among other coalitions that have solicited Board representation at their conferences are the Chicago Civic League (“Dollars & Democracy: The Search for the Common Good”) and the Iowa League of Women Voters (“More Sunlight for Iowa: A Bright Future for Campaign Disclosure”).

The Board staff has worked with colleagues from New Jersey to Iowa to Texas to California. Locally, staff members have testified before the Westchester County Legislature and a Nassau Charter Revision Commission studying public financing of local campaigns. In the summer of 1997, the Board was invited to submit written testimony to Senator Fred Thompson’s Senate Committee on Governmental Affairs, investigating allegations of federal campaign finance abuses in the 1996 elections. In February 1998, the CFB gave a demonstration of the Board’s work to a visiting delegation of cadets from the United States Military Academy at West Point.

Ten years ago, when the Board was charged with building the New York City Campaign Finance Program from scratch, it took advantage of the resources available to it from around the country. A decade later, having developed a national (and international) reputation as a model for campaign finance reform and administration, the Board itself is called upon for assistance by jurisdictions that are not only geographically distant, but that operate in the context of different forms of government.

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## Part III—Board Recommendations

# Making a Good Law Better

**I**t is the Board's view that comprehensive change on a range of key points must be enacted to correct deficiencies that have become apparent over the years and to respond to changes in political practices and realities that diminish the effectiveness of the Act in its current form. (For a full treatment of the Board's recommendations, see Chapter 12 of Volume I of the full report, which includes additional substantive and technical changes proposed by the Board.)

When this report went to press, the City Council was about to begin consideration of a comprehensive set of legislative proposals announced by Council Speaker Peter F. Vallone, Public Advocate Mark Green, and City Council Governmental Operations Committee Chair Mary Pinkett at the beginning of July 1998. A number of the proposed changes reflect a number of recommendations made by the Board, as detailed in this chapter.


### RECOMMENDATIONS FOR CHANGES IN THE PROGRAM

To improve the effectiveness of the Campaign Finance Program, the Board proposes that the Campaign Finance Act be amended as set forth below. Recommendations made by the Board in 1994 that have not yet been acted upon and that are reiterated below are noted with an asterisk (\*). Recommendations that the Board believes would represent a significant simplification for candidates are noted by the symbol (§).

#### 1. Reducing Undue Influence

**(a) Contribution limits.\*** In determining the appropriate amount for contribution limits, the Board's objective has been to reduce the risk that large contributions could exercise undue influence, without unduly impairing participating candidates' ability to raise funds to wage competitive campaigns.

Experience during the past four elections indicates that most contributions received by Program participants, especially at the City Council level, are well below the Act's current limits. On the other hand, contributions at the highest end account for nearly 40 percent of the

1988		1998
New York State declines to pass legislation requested by New York City's Mayor that would provide for a public matching funds program to reform City elections.		New York City Council considers sweeping changes in its ten-year-old New York City Campaign Finance Act as a necessary step to ensure the continued effectiveness of pioneer reform Program.
<b>A Decade of Reform</b>		

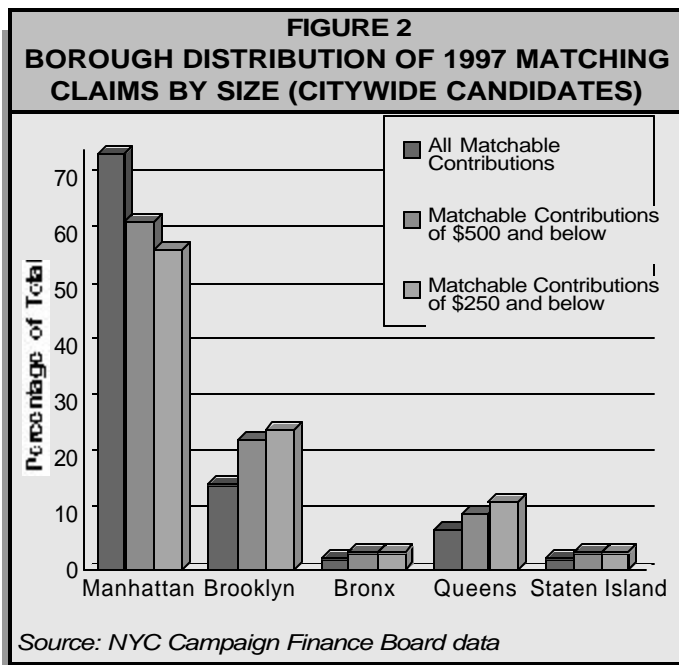
## Part III

total funds raised at the mayoral level. It is the Board's conclusion that reducing the current contribution limits would serve to diminish the reality and perception of undue influence created by large contributions. At the same time, this would not have unreasonable adverse effects on participants' ability to wage competitive campaigns, particularly when taken together with the increased matching rate proposed below. The Board recommends lowering the contribution limits as follows:

<b>Office</b>	<b>Current Limit<sup>36</sup></b>	<b>1997 Contribution Limit</b>	<b>Recommendation</b>
Citywide	\$8,500	\$7,700	\$5,000
Borough Pres.	\$6,500	\$5,900	\$3,500
City Council	\$3,950	\$3,550	\$2,000

Table 9 below illustrates the effects of the Board's proposed contribution limits, had they applied in the 1997 elections. The Board recommends that the contribution limit for candidates making contributions and loans to their own campaigns be three times the limit proposed by the Board for other contributors.

**(b) Matching Rate.** As public funds are perceived as a "cleaner" source than private contributions for financing campaigns, the Board recommends changing the contribution matching rate from the current 1-for-1 rate up to \$1,000 to a 3-for-1 rate up to \$250. The amount of any contribution over \$250 would not be matched. Were these changes to go into effect, the new matching rate together with anticipated changes in fundraising strategies would in all likelihood entirely offset losses caused by the lower contribution limits, while furthering the Program's goal of "democratizing" fundraising by providing financial incentives for candidates to collect smaller contributions from City residents.<sup>37</sup> (See Table 10.)



These changes would also help ameliorate the disparity shown in last year's mayoral race, in which more than a quarter of all funds raised originated outside the City and more than half were raised in Manhattan. Individuals living in the Bronx, Brooklyn, Queens, and Staten Island combined accounted for less than 15 percent of the funds raised during the 1997 election cycle. (See Figure 2.)

**TABLE 9  
PROJECTED EFFECT OF PROPOSED  
CONTRIBUTION LIMITS AS APPLIED TO 1997 ELECTION DATA**

Office	Contributors Exceeding Proposed Limit		Total Amount Contributed by Contributors Exceeding Proposed Limit		Amount by Which Contributions Exceed the Proposed Limit	
	Number	Percent	Amount	Percent*	Amount	Percent*
Mayor	763	4.0%	\$5,565,568	37.5%	\$1,750,568	11.8%
Public Advocate	65	1.1%	471,562	23.4%	146,562	7.3%
Comptroller	69	3.3%	497,951	25.4%	152,951	7.8%
Borough President	280	2.2%	1,512,661	29.5%	532,661	10.4%
City Council	187	0.6%	616,414	11.3%	242,414	4.4%

\*Percentage of all contributions.  
Source: NYC Campaign Finance Board data

**(c) Organizational Contribution Restrictions.<sup>S</sup>** In the first general election mayoral debate in 1997, Mayor Giuliani proposed, as a solution to campaigns' confusion about affiliated corporations and partnerships, that corporate contributions be banned altogether.<sup>38</sup> Earlier this year, City Council Speaker Peter F. Vallone and Public Advocate Mark Green introduced legislation to prohibit candidates in the Program from accepting contributions from corporations.

If contributions from corporations are simply banned, the role of bundling and political action committees may increase. It would be a step backward for the Program if the Board lost the ability to track the actual source of contributions as PACs replace corporations, and it is therefore imperative that a mechanism be provided to allow for better public scrutiny of any new potential situations for undue influence. In addition, a corporate ban must be coupled with a ban on contributions by partnerships and labor unions, both for reasons of fairness and to enhance the goal of simplification.

If a corporate contribution ban is pursued, the Board urges that it be extended to prohibit participating candidates from accepting contributions from all organizations, other than political committees that register and file disclosure reports with the Campaign Finance Board. This change would put the City Act on a par with federal law in this area. Moreover, it would go further in reducing the need to invoke contributor affiliation rules, although it will by no means entirely obviate the need for tracking relationships among contributors. The filing requirement would make available to the public, for the first time, state-of-the-art computerized disclosure about the underlying sources of political committee giving in New York City.

Although the reduced contribution limit and the organizational contribution restriction would have a negative effect on candidates' fundraising, the increased matching rate would have ameliorated candidates' losses had these changes been in effect in the 1997 election cycle. (See Table

**TABLE 10  
NET CHANGE IN 1997 CAMPAIGN FUNDS IF  
RECOMMENDATIONS HAD BEEN IN EFFECT**

Office	Net Change in Total Contributions if Proposed Contribution Limits were in Effect	Net Change in Individual Contributions if Proposed Contribution Limits were in Effect	Net Change if Proposed 3:1 Matching Rate were in Effect*
<b>Mayor</b>	-\$1,750,568	-\$1,236,473	+\$1,068,955
<b>Public Advocate</b>	-146,562	-119,342	+286,817
<b>Comptroller</b>	-152,951	-94,301	+127,161
<b>Borough President</b>	-532,661	-192,852	+775,937
<b>City Council</b>	-242,414	-79,381	+1,670,414

\*Based on actual public funds paid, not including payments made at the 2-for-1 bonus matching rate and payments made for run-off primary elections. Projected increase factors in proposed increased maximum per election public funds payments, as described in subsection 2, "Public Funds."  
 Source: NYC Campaign Finance Board data

10.) Of course, as noted above, if these changes are adopted, it is to be expected that campaigns will adapt with new fundraising strategies that will close the gap entirely.

**2. Public Funds**

**(a) Increased Maximum Public Funds for Council Candidates.\*** Under current law, the maximum amount of public funds City Council candidates can receive is significantly lower than half the spending limit (the level at which the maximum is set for the other offices). The Board recommends that the current \$40,000 maximum available in public funds for Council candidates be increased to \$70,000. During the 1997 elections, seven candidates, all running for City Council, received the maximum public funds payable in either the primary or general election. Had the proposed 3-for-1 matching rate up to \$250 been in effect, 38 candidates would have received the \$40,000 maximum public funds in at least one election. Under the proposed higher matching rate and the higher public funds maximum, 16 candidates would have received the maximum payment of \$70,000 in at least one election.

**(b) Public Funds Cap for Small Primaries.** The Board recommends that public funds payments be capped at \$10,000 for a participating candidate in a primary election in which the total number of eligible voters is under 1,000. This proposal is intended to protect the Public Fund when the number of voters to whom a candidate must appeal is very limited.

**3. Protection for Participating Candidates Opposed by Well-Financed Non-Participants**

**(a) Increased Rewards.\*** The Board recommends increasing the current accelerated public funds payments for participating candidates opposed by non-participating candidates who raise or spend more than one-half of the spending limit (or more than \$30,000 in the case of candidates for City Council) from the current 2-for-1 for contributions up to \$1,000 to a 4-for-1 matching rate for contributions up to \$250 for each one dollar of matchable contributions. The maximum public funds payable in a “bonus” situation would be capped in each election as follows:

<u>Office</u>	<u>Recommended Maximum Public Funds Per Election in Bonus Situation</u>
Mayor	\$4,500,000
Public Advocate & Comptroller	1,875,000
Borough President	937,500
City Council	70,000

In 1997, 11 participants in the Campaign Finance Program received bonus matching payments at a rate of 2-for-1. These 11 candidates, including two for Borough President and nine for City Council, received a total of \$648,139 in public funds. Under the proposed 3-for-1 matching rate together with a 4-for-1 bonus matching rate and the proposed increase in the public funds maximum for City Council candidates, this total figure would have nearly doubled.

**(b) Addressing Extraordinary Spending by Non-Participants.\*** The Board recommends an additional bonus mechanism, whereby extraordinary fundraising or spending by a non-participant above a higher trigger would entitle participants to receive additional funds, as follows:

<u>Office</u>	<u>If a non-participant raises or spends more than...</u>	<u>...participants become eligible to receive matching funds at a 5-for-1 rate for contributions up to \$250, up to:</u>
Mayor	\$9,000,000	\$6,000,000
Public Advocate & Comptroller	3,750,000	2,500,000
Borough President	1,875,000	1,250,000
City Council	210,000	140,000

## Part III

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During the 1997 election cycle, four non-participants raised or spent more than these limits: Abe Hirschfeld for Borough President, and Noach Dear, Andrew Eristoff, and Walter McCaffrey for City Council. Under the proposed extra bonus scenario, these candidates' opponents would have received higher public funds payments at a rate of 5-for-1.<sup>39</sup>

### 4. Threshold: the Minimum Dollar Amount\*<sup>S</sup>

The Board recommends setting the threshold dollar amounts at the following levels:

<u>Office</u>	<u>Current</u>	<u>Recommendation</u>
Mayor:	\$250,000	\$150,000
Public Advocate and Comptroller:	\$125,000	\$100,000
Borough President:	\$10,000-46,013 <sup>40</sup>	\$30,000
City Council:	\$5,000	\$3,000

Lower thresholds would make public funds available to more candidates, and earlier in the race. Had this change been in effect in 1997, the Albanese mayoral campaign would have received its public funds earlier, and the Polonetsky Public Advocate campaign might have received public funds before the election. Two additional proposed changes would: (1) permit Council campaigns to apply 50 individual contributors (giving at least \$10) from the borough(s) (rather than the district) in which they are running toward the number component of the threshold, as a sufficient demonstration of local support, and (2) eliminate the \$10 requirement for the dollar amount component.

### 5. Spending

**(a) Consolidate Separate Calendar Year Spending Limits.\*<sup>S</sup>** Currently, the Campaign Finance Act and the Board Rules establish the spending limits shown in Table 11.

The Board recommends simplifying the limits by consolidating the various calendar-year expenditure limits into two limits, one for the primary election and one for the general election. The primary election spending limit would cover the period beginning with the first year of the election cycle through the primary election, after which the general election spending limit would apply.<sup>41</sup> The primary election limit would apply during the primary campaign period for each candidate who joins the Program, even if there is no primary election in any party for the office he or she seeks. This change would simplify the Program and would put incumbents and challengers on a more equal footing with respect to spending limits. The amounts proposed for the consolidated limits are set forth below at (c).

**TABLE 11  
SPENDING LIMITS CURRENTLY ESTABLISHED  
BY CAMPAIGN FINANCE ACT AND BOARD RULES**

Limits	Mayor	Public Advocate & Comptroller	Borough President	City Council
1st/2nd Year*	\$90,000	\$90,000	\$60,000	\$24,000
3rd Year*	\$180,000	\$180,000	\$120,000	\$40,000
<u>Primary Election</u> †	<u>\$5,231,000</u>	<u>\$3,270,000</u>	<u>\$1,177,000</u>	<u>\$137,000</u>
<b>Total Primary Limit</b>	\$5,501,000	\$3,540,000	\$1,357,000	\$201,000
<b>General Election</b> ‡	\$5,231,000	\$3,270,000	\$1,177,000	\$137,000

\*Spending in excess of these amounts does not violate the Act or Board rules but is charged against the first limit applicable in the year of the election.  
†These limits have been adjusted since 1997 to reflect changes in the Consumer Price Index.  
‡If a primary election expenditure limit is not applicable, the amounts set forth in this row apply for the general election instead.

*Source: NYC Campaign Finance Board data*

**(b) Exempt Expenditures.\*S** Exempt expenditure claims for compliance costs are hard to verify and subject to abuse. The Board recommends eliminating all categories of exempt expenditures, other than expenditures for elections not covered by the Act and for specified legal fees. The recommended spending limits, set forth below at (c), are intended to account for the elimination of most exempt expenditure categories.

**(c) Spending Limits.\*** The Board found that candidates for the offices of Public Advocate and Comptroller spent substantially less than their expenditure limits would have allowed for the 1993 and 1997 elections. In contrast, the spending of several candidates for the offices of Mayor and City Council member came very close to the limits. Therefore, taking into consideration changes in the Consumer Price Index, consolidation of limits, and the elimination of most exempt expenditure categories, the Board recommends the following expenditure limits:

<u>Office</u>	<u>Recommended Limits per election</u>
Mayor	\$6,000,000
Public Advocate & Comptroller	2,500,000
Borough President	1,250,000
City Council	225,000 <sup>42</sup>



### **6. Deadline for Joining the Program\*<sup>S</sup>**

Largely because of the contemporaneous disclosure legislation adopted by the Council in 1994, it is now administratively feasible to extend the deadline for joining the Program. Thus, the Board recommends that it be permitted to adopt rules to extend the deadline for joining the Program. This change would permit the Board to make the opt-in deadline later, as it becomes administratively feasible to do so, in order to avoid excluding serious candidates from the Program.

The Board also recommends that it be authorized to provide for alternative deadlines, in which case the Board would make later initial public funds payments to candidates who do not join until the later deadline, and to permit candidates to join in extraordinary circumstances, such as the death or resignation of an incumbent officeholder.

The Act currently sets a later opt-in date for candidates named solely in an independent petition or certificate of substitution. These candidates may be more inclined to opt in now than in the past because of the opportunity presented by mandatory debates. The Board believes a fairer approach would be to subject all prospective candidates to the same deadlines.

### **7. Disclosure**

**(a) Intermediaries.\*** The Board recommends changing the current definition of “intermediary” to include not only individuals or entities who deliver contributions to a candidate, but also those known to have successfully solicited contributions for the candidate.

**(b) Contemporaneous Disclosure.<sup>S</sup>** Prospective candidates for citywide office and Borough President now file disclosure statements before they join the Program in order to preserve matching claims for contributions received during the first three years of the election cycle. The Board recommends that this requirement be extended to prospective Council candidates, in place of the current option for these candidates that allows them to make contemporaneous filings but is not linked to preserving matching claims.

**(c) Electronic Filing.<sup>S</sup>** The Board recommends that most campaigns in the Program be required to file their financial disclosure statements on computer disk, just as a new State law now requires for all statewide and State legislature candidates beginning in 1999. Electronic filings have saved the Board tens of thousands of dollars in data entry costs, helped expedite review of more accurate public matching funds claims, and improved the ability of campaigns to monitor their own compliance. Board rules would provide an exception for small campaigns not using a computer.

**(d) Registration and Disclosure by Political Committees.** As part of its recommendation to prohibit contributions from organizations, the Board recommends that an exception be made for contributions from political committees that register and file disclosure statements with the Board.

**(e) Separate Committee for Covered Elections.\*S** To improve public disclosure and reduce the possibility that contributions in excess of the Act's limits will be used illegally, the Board recommends that participating candidates establish one separate committee for elections covered by the Program's requirements and held in the same calendar year.<sup>43</sup>

### **8. Run-off Primary Elections**

The Board recommends changing the current provisions for contribution and spending limits and public funds payments in run-off primary elections and certain other elections. The Board recommends that the limit on expenditures for these elections be reduced from one-half to one-tenth of the amount of the limit applicable in the previous election. Every participating candidate on the ballot in these elections should be eligible to receive in public funds an amount equal to one half of the proposed expenditure limitation. This change would also set spending limits at a more appropriate level for a two-week campaign period.

	<b><u>1997 Run-off Expenditure Limit</u></b>	<b><u>Proposed Expenditure Limit</u></b>
Mayor	\$2,366,000	\$600,000
Public Advocate & Comptroller	\$1,479,000	\$250,000

### **9. Appointments to the Board**

To promote the smooth functioning of the Board in administering the Program in an election year, the Board recommends that appointments to the Board made after April 1st in an election year not take effect before the following December 1st, when the new appointee would succeed a member who is holding over after the expiration of his or her term. This would protect against the possible appearance that an appointment immediately preceding an election was intended to influence Board decisions, and it provides a mechanism for ensuring continuity at the Board's busiest period.

### **10. Transition and Inaugural Expenses\***

The financing of "transition" and "inaugural" activities is not regulated either by State law or by the Campaign Finance Program. Although Board rules now provide for voluntary disclosure by entities raising and spending funds for transition and inaugural activities, the Board did not receive any such filings for 1997-1998.

The lack of regulation of transition and inaugural activities increases the likelihood and the appearance that wealthy special interests will have undue influence over New York City's elected officials. The Board recommends that a local law be enacted regulating this private financing that would:

- Require that candidates register with the Board a separate entity for financing the cost of transition and inauguration and file disclosure statements with the Board;
- Require disclosure of contributions and spending;
- Establish contribution limits and treat loans that are not repaid by the inauguration date as contributions; and
- Ban acceptance of donations from organizations, except for donations by political committees that register and file disclosure statements with the Board.

The Board further recommends that the proposed local law apply to every candidate elected to the offices covered by the Campaign Finance Act, regardless whether the candidate participated in the Campaign Finance Program during the preceding election.

### **11. Use of Government Resources by Elected Officials During the Election Year**

During the 1997 elections, the Messinger campaign filed a complaint against the Giuliani campaign alleging that a government-financed radio advertisement had the effect of a political advertisement for the incumbent Mayor and therefore constituted an in-kind contribution to and an expenditure by Friends of Rudy Giuliani. The Board dismissed the complaint for lack of jurisdiction, noting, consistent with its previous rulings, that it had repeatedly stated its support for reforms such as a ban on the use of public resources and a black-out period for officeholder mass mailings at public expense preceding an election.<sup>44</sup>

Shortly after the Board's Determination was issued, Council Speaker Peter Vallone and Council member Sal Albanese introduced legislation that would prohibit incumbent candidates for elective office from appearing in the year of an election in advertisements on behalf of the City of New York that are funded with government resources. The bill would not prohibit "ordinary communications" between elected officials and their constituencies, except for a period of 30 days prior to a primary or general election.

The Board recommends changes in this proposed legislation, including:

- Commencement of the ban on mass mailings by elected officials 60 days before a primary election; and
- Provision for express jurisdiction with the City Conflicts of Interest Board to determine violations and separate jurisdiction with the Campaign Finance Board to determine whether the funding of the communication constitutes a contribution or expenditure under the Act.

## STATE INITIATIVES

### 1. Disclosure\*

**(a) Proposed Legislation.** The Board recommends amending State law so that all candidates for the offices covered by the Campaign Finance Program, regardless whether they join the Program, would be required to submit to the CFB the same detailed financial disclosure statements now filed by participants. New York City's computerized campaign finance disclosure system should provide to the public the same detailed information about all candidates running for these offices. This change would also facilitate Board determinations that a non-participating candidate has raised or spent funds above a level that requires accelerated public funds payments and the removal of spending limits for participating opponents under the Act.

The Board's bill (A.4318-B/S.3312-C) has been introduced in the Assembly by Assemblyman Eric N. Vitaliano and in the Senate by Senators Roy M. Goodman, Frank Padavan, and John J. Marchi. It has been approved by the full Assembly in previous sessions, but has never been voted out of committee in the Senate.

In 1994, the Board had also recommended a five-year experiment to make the Board the computerized clearinghouse for campaign finance information currently filed by candidates for local office in New York City and the political committees that support them. Since then, State law has been amended to require electronic filing by committees filing with the State BOE beginning in 1999. The most cost-effective way to extend this electronic filing requirement to New York City filers would be to use the CFB's state-of-the-art database infrastructure and administrative protocols for electronic filing. A different requirement for electronic filing in New York City would be duplicative and wasteful of public tax dollars, as well as an imposition on candidates.

**(b) Compatibility of State and City Electronic Filing Systems.** Currently the State BOE is in the process of developing its newly mandated electronic filing system. The Board strongly recommends that the new State BOE system be designed to accept disks generated by the CFB's C-SMART<sup>®</sup> candidate filing software and alternate formats meeting the CFB's specifications, so that candidates from New York City will not potentially be faced with incompatible electronic filing requirements. In March, the City Council unanimously passed a resolution in support of systems compatibility. The technical staffs of the CFB and the State BOE have agreed upon a schedule by which the State BOE will make adjustments to the system it is developing so that the system can accept C-SMART<sup>®</sup> filings. The Board also recommends that candidates be permitted to file CFB disclosure forms with the City BOE in lieu of corresponding State BOE forms.

### 2. Contribution Limits\*

The Board recommends that State law be amended to require all candidates for the offices covered by the Campaign Finance Act to abide by the contribution limits set by the Campaign

Finance Act. The Board's proposed bill would subject candidates for these offices who do not join the Program to the same contribution limits that apply to those candidates who do join. The bill would end the disparity between the contribution limits that apply to opposing candidates by having the City's limits, which are generally lower, cover all candidates for these five City offices. In no other jurisdiction are publicly financed candidates subject to lower contribution limits than their non-publicly-financed opponents. This bill (A.3945-B/S.442-A) has been introduced by Assemblyman Vitaliano and Senator Goodman. It has been approved by the full Assembly in previous sessions, but has never been voted out of committee in the Senate.

### **3. Other Issues**

The Board also supports, among other items, a change in State law to address possible "soft money" problems by lowering the limit on contributions to political parties and by improving accounting and disclosure requirements for party spending on behalf of candidates.<sup>45</sup>

### **ISSUES UNDER CONSIDERATION**

In the coming months, the Campaign Finance Board will make additional recommendations for improving the Debate Law. A recent U.S. Supreme Court decision held that a "debate was a nonpublic forum, from which [a state-owned public television station] could exclude [a candidate on the ballot] in the reasonable, viewpoint-neutral exercise of its journalistic discretion."<sup>62</sup> This decision may allow for amendments to modify the Debate Law's candidate inclusion provisions and thus to address some issues that arose in last year's debates.

In addition to the legislative changes outlined in this section that would simplify the law and facilitate compliance with Program requirements, the Board will consider proposing changes to streamline its procedures and further reduce technicalities, including reducing requirements for small campaigns and addressing how participants can be assisted in paying off debt after the election before final payment of public funds.

The Board will also closely monitor trends in this current (2001) election cycle, given the advent of term limits, to see whether further changes in Board Rules, or legislative proposals, may be appropriate.

### **CONCLUSION**

The New York City Campaign Finance Act is an excellent starting point, but for a campaign finance reform law to continue to be effective it must be periodically updated and revised to reflect changing circumstances. The Board's recommendations at the local level would, among other things, decrease the influence of campaign contributions, make it easier for candidates to qualify for public funds, ban organizational contributions, improve electronic disclosure, limit the use of government resources by incumbents during the election season, and regulate candidate

## Board Recommendations

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transitional and inaugural activities. At press time, it appeared that the City Council would be acting on many, but not all, of the Board's proposals.

The Board's proposed State legislation would apply Campaign Finance Program reporting requirements and contribution limits to all candidates for the municipal offices covered by the Program. Its recommendations would also ensure that the State BOE develops its new computerized campaign finance reporting system so that it is compatible with the CFB's proven and established system, consistent with a unanimous City Council resolution. At press time, it appeared that State legislation was not imminent, but that the State BOE in the meantime would be working with CFB staff on the matter of compatible filings.

The Board urges the appropriate legislatures to act on its recommendations now, at the beginning of the 2001 election cycle, to ensure that all prospective candidates are on the same footing as early as possible and to give the voters of New York City the full benefits of the changes recommended by the Board.

Joseph A. O'Hare, S.J.  
Chairman

Martin S. Begun

Bill Green

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## NOTES

- <sup>1</sup> Among the more competitive candidates—the 149 who received at least ten percent of the vote—110 (74 percent) participated in the Program in the 1997 elections.
- <sup>2</sup> *Hearings before the New York City Campaign Finance Board*, December 15-16, 1997 (hereafter “*Campaign Finance Board 1997 Hearings*”), vol. II, at 78 (testimony of Annemarie McAvoy).
- <sup>3</sup> The five Council members who ran for a higher New York City office were Sal Albanese for Mayor; Virginia Fields, Antonio Pagan, and Adam Clayton Powell for Manhattan Borough President; and Israel Ruiz for Bronx Borough President.
- <sup>4</sup> Unless vacancies occur in the interim, all citywide offices, four of five Borough Presidents, and 40 of 51 City Council seats must turn over in 2001 because of the term limits law. See New York City Charter, §§1137, 1138.
- <sup>5</sup> The decrease was two percent. When adjusted for inflation, the decrease was 11 percent, calculated on a 10.55 percent increase in the metropolitan New York-New Jersey regional Consumer Price Index from 1993 to 1997. Percentages obtained from the United States Department of Labor, Bureau of Labor Statistics. City BOE records show that candidates on the ballot who were not in the Program raised approximately \$6 million, up from \$3.1 million (or \$3.4 million when adjusted for inflation) in 1993, but these data are not audited. See note 16, below.
- <sup>6</sup> In 1989, when there were 35 seats on the City Council, nine candidates raised over \$100,000.
- <sup>7</sup> In 1993, outer-borough contributions to City Council candidates were greater than those from Manhattan, but by a much smaller margin: \$1,460,511 in Manhattan contributions (or \$1.6 million in adjusted dollars) compared with \$1,632,709 in outer-borough contributions (or \$1.8 million in adjusted dollars). (Note: 1993 figures do not include refunds.)
- <sup>8</sup> New York City Campaign Finance Board, *Dollars and Disclosure: Campaign Finance Reform in New York City*, September 1990, 144.
- <sup>9</sup> New York City Campaign Finance Board, *Bundles of Trouble?*, June 1996.
- <sup>10</sup> Spending in 1997 by non-participants was \$5.7 million, but these data are not audited. See note 16, below.
- <sup>11</sup> Calculated on a 30.84 percent increase in the metropolitan New York-New Jersey regional Consumer Price Index from 1989 to 1997 and a 10.55 percent increase from 1993 to 1997. Percentages obtained from the United States Department of Labor, Bureau of Labor Statistics.
- <sup>12</sup> The 1997 Public Advocate primary was not actively contested, as it was in 1993. There was no Comptroller primary or run-off primary election in 1997, both of which occurred in 1993.
- <sup>13</sup> Exceptions are campaigns that reported virtually no expenditures or fail to report any mailing costs.
- <sup>14</sup> Spending data for mayoral candidates do not include the spending of Bronx Borough President Fernando Ferrer. Ferrer spent \$1.5 million prior to dropping out of the mayoral race in May 1997. If Ferrer had remained in the mayoral race, total spending for the office would have been significantly higher.
- <sup>15</sup> The 1989 mayoral primary election spending of Democratic incumbent Mayor Koch was \$3.7 million, compared with \$3.2 million spent by challenger Dinkins. Overall spending by the two front runners in the general election was \$8 million for Dinkins and \$6 million for Republican candidate Giuliani, who spent \$3 million of his total in the primary election period. In the 1993 mayoral contest, Dinkins spent \$10.9 million (including \$6.7 million in the primary election), while Giuliani spent \$8.7 million (including \$5.4 million in the primary election).
- <sup>16</sup> Non-participant filings are not audited by the CFB. Data for non-participants are included only for purposes of making general comparisons. Among the specific reasons these non-participant totals are *not* directly comparable with participant data are:
  - a) The CFB was unable to obtain all City Board of Elections filings required of non-participants’ committees covering the entire period of their activity within the 1997 election cycle, particularly filings made early in the cycle. (Note: non-participants’ filings do not, of course, reflect presumptions that the CFB uses in framing an

election cycle, which for the 1997 elections is, in general, considered to run from 1/12/94-1/11/98, or the bases on which the CFB distinguishes primary and general election periods.)

- b) The totals shown are derived from summary information reported in City BOE filings and are complete only for the City BOE filings that were obtained by the CFB. Missing filings tend to lead to under-inclusive totals. Where a candidate had more than one authorized committee active in the 1997 election cycle, the totals shown here represent the sum of the multiple committees' reported transactions for the filings obtained. Totals for participants are based on detailed transactions and may include transactions (e.g., transfers to and from political party committees) that would not, in general, be included in a non-participant's contribution or expenditure totals.
  - c) A number of the filings obtained from the City BOE were not complete disclosure statements. For example, some filings were missing summary or detail pages; others contained illegible information or errors in arithmetic. Various inconsistencies were apparent in how information was reported by non-participants, such as the improper use of certain State Board of Elections forms (e.g., schedules for "housekeeping" transactions). Some of the City BOE filings covered multiple disclosure periods or included transactions from different disclosure periods.
  - d) The manner in which non-participants submit amended disclosure statements is different from the CFB protocols for amendment and resubmission.
  - e) Some non-participants' filings may contain information relating to a previous election. This is not indicated in non-participants' filings in a clear and consistent manner. The contribution totals shown do not include surplus funds remaining from a non-participant's previous elections, which would have been available to the non-participant for expenditures in the 1997 election cycle.
  - f) The City BOE filings contain various versions of disclosure forms that have been issued by the State BOE. Additional variation among the filings may be the result of changes in the State BOE forms and disclosure instructions over time and the fact that many committees continue to use superseded versions.
- 17 See New York City Campaign Finance Board, *On the Road to Reform: Campaign Finance in the 1993 New York City Elections*, September 1994, 13.
- 18 A participant's Program spending limit is removed when his or her non-participant opponent on the ballot raises or spends more than half the spending limit for Mayor, Public Advocate, Comptroller, and Borough President. In the case of City Council candidates, the Program's spending limit is removed when the non-participant raises or spends more than \$30,000.
- 19 Elizabeth Kolbert, "Following Campaign Finance Law at Any Price," *New York Times*, September 4, 1997, B1.
- 20 New York City Administrative Code §3-702(8).
- 21 New York City Campaign Finance Board, *Party Favors*, January 1995 (hereafter "*Party Favors*").
- 22 Campaign Finance Board Rule 1-08(f)(4).
- 23 Clifford J. Levy, "Rules Stiffened For Spending On Candidates," *New York Times*, July 7, 1997, B1. Andrew Eristoff's campaign for City Council in the 4th Council district suggested that the Campaign Finance Board does not chart the independent expenditures the Democratic establishment could easily provide [his opponent] Moskowitz—things like phone banks, volunteers and free printings. Eristoff is not participating in the Program because he needs to make up for the fact that he doesn't have access to those resources. Peter Duffy, "Money and Politics," *Eastside Resident*, October 15-21, 1997, 6. At the same time, however, Eristoff's campaign did not file a complaint with the Board or produce evidence to support these claims. Moskowitz denied that she received such assistance. *Campaign Finance Board 1997 Hearings*, vol. II, at 70 (testimony of Eva Moskowitz).
- 24 David Firestone, "In Election Year, Debate Rages Over Using Public Money for City Ads," *New York Times*, June 20, 1997, B3.
- 25 Messenger received a \$320,402 payment for the anticipated run-off primary election against Al Sharpton. Run-off payments are one-time payments equal to 25 percent of the total public funds received for the prior election.
- 26 *Campaign Finance Board 1997 Hearings*, vol. II, at 170 (testimony of Lisa Kaplan, City Council member Margarita Lopez's campaign treasurer).



## Notes

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- 27 E.R. Shipp, "Call this 'Primary Colorless,'" *Daily News*, September 9, 1997, 39.
- 28 See New York City Administrative Code §3-709.5(1) and (5).
- 29 See Campaign Finance Board Advisory Opinion No. 1997-13.
- 30 Memorandum of conversation with Peter Harris, of Peter Harris Research Group, dated November 11, 1998, on file at the Campaign Finance Board.
- 31 *Arkansas Educational Television Commission v. Forbes*, \_\_\_U.S.\_\_\_ (1998).
- 32 New York City Charter, §1057.
- 33 Editorial, "Pay the Fine, Graciously," *New York Times*, September 20, 1997, A14.
- 34 Jack Newfield, "Time to Vote out Board of Elections," *New York Post*, September 24, 1997, 6.
- 35 Mayor Rudolph Giuliani, press conference, January 6, 1994.
- 36 Pursuant to the Act, these limits, applicable to the elections in 2001, were increased in February 1998 to reflect changes in the Consumer Price Index.
- 37 In special elections, contributions would be matchable at a 3-for-1 rate up to \$125.
- 38 Rudolph Giuliani, First General Election Debate for Mayor, October 9, 1997.
- 39 C. Virginia Fields running for Manhattan Borough President received \$91,497 in the general election at the 2-for-1 rate; at 5-for-1 she would have received \$187,975.
- Eva Moskowitz received \$40,000 in the general election in the Council district race against Andrew Eristoff at the 2-for-1 rate; at 5-for-1 she would have received the proposed maximum of \$140,000.
- Sandy Abby Aboulaflia, Noach Dear's opponent, received \$29,642 in the primary at the 2-for-1 rate; at 5-for-1 she would have received \$63,755.
- Walter McCaffrey was unopposed in the primary and general elections.
- 40 Set according to borough population in the last census.
- 41 A separate spending limit would apply to candidates in a special election to fill a vacancy.
- 42 Although candidates in the typical Council race rarely spend at this level, this single limit must accommodate 51 districts with varying characteristics, including circumstances in some districts that precipitate high spending.
- 43 A separate committee would be required for a special election to fill a vacancy. This change would not preclude fundraising for a candidate by an authorized group using a specialized name (e.g., "Liberals for Smith") as long as the contributions received are given to the candidate's authorized political committee.
- 44 Campaign Finance Board Determination No. 1997-1.
- 45 See *Party Favors* above, note 21.
- 46 *Arkansas Educational Television Commission v. Forbes*, \_\_\_U.S.\_\_\_ (1998).

APPENDIX A  
**CAMPAIGN FINANCE PROGRAM PARTICIPANTS  
 IN THE 1997 ELECTIONS**

**Mayor**

Albanese, Salvatore \*  
 Giuliani, Rudolph \* \*  
 Johnson, Arthur  
 Kramer, Kenny  
 McMillen, Jimmy  
 Messinger, Ruth \*  
 Rodriguez, Olga \*  
 Ruano-Malendiaz, Eric \*  
 Sharpton, Alfred \*  
 Williamson, Gerónimo

**Public Advocate**

Fret, Shoghi \*  
 Green, Mark \* \*  
 Potanelsky, Jules \*

**Comptroller**

Hevesi, Alan \* \*  
 Lyons, Wendy \*  
 Torres, Genevieve \*

**Borough President**

Baez, Iris Harskowitz  
 Baxter, John  
 Di Casa, David \*  
 Dillon, Rev. Dennis \*  
 Fager, John \*  
 Ferrer, Fernando \* \*  
 Fields, C. Virginia \*  
 Glick, Deborah \*  
 Gutierrez, Victor  
 Hartigan, George \*  
 Higgins, Steven \*  
 Jorgensen, Raymond  
 Lavender, James  
 Molinari, Guy \* \*  
 Pagan, Antonio \*

Powell, Adam \*  
 Rodriguez-Remenesku, Shirley  
 Ruiz, Jr., Israel \*  
 Shulman, Claire \* \*  
 Spitz, George \*  
 Taraco, Joseph  
 Vargas, Ruben \*

**City Council**

Abel, Michael \* \*  
 Aboulafia, Sandy Abby \*  
 Adelope, John \*  
 Aidala, Arthur \*  
 Allen, William \*  
 Anderson, Brian \*  
 Aquino, Angelica  
 Bardel, Henry \*  
 Barron, Charles \*  
 Bell, Robert \*  
 Brennan, Martin  
 Brown, Evelyn \*  
 Brown-Bryant, Edith  
 Caccamo, Anthony \*  
 Calderon, Myrna  
 Cammarata, Joseph \*  
 Cannon, Jr., Adolfo \*  
 Carter, Arnold \*  
 Castell, Eduardo \*  
 Castellanos, Francesca \*  
 Chapoy, Geraldine  
 Chen, Ethel \*  
 Chiolalo, Anthony  
 Chu, Pauline \*  
 Clarke, Una \* \*  
 Cohen, Adale \*  
 Colon, Federico \*

Corbett, Kevin  
 Cortes, Carlos  
 Cruz, Lucy \* \*  
 Cunningham, David \*  
 Davis, James \*  
 Deschler, Hyman  
 DeJesus, Luis \*  
 Di Carlo, Robert \*  
 Diaz-Larocca, Sonia \*  
 DiBrienza, Stephen \* \*  
 Donmuth, Marie \*  
 Duane, Thomas \* \*  
 Dunn, Helen  
 Egan, Ronnie \* \*  
 Emmanuel, Ernest \*  
 Espada, Pedro \*  
 Fabozzi, Albert \*  
 Fisher, Kenneth \* \*  
 Fossella, Vito  
 Foster, Wendell \* \*  
 Freed, Kathryn \* \*  
 Fusco, John \* \*  
 Gebart, Thomas \*  
 Given, Roger  
 Glenn, Salena \*  
 Golden, Martin \*  
 Gonzalez, Carlos  
 Haggerty, Elba \*  
 Haslip, Joseph  
 Henry, Lloyd \* \*  
 Hernandez, Hilda  
 Hodge, Allen  
 Holly, I. Rennie \*  
 Ianneca, Jerry \*  
 James, Julia \*

\* indicates participant was on ballot  
 \* \* Incumbent

APPENDIX A (cont.)  
**CAMPAIGN FINANCE PROGRAM PARTICIPANTS  
 IN THE 1997 ELECTIONS**

**City Council**

Jenkins, Cynthia \*  
 Jennings, Jr., Allan \*  
 Khan, Barbara  
 Kirkman, Curtis \*  
 Kowah, Jr., Walter \*  
 Lasher, Howard \* +  
 Lauter, Alan \*  
 Leffler, Sheldon \* +  
 Lim, Jennifer \*  
 Linares, Guillermo \* +  
 Liu, John \*  
 Lizardo, Roberto \*  
 Lobb, Susan \*  
 López, Margarita \*  
 Louis, Errol \*  
 Lucra, Paul \*  
 Lugo, Betty \*  
 Malave, Samuel \*  
 Malave-Díaz, Martín \* +  
 Manjoux, Kingonga  
 Marcell, Edwin \*  
 Markell, Debra \*  
 Marshall, Helen \* +  
 Martínez, Israel  
 Mason, Reggie \*  
 Matao, Hériberto \*  
 McCone, Cody \*  
 McDermott, Robert \*  
 Medici, George \*  
 Michels, Stanley \* +  
 Muir, Alan Gifford \* +  
 Miller, David \*  
 Montague, Virginia \*  
 Morgan, Ishmael \*  
 Moskowitz, Eve \*

Murawski, Bill \*  
 O'Donovan, Jerome \* +  
 Perez, Jr., Freddy  
 Perez, Juan  
 Perkins, William \*  
 Pinnett, Mary \* +  
 Player, Terry \*  
 Poochia, Anthony \*  
 Pollard, Mark  
 Provenzano, Madeline \*  
 Rapfogel, Judy \*  
 Reed, Philip \*  
 Reznik, Jeff \*  
 Rivera, Jose \* +  
 Robinson, Annette \* +  
 Robles, Victor \* +  
 Rodriguez, Angel \*  
 Roedker, Susan  
 Roper-Simpson, Casilda \*  
 Sabini, John \* +  
 Salvati, Neil \*  
 Saunders, Shirley \*  
 Seminars-Lehu, Joanne \*  
 Sena, Wilma \*  
 Smith, Gary \*  
 Solazzo, John \*  
 Solo, Richard \*  
 Stephens, Alexander \*  
 Stewart, Kendall \*  
 Stribling, Mary \*  
 Tan, Melin  
 Taveras, Germania \*  
 Taylor, Richard \*  
 Valone, Peter \* +  
 Vidro-Ortiz, Jorge \*

Villaverde, Sergio \*  
 Warden, Lawrence \* +  
 Watkins, Juanita \* +  
 Weiner, Anthony \* +  
 White, Douglas \*  
 Wilkes, Jr., Leroy \*  
**Office Sought not Declared to CFB**  
 Correa, Gloria  
 Fasono, Dawn  
 Flynn, Mike  
 Fulani, Lenora  
 Goldfeder, Jerry  
 Levin, Lew  
 Montano Jr., Armando  
 Niebauer, Michael  
 Roszkowski, Henry  
 Sealbrook, Larry  
 Struhs, William  
 Trainor, Eugene  
 Wang, Peter  
 Zumbuskas, Micheal

\* Indicates participant was on ballot

+ Incumbent

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## Appendix B

# Board Publications

(Partial list)

### **PUBLIC DISCLOSURE**

*Public Disclosure Reports:* Compilation of contribution and spending data from periodic Financial Disclosure Statements filed by Program participants. Transactions are sorted alphabetically by contributor name, numerically by contribution amount, alphabetically by contributor's employer, and by intermediary. Expenditures are listed by amount and by vendor name. Covers the 1997, 1993, 1991, and 1989 elections, and occasional special elections.

*Database-on-Diskette:* Contains the Board's entire database, including contribution and spending data for every candidate in the Program, on computer diskette. Separate DOD's are available for the 2001, 1997, and 1993 election cycles. A database application and PC-computer are required for use.

### **POST-ELECTION REPORTS**

*On the Road to Reform: Campaign Finance in the 1993 New York City Elections*, September 1994 (Volumes I, II, and Executive Summary)

*Windows of Opportunity: Campaign Finance Reform and the New City Council*, July 1992 (and Executive Summary)

*Dollars and Disclosure: Campaign Finance Reform in New York City*, September 1990 (and Executive Summary)

### **ISSUES PAPERS**

*Friends in Need: Joint and Independent Spending by Candidates*, January 1997

*Bundles of Trouble?*, June 1996

*Party Favors*, January 1995

*The Debate Debate*, June 1994

## Appendix B

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### OTHER

*Whose Democracy Is It?* The proceedings of a conference sponsored by the New York City Campaign Finance Board and the Robert J. Milano Graduate School of Management and Urban Policy, New School for Social Research J.M. Kaplan Center for New York City Affairs, February 1996

Nicole A. Gordon, *The New York City Model: Essentials for Effective Campaign Finance Regulation*, 6 *Journal of Law and Policy* 79 (1997)

Laurence D. Laufer, *New York's Campaign Finance Program for the 1997 City Elections: A Look Ahead*, *City Law*, Vol. 2, at 101 (1996)

Nicole A. Gordon and Hyla Pottharst Wagner, *The New York City Campaign Finance Program: A Reform That is Working*, 9 *Fordham Urban Law Journal* 605 (1992)

Jeffrey D. Friedlander, Stephen E. Louis, and Laurence D. Laufer, *The New York City Campaign Finance Act*, 16 *Hofstra Law Review* 345 (1988)

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The Board has published numerous other brochures, handbooks, and, of course, many editions of the Voter Guide. For a complete list of Board publications, see Appendix M in Volume II of the Board's full report.

