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1st Look at “Doing Business” Contributions: “Pay-to-Play” Influence Wanes

Reforms enacted last year place strict new limits on “pay-to-play” contributions from people doing business with city government. The limits serve to assure the public that city decisions are made with the best interests of the city in mind—rather than the best interests of campaign contributors. A close look at contributions raised under the new law shows that it is working well.

Under Local Law #34 of 2007, “doing business” contributions are no longer eligible to be matched with public funds. Contributors who are doing business with city government can give no more than \$400 to candidates for citywide office, \$320 to borough president candidates, and \$250 to City Council candidates.

The Doing Business Database (DBDB), developed by the Department of Information Technology and Telecommunications (DoITT) and the Mayor’s Office of Contract Services (MOCS), collects data about those who do business with the city, and allows the CFB to match this information against its database of contributors to ensure that campaigns are following the new law.

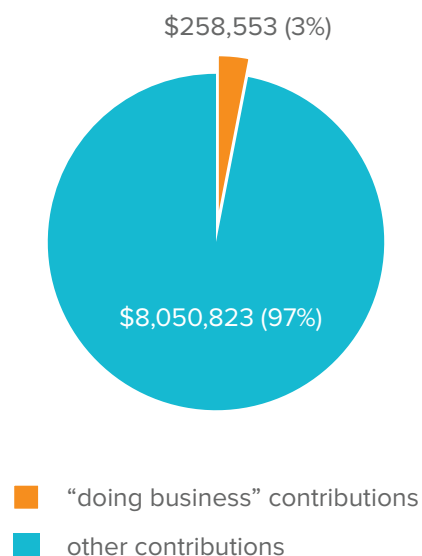
Analysis: More Council Candidates Fundraising at Home

Candidates for City Council are focusing on raising more money in their own districts than in previous election cycles, according to an analysis of contributions raised through July.

In 1993, term limits were enacted to prohibit any City elected official from serving more than two consecutive terms in office. Term limits were first in effect for the 2001 election. Though many have speculated in recent weeks that term limits will be repealed or modified, if they remain in place, term limits would prevent up to 34 of the City Council’s 51 members from running for re-election in the fall of 2009.

Much as in 2001, when term limits created a comparable number of open seats, competitors for those potential seats have gotten an early start laying the groundwork for their own Council campaigns. With a year to go before the September primaries, Council candidates have entered the

Contributions to All Candidates
February 2 – July 11, 2008



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2009 race in larger numbers than ever. As of July, 88 candidates have started raising money for a Council campaign, compared with 63 at this point in the 2001 election cycle, and only 39 during the 2005 election cycle. (There are 45 candidates for undeclared office who filed disclosure statements in July but are not included in this analysis.)

An analysis of the contributions collected by those candidates shows that they are gathering financial support from their own communities in greater numbers than in previous election cycles. Through July, active candidates for Council raised over 28 percent of their contributions in their own districts. At a similar point in the 2001 election cycle, just fewer than 20 percent of contributions came from candidates’ districts. For the 2005 election, with many more incumbents on the ballot, candidates raised less than 15 percent of their cash in-district through July 2004.

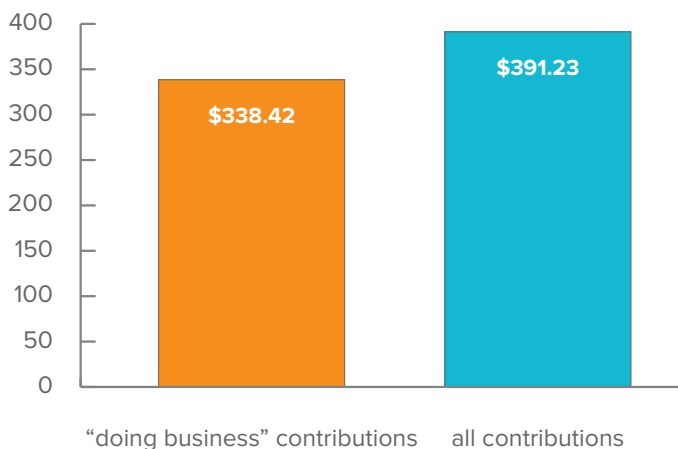
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“Pay-to-Play” Influence Wanes *(from page 1)*

On July 15, [campaigns filed](#) their required financial disclosure statements with the Campaign Finance Board (CFB). It was the fifth filing for the 2009 election cycle, but it was the first for which campaigns observed the new “doing business” limits. Contributions in this period were covered by [Phase 1](#) of the “doing business” law, which covers the principal owners and officers of firms holding contracts, franchises, and concessions, as well as registered lobbyists. The limits covered those individuals as of February 2, 2008. Using data from the new Doing Business Database, we can take a first look at how many contributions were affected by the doing business restrictions.

Of the 21,239 contributions reported from the effective date of the “doing business” limits (February 2, 2008) through the last day of the filing period (July 11, 2008), 764, or 3.6 percent, were from “doing business” contributors. Those contributions totaled \$258,553, representing 3.0 percent of the funds reported between those dates.

Average Contribution Size
February 2 – July 11, 2008



A [study performed for the CFB in 2006](#) by a group of graduate students from [NYU’s Wagner School of Public Service](#) in 2006 estimated that “doing business” contributors (i.e. contractors and lobbyists) made up 3.8 percent of contributors for the 2001 election cycle, and 5.3 percent of contributors for the 2005 election cycle. One theory holds that people doing business with the city are more likely to contribute to incumbents. With more incumbents running in 2005, it is no surprise that the initial numbers for 2009 may be more comparable to those from 2001.

While just as many of contributors in Statement 5 are doing business, in previous election cycles their contributions made up a much larger portion of the money raised by candidates. The 2006 study estimated that 25 percent of the funds raised overall in 2001 were from “doing business” contributors, and 22 percent in 2005 — compared with only 3 percent for contributions collected earlier this year. (Future analysis will address the extent to which candidates collected “doing business” contributions earlier in the 2009 election cycle, before the law took effect.)

The new law also provides a potential savings in matching funds. The CFB determined that out of a total of 14,419 claims made for public

matching funds in this past filing, 404 were not eligible to be matched due to doing business restrictions. The value of these invalid matching claims was \$53,324, or 3.9% of the dollar value of all matching claims in the last filing period. To put this into perspective, using the matching rate formula of \$6-to-\$1, \$319,944 in public funds was saved.

The CFB also discovered 133 instances of contributions over the “doing business” limit. If a campaign accepted an over-the-limit contribution from someone that does business with the city, they are required to return the excess amount within 20 days after the CFB notifies them of the overage. If all 133 documented overages were refunded, campaigns would return \$96,020 to contributors.

The [next scheduled disclosure filing](#), due January 15, 2009, will encompass contributions limited by [Phase 2](#) of the Doing Business Database, and will provide a further insight into the impact of the “pay-to-play” reforms. Phase 3 covers real property transactions and is anticipated to go into effect in December 2008.

RECENT BOARD ACTIONS

- The Board assessed [\\$14,595 in penalties](#) and made a finding of breach of certification against Danny King, a 2005 candidate for City Council in District 41 (Brooklyn).
- The Board rejected a [5-02\(a\)](#) petition from Stephen Kaufman, 2005 candidate for City Council in District 13 (Bronx), challenging its denial of a post-election public funds payment.
- The Board dismissed a [complaint](#) filed by Eva Moskowitz, a 2005 candidate for Manhattan borough president, alleging electioneering activities by the Working Families Party were coordinated with one of her opponents, Scott Stringer.
- [Proposed changes to Board Rules](#) were issued for public comment. The changes will conform the Rules to recent amendments to the Campaign Finance Act contained in Local Laws 34 and 67 of 2007. Comments will be accepted through the date of the public hearing on the changes, September 22, 2008.

Analysis: Council Candidates Fundraising *(from page 1)*

A number of factors encourage in-district fundraising.

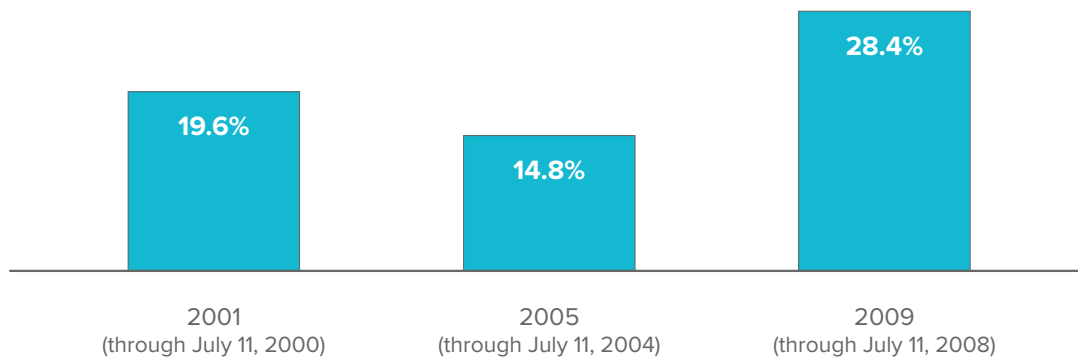
- First, the threshold requirement: a candidate must collect 75 contributions of \$10 or more from residents of the Council district to qualify for public funds. (The other part of the requirement is to raise \$5,000 overall in “matchable” contributions up to \$175.) The threshold requirements exist for candidates to demonstrate a basic minimum level of support in their own community.
- With a record number of candidates across the city asking for campaign contributions, candidates may find it easiest to raise funds close to home even after they’ve achieved the threshold number.
- Reforms passed in July 2007 increased the matching rate to \$6-to-\$1 for the first \$175 of contributions from

New York City residents, rewarding candidates even further for seeking small contributions from average New Yorkers. With this incentive at work, more candidates are starting their fundraising among their neighbors.

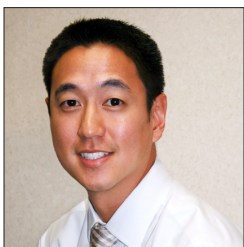
- New low, strict limits on contributions from people who are doing business with city government, another significant reform from last year, may focus more candidates on opportunities to raise small contributions in their districts.

The evidence emerging during the 2009 election cycle illustrates success in meeting the Program’s central objective to amplify average New Yorkers’ participation in City election campaigns. After further analysis, the numbers show that these recent reforms to the Campaign Finance Act may serve to enhance and strengthen candidates’ ties to their own communities.

Percentage of Money Raised by Council Candidates within their Own District, through Disclosure Statement 5



New Director of Candidate Services is Here to Help



Daniel Cho

While New Yorkers lament the end of summer, those who follow politics are turning their focus to the presidential election only eight weeks away. At the Campaign Finance Board, we’re looking ahead even further, with preparations already underway for the 2009 citywide elections, a little more than a year from now. As we continue planning, this change of seasons brings important

changes for the CFB—among them the elevation of Daniel Cho to serve as Director of the Candidate Services Unit (CSU).

CSU is literally the CFB’s customer service wing, helping candidates and campaign staff to understand their legal responsibilities. On a regular basis, Candidate Services staff conducts training seminars for campaigns to give them the tools they need to comply with campaign finance law. They provide personalized guidance to campaigns as well, responding to questions via phone and e-mail.

As head of CSU, Cho will oversee communications between the CFB and the 300-plus campaigns expected to register for the 2009 elections. Cho is a three-year veteran of the CFB; as a member of the Audit staff, he performed post-election reviews of campaigns to ensure that all campaigns are in compliance with regulations. More recently, Cho also served as Payment Coordinator. In that role, he examined campaigns’ claims for public matching funds and recommended payments to campaigns. His knowledge of the CFB’s audit processes should prove valuable in helping campaigns avoid pitfalls and stay on the right side of the law.

Cho is a Boston College graduate, and spent time after college working for Senator Edward Kennedy (D-MA) before coming to New York City. He is excited about his new role at the CFB. “As Director of Candidate Services, I hope to uphold the high level of integrity and service already established by [former Director] Erik Joerss and the current staff,” he says. “My aim is to continue providing clear and consistent guidance. By building and maintaining good relationships with candidates, the CSU staff helps achieve the goals of the Program each and every day.”

“TIP OF THE MONTH”
from CFB Candidate Services

Avoid prohibited contributions!

Before depositing contributions into your campaign committee’s bank account, enter them into C-SMART and check the contributors in the databases recommended below. This can help prevent against accidentally depositing a prohibited or over-the-limit contribution.

Contributions from Individuals:

- Check for the contributor’s name in the Doing Business Database. If the contributor appears, you may accept a contribution only up to the doing business limit.
- If you accepted a “doing business” contribution over the limit, you must refund the over-the-limit portion to the contributor.

Contributions from Political Committees:

- Only political committees registered with the CFB can contribute; view our list of registered political committees to see if you may accept the contribution.
- If the political committee is **not** on the list, you have 10 days after taking the contribution to ensure the committee registers with the CFB. Send the organization the Political Committee Registration Form, and ask them to submit it promptly. If the political committee does not register within 10 days, you must return the contribution.

Contributions from Businesses:

- Check to see if the business is listed in the New York State Department of State Corporation and Business Entity Database. If it is, you may **not** accept the contribution. You also may not accept an in-kind contribution; you must pay the full fair market value for any goods or services offered.
- If the entity is organized as a sole proprietorship, you may accept contributions (monetary and in-kind) from this entity up to the contribution limit.

Here are a few key practices to help prevent accidentally accepting prohibited contributions:

- Enter contributions into C-SMART *before* depositing them in the bank. C-SMART will warn you if you attempt to enter a contribution that is clearly prohibited or over-the-limit, so you will have the chance to return the contribution before it is deposited.
- If you accidentally deposit a contribution from a prohibited contributor, return it immediately. For refunds, you must use a bank check or certified check; this will immediately remove the prohibited funds from your account whether or not the refund check is cashed promptly.
- Keep in mind that affiliated contributions will be added together. Thus, if Joe Smith gives your City Council campaign \$2,500, and Joe’s Deli (a sole proprietorship owned by Joe Smith) makes an in-kind contribution of \$250 in food, then together Joe Smith and Joe’s Deli have reached the contribution limit of \$2,750.

Careful monitoring of your contributions can help protect against future penalties. If you’re ever unsure of what to do with an over-the-limit or prohibited contribution, call your CSU liaison or the Candidate Services Unit at 212-306-7100.