

ADM-2.16 - Repayment of Fund Disbursements

REPAYMENT OF FUND DISBURSEMENTS

Administrative Rule Adopted by the City Auditor Pursuant to Rule-Making Authority

ARB-ADM-2.16

A. Purpose

To provide a process and procedure for the repayment of fund disbursements.

B. Authority

Code Section 2.10.020 authorizes the Auditor to adopt rules to ensure effective administration of the Campaign Finance Fund, including the repayment of monies to the fund.

C. Rules

1. Repayment of Fund Disbursements

a. General. The Auditor may determine that a certified candidate who has received a disbursement from the Campaign Finance Fund must repay the Fund some or all of the monies received from the Fund.

1) A certified candidate who has received payments from the Fund shall return to the Fund any amounts the Auditor determines to be repayable. In making repayment determinations, the Auditor may utilize information obtained from audits and examinations or otherwise obtained by the Auditor in carrying out the responsibilities of Code Chapter 2.10.

2) The Auditor will notify the candidate of any repayment determinations made under this rule as soon as possible, but not later than one year after the day of the election. The notification may be combined with a certification letter, determination letter or notice of proposed penalty.

3) The candidate should give preference to the repayment of Fund disbursements over all other outstanding obligations of the candidate, except for taxes owed by the candidate.

4) Repayments may be made from any private source, including personal funds of the candidate or the candidate or committee's campaign account. Repayment may not be made from Campaign Finance Fund disbursements.

5) The Auditor may withhold the portion of funds required to be repaid from future disbursements to the certified candidate if the Auditor has made a

repayment determination.

b. When Repayment Required. The Auditor may determine that a certified candidate who has received disbursements from the Campaign Finance Fund must repay the Fund under any of the following circumstances:

1) Uncontested primary or special elections.

a) If a candidate who has previously received part or all of the initial primary allocation is the only candidate on the ballot for a particular office, the candidate must return an amount of money equal to all monies distributed to the candidate from the Fund. (City Code Section 2.10.110 C. and Administrative Rule ARB-ADM-2.14)

b) The deadline for repayment under this section is no later than the filing deadline for the first pre-election statement required under ORS 260.058 (1).

2) Unspent Revenues.

a) If the first post-election statement filed by a certified candidate under ORS 260.058 for the primary election shows unspent revenues received from the Fund, the candidate shall return an amount equal to the amount of unspent revenues to the Auditor. (City Code Section 2.10.160 A).

b) If the candidate was nominated at the primary election, the amount of the initial general allocation shall be reduced by an amount equal to the aggregate amount of unspent revenues as indicated on the first post-election statement. (City Code Section 2.10.160 B. and Administrative Rule ARB-ADM-2.14)

c) If the first post-election statement filed by a certified candidate under ORS 260.068 for the general election shows unspent revenues received from the Fund, the candidate shall return an amount equal to the amount of unspent revenues to the Auditor. (City Code Section 2.10.160 C.).

3) Candidate Withdrawal.

a) If a certified candidate withdraws as a certified candidate or as a candidate for nomination or election, the candidate shall deliver to the Auditor an amount of money equal to all monies distributed to the candidate from the Fund after the date the candidate was certified, plus

12% interest per annum on the total amount of monies received. (City Code Section 2.10.210)

b) The deadline for repayment under this section is the date the statement of withdrawal is filed.

4) Revocation of Certification. If the Auditor revokes the certification of a candidate, the candidate shall deliver to the Auditor an amount of money equal to all monies distributed to the candidate from the Fund after the date the candidate was certified, plus 12% interest per annum on the total amount of monies received, in addition to any penalty and interest on the penalty. (City Code Section 2.10.220 and Administrative Rule ADM-ARB-2.14)

5) Revocation of Matching Funds. If the Auditor revokes matching funds previously distributed to a candidate, the candidate shall deliver to the Auditor an amount of money equal to the revoked matching funds, plus 12% interest per annum. (City Code Section 2.10.230 and Administrative Rule ADM-ARB-2.14)

c. Repayment Determination.

1) The Auditor will issue a letter detailing the repayment determination. The repayment determination may be included in a certification or matching funds determination letter or notice of proposed penalty.

2) The determination letter will state the reasons for the repayment determination as well as the evidence upon which any such determination is based.

3) The determination letter shall state the amount to be repaid and include the deadline for repayment.

4) The Hearings Officer may include a repayment determination in an order issued under Code Section 2.10.230.

d. Repayment Procedure.

1) The deadline for repayment shall be specified in the Auditor's repayment determination letter. Unless otherwise specified above, the deadline shall be 60 days after the repayment determination letter is sent by the Auditor. Upon application by the candidate, the Auditor may grant an extension of time in which to make repayment.

2) Interest shall be calculated at the rate of 12% simple interest per annum on the

total amount of all monies received by the candidate from the Campaign Finance Fund.

e. Failure to Pay. At the request of the Auditor, the City Attorney may seek civil penalties and enforcement in Circuit Court or other appropriate venue.

2. Auditor to Deposit. The Auditor shall deposit all monies repaid by certified candidates to the Campaign Finance Fund. Financial Management of the Fund is described in Administrative Rule ARB-ADM-2.18.

D. City Code References

2.10.040 Contents of Campaign Finance Fund

2.10.110 Campaign Spending Limits for Certified Candidates

2.10.160 Return of Unspent Funds to Campaign Finance Fund

2.10.210 Withdrawal of Certified Candidate, Repayment of Funds

2.10.220 Civil Penalties, Revocation of Certification and Repayment of Funds

2.10.230 Hearings

History

Adopted by the City Auditor August 25, 2005.

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