

ADM-2.22 - Use of Public Funds

USE OF PUBLIC FUNDS

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

ARB-ADM-2.22

A. Purpose

To provide a process and procedure for the documentation, investigation and enforcement of the use of public funds.

B. Authority

Code Section 2.10.020 authorizes the Auditor to adopt rules to ensure effective administration of the Campaign Finance Fund, including investigation and enforcement procedures for misuse of public funds.

C. Rules

1. General. A certified candidate may spend Campaign Finance Fund revenues only for purposes that are directly related to the candidate's campaign for nomination or election to the City Office for which they have qualified as a candidate.

2. Prohibited Uses. City Code Section 2.10.090 provides that revenues distributed to a certified candidate from the campaign finance fund may not be:

a. Used to make any Expenditures for personal use prohibited by ORS Chapter 260 and Oregon Administrative Rules, including but not limited to:

- 1) Salary or payment to a Person, unless the Person is providing bona fide services to the campaign and is compensated at fair market value;
- 2) Admission to a sporting event, concert, theater, or other form of entertainment unless part of a specific campaign activity;
- 3) Dues, fees, or gratuities at a country club, health club or other recreational facility unless part of the costs of a specific fundraising event;
- 4) Mortgage, rent or household utility payments for any part of a personal residence;
- 5) Purchases of household food items or supplies; or
- 6) Purchase of clothing, other than items of de minimus value used in the

campaign (such as t-shirts).

- b. Contributed to any other Candidate, Political Committee or measure;
- c. Used to make Independent Expenditures supporting or opposing any Candidate, Political Committee or measure;
- d. Used in connection with the nomination or election of a Certified Candidate to any office or at any election except to the office or election for which the revenues were originally distributed;
- e. Used to repay any loans, debts or penalties;
- f. Used to pay for consulting services to a Person, unless the Person is providing bona fide services to the campaign and is compensated at fair market value; or
- g. Used for out-of-state travel.

3. Disclosure of expenditures. All contributions and expenditures made by the candidate or the candidate's principal campaign committee must be reported on contribution and expenditure reports required by ORS Chapter 260. This includes expenditures made from public funds.

4. Documentation of direct allowed expenditures.

- a. In addition to the general records preservation and reporting requirements of ORS Chapter 260, certified candidates shall comply with the following requirements:
 - 1) All certified candidates shall have the burden of proving that expenditures made by the candidate from campaign finance fund revenues were for direct allowed campaign purposes. The candidate shall obtain and furnish to the Auditor or Citizen Campaign Commission on request any evidence regarding direct campaign expenses made by the candidate as provided in b. below.
 - 2) All certified candidates shall retain records with respect to each expenditure and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting system documentation, and any related materials documenting campaign contributions and expenditures, for a period of two years, and shall present these records to the Auditor or Commission upon request.
 - 3) All certified candidates shall maintain a list of all fixed assets whose purchase price exceeded \$300 when acquired by the campaign.

i) For the purposes of this rule, "fixed assets" means tangible property usable in a capacity that will benefit the candidate for a period of more than one year from the date of acquisition.

ii) The list shall include a brief description of each fixed asset, the purchase price, the date it was acquired, the method of disposition and the amount received in disposition. The candidate shall present these records to the Auditor or Commission upon request.

b. Upon prior written request from a certified candidate, the Auditor shall determine whether a planned campaign expenditure or fund-raising activity is permissible under Code Chapter 2.10. To make a request, a candidate shall submit a written description of the planned expenditure or activity to the Auditor. The Auditor shall inform the candidate whether an enforcement action will be necessary if the candidate carries out the planned expenditure or activity. If the planned expenditure or activity is permissible, and the Auditor issues a "no action letter," the Auditor shall ensure that the candidate can rely on a "no action" letter. A "no action" letter applies only to the candidate who requested it.

c. Any expenditure made by the candidate or the candidate's principal campaign committee that is not and/or cannot be documented as a direct allowed campaign expenditure shall be subject to a penalty and may require revocation of certification and repayment of funds pursuant to Code Chapter 2.10 and City Administrative Rules.

d. For the purposes of this rule, "direct campaign purpose" includes, but is not limited to, materials, communications, transportation, supplies and expenses used toward the election of a candidate. This does not include the candidate's personal appearance, support, or support of a candidate's family member.

D. City Code References

2.10.090 Limitations on Use of Campaign Finance Fund Revenues

History

Adopted by the City Auditor August 25, 2005.

Filed for inclusion in PPD August 25, 2005.