

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 qualifying contributions, seed money contributions, and 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 minimis 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;

g. Used for out-of-state travel;

h. Certain vehicle-related expenses, including vehicle purchases, leases, rentals, insurance, repairs, or fuel. However, expenses are allowed for:

1) Vehicle mileage reimbursement for campaign purposes is allowed, using the standard rate used by the City for mileage reimbursement;

2) Reimbursement for vehicle-related expenses is allowed when a vehicle or vehicles are utilized for campaign purposes from a car-sharing company or car-sharing companies that charge hourly rates or rates calculated by other methods for operation of car-sharing company vehicles.

i. Attorney, accountant and other professional service fees in conjunction with appealing penalties or decertification;

j. Election night and post-election parties; or

k. Used for salary or payment, other than reimbursable expenses, to a Family Member. "Family Member" as defined by City Code Chapter 2.10.010 means any of the following persons: the Candidate's spouse, domestic partner, parent, grandparent, child, grandchild, sibling, aunt, uncle, niece, nephew, step-child, step-brother, step-sister, step-parents, step-grandparents, daughter-in-law, son-in-law, sister-in-law, brother-in-law, mother-in-law, father-in-law, grandparents in-law, and equivalent relatives of the Candidate's domestic partner.

3. Disclosure of expenditures. ORESTAR is the Oregon Secretary of State's electronic campaign finance reporting system. Per ORS 260.057 and City Code Section 2.10.120, participating candidates must report each contribution and expenditure made by the candidate or candidate's principal campaign committee in ORESTAR within 14 days of the transaction date, except for the 42 days immediately preceding the election date, when transactions must be reported within 7 days.

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 Participating or 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 subject the candidate 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 allowed 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

2.10.010 Definitions.

2.10.090 Limitations on Use of Qualifying Contributions, Seed Money Contributions, and Campaign Finance Fund Revenues.

History

Adopted by the City Auditor August 25, 2005.

Filed for inclusion in PPD August 25, 2005.

Amended by the City Auditor July 13, 2007.

Amended by the City Auditor August 22, 2007.