

Subtitle V of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York is hereby amended by adding a new Part 6200.11, to read as follows:

6200.11 Public Financing Pilot Program

(A) Purpose and Overview.

- (1) The purpose of this regulation is to set forth the requirements for candidates to qualify for and participate in a pilot program for matching financing for the election to the Office of the State Comptroller under Title 2 of Article 14 of the Election Law.

(B) Definitions.

- (1) The term “authorized committee” shall mean the single committee designated by a candidate pursuant to section 14-201 of Title II of Article 14 of the Election Law to receive contributions and make expenditures in support of the candidate’s campaign.
- (2) The term “Board” shall mean the State Board of Elections.
- (3) The term “contributor” shall mean any person or entity that makes a contribution.
- (4) The term “contribution” shall have the same meaning as appears in subdivision nine of section 14-100 of this Article 14 of the Election Law.
- (5) The term “covered election” shall mean any primary or general election for nomination for election, or election, to the Office of State Comptroller.
- (6) The term “election cycle” shall mean the four year period starting after the day after the last general election for candidates for statewide office.
 - (a) The election cycle for the program is November 3, 2010 until November 4, 2014.
- (7) The term “expenditure” shall mean any gift, subscription, advance, payment, or deposit of money or anything of value, or a contract to make any gift, subscription, payment, or deposit of money or anything of value, made in connection with the nomination for election, or election, of any candidate. Expenditures made by contract are deemed made when such funds are obligated.
- (8) The term “fund” shall mean the New York State Campaign Finance Fund.
- (9) The term “immediate family” shall mean a spouse, domestic partner, child, sibling or parent.

(10) The term “intermediary” shall mean an individual, corporation, partnership, political committee, employee organization or other entity which bundles, causes to be delivered or otherwise delivers any contribution from another person or entity to a candidate or authorized committee, other than in the regular course of business as a postal, delivery or messenger service. Provided, however, that an “intermediary” shall not include spouses, domestic partners, parents, children or siblings of the person making such contribution or a staff member or volunteer of the campaign identified in writing to the State Board of Elections. Here “causes to be delivered” shall include providing postage, envelopes, or other shipping materials for the use of delivering the contribution to the ultimate recipient.

(11) The term “Item with significant intrinsic and enduring value” shall mean any item, including tickets to an event, that are valued at \$25 dollars or more.

(12) The term “matchable contribution” shall mean a contribution, contributions or a portion of a contribution or contributions for any covered elections held in the same election cycle, made by a natural person who is a resident of the State of New York to a participating candidate, that has been reported in full to the Board in accordance with section 14-102 and 14-104 of Article 14 of the Election Law by the candidate’s authorized committee and has been contributed on or before the day of the applicable election. Any contribution, contributions, or a portion of a contribution determined to be invalid for matching funds by the Board may not be treated as a matchable contribution for any purpose.

(a) The following contributions are not matchable:

(i) Loans;

(ii) In-kind contributions of property, goods or services;

(iii) Contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value;

(iv) Transfer from a party or constituted committee;

(v) Anonymous contributions or contributions whose source is not itemized as required by section 14-201 of this title;

- (vi) Contributions gathered during a previous election cycle;
 - (vii) Illegal contributions;
 - (viii) Contributions from persons under eighteen;
 - (ix) Contributions from lobbyists registered pursuant to subdivision (A) of section one-C of the legislative law.
 - (x) Contributions from vendors associated with the campaign.
- (13) The term “nonparticipating candidate” shall mean a candidate for a covered election who fails to file a written certification in the form of an affidavit under section 14-204 of Title 2 of the Election Law by the applicable deadline.
- (14) The term “participating candidate” shall mean any candidate for nomination for election, or election, to the Office of the State Comptroller who files a written certification in the form of an affidavit pursuant to section 14-204 of Title II of Article 14 of the Election Law by the applicable deadline.
- (15) The term “post-election period” shall mean the six months following the two thousand fourteen (2014) Office of the State Comptroller election when a candidate is subject to an audit.
- (16) The term “qualified campaign expenditure” shall mean an expenditure for which public matching funds may be used.
- (17) The term “threshold for eligibility” shall mean the amount of matchable contributions that a candidate’s authorized committee must receive in total in order for such candidate to qualify for voluntary public financing under Title 2 of Article 14 of Election Law.
- (18) The term “transfer” shall mean any exchange of funds between a party or constituted committee and a candidate or any of his or her authorized committees.
- (19) The term “the Program” shall mean the 2014 Public Financing Pilot Program for the Office of the State Comptroller.
- (20) The term “matchable fund claim” shall mean any matchable contributions claimed by a participating candidate seeking a matching payment from the fund.
- (C) Registration.

(1) Participating candidates may have only one authorized committee for the Office of State Comptroller and it must be registered with the New York State Board of Elections on forms prescribed by the Board and pursuant to 6200.1. Such authorized committee, treasurer, and candidate, as applicable, are subject to the provisions of 14-102, 14-104, 14-106, 14-108, 14-110, 14-112, 14-118, 14-120, 14-122, 14-124, 14-126 of Article 14 of the Election Law as well as Title II of Article 14 of the Election Law.

(D) Eligibility.

(1) To be eligible for public financing under Title II of Article 14 of the Election Law, a candidate must:

- (a) be a candidate in a covered election;
- (b) meet all the requirements of law to have his or her name on the ballot;
- (c) in the case of a covered general election, be opposed by another candidate on the ballot who is not a write-in candidate;
- (d) submit to the Board, , or its duly designated representative, a certification in the form of an affidavit, as prescribed by the Board, that sets forth his or her acceptance of and agreement to comply with the terms and conditions for the provision of funds in each covered election.
 - (i) Participating candidates must complete and submit to the Board a certification form, pursuant to section 14-204 of the Election Law, at a date prescribed by the Board, to be eligible to participate in the program.
 - (ii) The Board will post on its webpage a copy of the blank certification form.
 - (iii) The Board, or the Board staff, will post on its web page a list of candidates that have submitted a certification form to be considered for public financing, which will denote which candidates are determined by the Board to be certified as eligible to be participating candidates.
 - (iv) The Board, or the Board staff, shall notify the participant of a determination of ineligibility.
- (e) be certified as a participating candidate by the Board;

(f) not make expenditures from his or her personal funds or property or the personal funds or property jointly held with his or her spouse, or unemancipated children in connection with his or her nomination or election to a covered office except as a contribution to his or her authorized committee in an amount that exceeds three times the applicable contribution limit from an individual contributor to candidates for the office that he or she is seeking.

(g) Meet the threshold of eligibility:

(i) the threshold for eligibility for matching funding for participating candidates for the Office of the State Comptroller shall be not less than two hundred thousand dollars (\$200,000) of matchable contributions comprised of sums between ten (\$10) and one hundred seventy-five (\$175) dollars per contributor, from two thousand (2,000) residents of New York State.

(ii) any participating candidate meeting the threshold for eligibility in a primary election shall be deemed to have met the threshold for eligibility in the general election for the 2014 Office of State Comptroller election.

(h) continue to abide by all requirements during the post-election period.

(E) Disclosure reports.

(1) Each authorized political committee shall report to the Board every contribution and loan received and every expenditure made in a timeframe and manner as prescribed by this regulation and sections 14-102, 14-104 and 14-108 of Article 14 of the Election Law.

(2) For each contribution of \$500 or more, such authorized committee must report to the Board, in a manner prescribed by the Board: the occupation, and business address of each contributor, lender and intermediary. Such disclosure is to be reported in the same manner as any other contribution or loan on the next applicable report.

(3) Each contribution or loan received in excess of \$1000 shall be disclosed electronically to the Board, in a manner prescribed by the Board, within 48 hours of receipt of such contribution or loan. Any contribution or loan for which a 48-hour notice has been submitted must also be disclosed in the next applicable campaign financial disclosure report.

(a) **24 hour notice.** A 24 hour notice is a required disclosure, which is used to report any contribution or loan over \$1,000 received the day after the cut-off date of the 11-day pre-election report up to election day. Such contribution or loan must be disclosed within 24 hours of receipt. (NYCRR 6200.2(g)). All 24 hour notices apply to all primary and general elections and must be received within 24 hours of receipt of the contribution or loan. Any contribution or loan for which a 24 hour notice has been submitted must also be disclosed in the post-election campaign financial disclosure report.

(F) Matchable Fund Claims.

- (1) Authorized political committees have the option to file Friday, by 1 pm, eastern standard time, weekly matchable fund claims, in a manner prescribed by the Board, in order that matching funds may be paid at the earliest date allowable.
- (2) Participants shall claim to the Board all contributions, in an electronic format designated in a manner prescribed by the Board, that are requested to be matched with public funds and shall submit with each applicable matchable fund claim, a matchable fund contribution card at the same time as the electronic submission relative to same.
- (3) A matchable fund claim will be invalidated unless it is complete

(G) Board Review of Disclosure Reports.

- (1) The Board, or its compliance staff, shall review each matching fund claim and each disclosure report filed for compliance and inform the authorized committee of questions concerning: compliance with requirements of Title II and applicable regulations, and qualifications for receiving public matching funds pursuant to Title II of Article 14 of the Election Law.
- (2) The Board, or its compliance staff, shall give each authorized committee an opportunity to respond, in a manner prescribed by the Board, to correct potential violations and provide candidates with an opportunity to address issues identified by the Board regarding matchable fund claims or other eligibility issues for receiving match funds.
- (3) The authorized committee shall correct the violation involving a matchable fund claim and resubmit with the next weekly matching fund claim. The Board shall not be

precluded from subsequently reviewing such matchable fund claims and taking any action otherwise authorized in Title II of Article 14 of the Election Law.

- (4) Rejected matching fund claims submitted during the last week such submissions may be made pursuant to section (l) of these regulations may be corrected and subject to payment as may be determined by the Board.
- (5) Contributions that are not itemized in matchable fund claims and disclosure reports filed with the Board shall not be matchable.

(H) Contribution Limits.

Participating candidates shall be subject to the following limits:

- (1) **Primary Election Limit.** No contributor may make and no authorized committee may receive a contribution from any contributor, which is in the aggregate amount greater than:

- (a) Non-Family: in the case of any nomination for Office of the State Comptroller, the product of the total number of enrolled voters in the candidate's party in the state, excluding voters in inactive status, multiplied by \$.005, but not more than \$6,000.

Specifically:

- (i) For a participating candidate on the Democratic Party line, the limit is \$6000.
 - (ii) For a participating candidate on the Republican Party line, the limit is \$6000.
 - (iii) For a participating candidate on the Conservative Party line, the limit is \$740.
 - (iv) For a participating candidate on the Working Families Party line, the limit is \$217.
 - (v) For a participating candidate on the Independence Party line, the limit is \$2210.
 - (vi) For a participating candidate on the Green Party line, the limit is \$109.
- (b) Family: the maximum amount which may be contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and spouse of such persons shall not exceed an amount equivalent to the product of the number of enrolled voters in the candidates' party in the state, excluding voters in inactive status, multiplied by \$.025. Specifically:
 - (i) For a participating candidate on the Democratic Party line, the limit is \$135,618.
 - (ii) For a participating candidate on the Republican Party line, the limit is \$65,565.

- (iii) For a participating candidate on the Conservative Party line, the limit is \$3,700.
- (iv) For a participating candidate on the Working Families Party line, the limit is \$1,084.
- (v) For a participating candidate on the Independence Party line, the limit is \$11,048.
- (vi) For a participating candidate on the Green Party line, the limit is \$543.

(2) General Election Limit.

- (a) Non-Family: in the case of any election to the Office of the State Comptroller, the limit is \$6,000.
- (b) Family: the maximum amount which may be contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and spouse of such persons shall not exceed an amount equivalent to the product of the number of registered voters in the state, excluding voters in inactive status, multiplied by \$.025. Specifically, \$273,441.

(3) In the case of a participating candidate who has received a contribution that exceeds the limits prior to becoming a participating candidate in the program, the candidate shall either:

- (a) deposit any amount in excess of the contribution limit set pursuant to this regulation, into a segregated account where it shall not be withdrawn for campaign expenditures for any State Comptroller election in the year 2014 , or
- (b) return any amount in excess of the contribution limit set forth in this regulation, by bank check or certified check made out to the contributor. Records of return, including a copy of the check, must be maintained by the authorized committee.

(l) Proof of Compliance.

- (1) Authorized committees shall maintain records of receipts and expenditures for a period of five years pursuant to 14-108 of Article 14 of the Election Law.
- (2) Authorized committees shall obtain and furnish to the Board, or its duly designated representative, any information it may request relating to financial transactions, including but not limited to copies of checks, invoices and bank statements.

- (a) **Generally.** Participating candidates must keep records that enable the Board to verify the accuracy of disclosure statements, substantiate that expenditures were made in furtherance of the campaign, were qualified expenditures, or were permissible post-election expenditures, and confirm any matchable contributions claimed.
- Participating candidates must maintain and may be required to produce originals and copies of checks, bills, or other documentation to verify contributions, expenditures, or other transactions reported in their disclosure statements. Participating candidates shall maintain clear and accurate records sufficient to show an audit trail that demonstrates compliance with Article 14 of the Election Law. The records shall be made and maintained contemporaneously with the transaction record, and maintained and organized in a manner that facilitates expeditious review by the Board. The records maintained for each campaign finance transaction, whether maintained on paper and/or electronically, shall be accurate and, if necessary, modified promptly to ensure continuing accuracy.
- (b) **Deposits.** Participating candidates shall maintain a copy of all deposit slips. Where a bank or depository does not provide itemized deposit slips, candidates shall make a contemporaneous written record of each deposit. Such written record shall indicate the date of the deposit, the sources and the amount of each item deposited, whether each item was a check, money order, or cash, the name and title of the individual who made the deposit and the total amount deposited.
- (c) **Photocopies.** Participating candidates shall maintain a photocopy of each check or other monetary instrument representing a contribution or other monetary receipt.
- (d) **Cash and money orders.** For cash and money orders, participating candidates shall maintain a written record containing the contributor's name, residential address, the amount of the contribution and the authorized committee's name.
- (e) **Credit card contributions.** For credit card contributions, the participating candidate shall maintain a copy of the unique merchant account agreement as well as copies of all merchant account statements, transaction reports. A separate written record shall

include the contributor's name, residential address, credit card account type, and account number.

(f) **Transfers.** Participating candidates shall obtain and maintain all records specified by the Board regarding transfers. Allowable transfers include:

(i) Transfer of money between a party or constituted committee and a participating candidate's authorized committee or

(g) **In kind contributions.** For each in-kind contribution, participating candidates shall maintain a receipt or written record that provides the date(s) the in kind contribution was made, the name and address of the contributor, a detailed description of the goods or services provided, and such further information and/or documentation necessary to show how the value of the contribution was determined.

(h) **Bills.** Participating candidates shall retain a copy of each bill for goods or services provided. Participating candidates shall maintain written documentation showing that a bill has been forgiven. Documentation for goods or services must be contemporaneous with receipt of such goods and services and must provide the date the vendor was retained or the date the goods or services were provided, the vendor's name and address, the amount of the expenditures, and a detailed description of the goods and services provided. If the invoice supplied by the vendor does not meet these requirements, the participating candidate must create an additional contemporaneous record containing the necessary information, and such record must be signed by the vendor and the campaign treasurer or other representative of the campaign. For wages, salaries and consulting fees, candidates must maintain a contemporaneous record, signed and dated by the employee or consultant and the campaign, providing the name and address of the employee or consultant, a detailed description of the services, the amount of the wages, salary or consulting fees, the date(s) on which the work was performed, the period for which the individual was retained, and a detailed breakdown of the numbers of hours worked.

- (i) **Disbursements.** A participating candidate shall record all disbursements made by check. The date, payee name, purpose and number of each check, as well as inter-account transfers, and/or other debits, shall be recorded in the checkbook register.
- (j) **Credit card purchases.** Participating candidates shall maintain a monthly billing statement for each disbursement from a credit card showing vendors underlying the disbursement.
- (k) **Bank records.** Participating candidates shall maintain the following records received from banks and depositories relating to accounts (1) all periodic bank or other statements in chronological order, maintained with related correspondence received with those statements, such as credit and debit memos and contribution checks returned because of insufficient funds and (2) all returned and cancelled disbursement checks.
- (l) **Loans.** The participating candidate shall obtain, maintain and make available to the Board upon its request, written documents: (1) for each loan received, (2) for each loan repayment, and (3) that shows that a loan has been forgiven. The loan agreement shall be contemporaneous and in writing, shall be signed and dated by both parties, and shall provide for all terms and conditions of the loan, including the amount and term of the loan. The participating candidate shall retain copies of loan checks and records of electronic transfers.
- (m) **Subcontracted goods and services.** Participating candidates required to itemize the cost of subcontracted goods and services shall obtain and maintain documentation from the consultant or other person who or which subcontracts, containing all information required to be disclosed pursuant to that rule.
- (n) **Fundraisers.** Participating candidates shall maintain records for all fund-raising events, including all house parties, which shall contain: the date and location of the event; the person(s) and/or organization(s), other than the participating candidate's authorized committee, hosting the event; an itemized listing of all expenses incurred in connection with the event, including all expenses whether or not paid or incurred by the authorized committee; and the contributor name and amount of each

contribution received at or in connection with the event. This subdivision does not apply to activities on an individual's residential premises, including house parties, to the extent that the cost of those activities do not exceed \$500.

(o) **Political Communication.** Pursuant to New York Election Law §14-106, participating candidates shall maintain copies of all political communications.

(p) **Vendors.** In addition to obtaining and keeping contemporaneous documentation (such as bills) for all goods and services provided by vendors, including campaign consultants, attorneys, and employees, when a participating candidate retains or otherwise authorizes a person or entity (including an employee) to provide goods and/or services to the participating candidate, and the participating candidate knows or has reason to believe that the goods and/or services to be provided directly or indirectly by this vendor will exceed \$1,000 in value during the campaign, the participating candidate shall:

(i) keep a copy of the contemporaneously written contract with the vendor, which shall, at a minimum, provide the name and address of the vendor, be signed and dated by both parties, state the terms of the contract including the terms of payment and a detailed description of the goods and/or services to be provided, and shall include, if the contract was at any time amended, a contemporaneously written contract amendment, signed and dated by both parties and describing in detail the changes to the terms and conditions of the contract, or

(ii) if no contemporaneously written contract has been entered into, keep a contemporaneously written record that includes the date the vendor is retained or otherwise authorized by the participating candidate, the name and address of the vendor, and the terms of the agreement or understanding between the participating candidate and the vendor including the terms of payment and a detailed description of the goods and/or services the vendor is expected to provide. If the agreement or understanding was at any time amended, the candidate shall create and maintain a contemporaneously written record

describing in detail the changes to the terms and conditions of the agreement or understanding.

- (iii) In addition to the records to be kept pursuant to subparagraphs (i) or (ii) above, the participating candidate shall keep evidence sufficient to demonstrate that the work described in the contract was in fact performed and completed. Such evidence may include samples or copies of work product, emails, time records, phone records, and photographs or other documentary evidence. Where such evidence is nonexistent or unavailable, the participating candidate shall maintain affidavits signed by the vendor and either the participating candidate, treasurer, or other campaign representative having first-hand knowledge, describing the goods or services provided and the reason(s) why documentary evidence is nonexistent or unavailable.
- (q) **Travel.** Participating candidates shall obtain and maintain originals and copies of all checks, bills, or other documentation to verify campaign-related travel transactions reported in disclosure statements. In addition to the above, for all travel, participating candidates shall create and maintain a contemporaneous record describing the campaign-related purpose of the travel, the complete travel itinerary, the dates of the travel, and the names of all individuals who participated in the travel. For travel by private car, participating candidates must create and maintain a contemporaneous travel log providing, for each trip and each vehicle, the names of the driver and passengers, the date(s) and purpose of each trip, the itinerary, including all the locations of any campaign events and other stops, the beginning and ending mileage, and the total mileage.
- (r) **Intermediary contribution statements.** For each instance in which a participating candidate accepts contributions from an intermediary, including any contributions delivered to a fundraising agent, or receives contributions solicited by an intermediary where such solicitation is known to the participating candidate, the candidate shall maintain a separate written record of the intermediary's name,

residential address, employer and business address as well as the names of the contributors and the amounts contributed.

(J) Payments of Matching Funds.

- (1) No matching funds shall be paid to an authorized committee unless the Board, or its duly designated representatives, determines that the participating candidate has met the eligibility requirements in section d of this regulation.
- (2) Payments may be made only to a participating candidate's authorized committee.
- (3) Payments shall be used as reimbursement or payment for qualified campaign expenditures actually and lawfully incurred or to repay loans used to pay qualified campaign expenses.
- (4) Payments shall be made in accordance with Title II of Article 14 of the Election Law, and shall not exceed the following amounts:
 - (a) Calculation of Payment.
 - (i) If the threshold for eligibility is met, the participating candidate's authorized committee shall receive payment for qualified campaign expenditures of six dollars of matching funds for each one dollar of matchable contributions, for the first \$175 of eligible private funds per contributor. Such contributions must be reported to the Board as prescribed in this regulation.
- (5) Matching funds will not be paid to a participating candidate who has been disqualified or whose designating petitions or nominating certificates have been declared invalid by the Board or a court of competent jurisdiction until and unless such finding is reversed by a higher court in a final judgment.
 - (a) Matching funds in the possession of a participating candidate on the date of disqualification or invalidation may not be expended for any purpose except the payment of liabilities incurred before such date.

All such moneys shall be repaid to the fund.

(K) Limits on Matching Financing.

The following limitations apply to the total amounts of matching funds that may be provided to a participating candidate's authorized committee for this program:

- (1) In a primary election, receipt of matching funds by participating candidates in the program shall not exceed the sum of \$4,000,000.
- (2) In any general election, receipt of matching funds by participating candidates in the program shall not exceed \$4,000,000.
- (3) No participating candidate in the program who is not opposed by a candidate on the ballot in a primary election shall be entitled to a payment of matching funds.
 - (a) Except that, where there is a contest in such primary election for the nomination on either the Republican or Democratic party line, a participating candidate who is unopposed in the primary election may receive matching funds before the primary election, for expenses incurred on or before the date of such primary election, in an amount up to \$2,000,000.

(L) Timing of Payment.

- (1) The Board, or the Co-Executive Directors, shall cause to be made a payment of matching funds to participating candidates as soon as practicable. The Board must verify eligibility for matching funds within four days of receiving a matchable fund claim filed in compliance with section 14-104 of Title II of Article 14 of the Election Law.
 - (a) The authorized committee must indicate which contributions they claim matchable funds for and the amount of matching funds they are requesting by submitting a complete matchable fund claim by 1 pm eastern standard time on the matchable fund claim on dates to be which will be prescribed by the Board.
 - (b) The authorized committee must provide background documentation in the form of a fully complete contribution card with each contribution reported no later than 1 pm, eastern standard time, at the same time the matchable fund claim is submitted.
 - (c) The amount paid to a participant shall be based upon the Board's review and audit of matchable fund claims and qualified campaign expenditures.
- (2) No later than two days of determining eligibility, the Board shall pay matching funds owed to the participating candidate.

- (3) Each authorized committee must ensure their bank account can accept electronic fund transfers and must provide the applicable information to the Board in a manner prescribed by the Board for such transfers.
- (4) If payments are required on a weekend or federal holiday, payment shall be made on the next business day.
- (5) The Board, or its Co-Executive Directors, shall submit the voucher for payment to cause the transfer of funds via Electronic Funds Transfers directly from the fund into the authorized committee's bank account.
- (6) No matching funds shall be paid to any participating candidates in a primary election any earlier than thirty (30) days after designating petitions or certificates of nomination shall have been filed and not less than forty-five days before such election. The Board will prescribe, and post it on its website, a notice detailing when matching fund claims are to be submitted to the Board for the primary election.
- (7) No matching funds shall be paid to any participating candidates in a general election any earlier than the day after primary day which is September 10, 2014. The Board will prescribe, and post it on its website, a notice detailing when matching fund claims are to be submitted to the Board for the general election.
- (8) For each contribution of \$500 or more, such authorized committee must report to the Board: the occupation, and business address of each contributor, lender and intermediary in a manner prescribed by the Board. Such disclosure is to be reported in the same manner as any other contribution or loan on the next applicable report.
- (9) Each contribution or loan received in excess of \$1000 shall be disclosed electronically to the Board, in a manner prescribed by the Board, within 48 hours of receipt of such contribution or loan. Any contribution or loan for which a 48 hour notice has been submitted must also be disclosed in the next applicable campaign financial disclosure report.
 - (a) **24 hour notice.** A 24 hour notice is a required disclosure, which is used to report any contribution or loan over \$1,000 received the day after the cut-off date of the 11-day pre-election report up to election day. Such contribution or loan must be disclosed

within 24 hours of receipt. (NYCRR 6200.2(g)). All 24 hour notices apply to all primary and general elections and must be received within 24 hours of receipt of the contribution or loan. Any contribution or loan for which a 24 hour notice has been submitted must also be disclosed in the applicable post-election campaign financial disclosure report.

(M) Limitations on the Use of Matching Funds.

Matchable funds may not be used for:

- (1) An expenditure in violation of any law.
- (2) An expenditure in excess of the fair market value of services, materials, facilities or other things of value received in exchange.
- (3) An expense incurred after the candidate has been definitively disqualified from the ballot.
- (4) An expense incurred after the only remaining opponent of the candidate has been definitively disqualified from the general election ballot.
- (5) An expenditure made by cash payment.
- (6) A contribution or loan or transfer made to or expenditure made to support another candidate or political committee or party, committee or constituted committee.
- (7) An expenditure to exclusively support or oppose a candidate for an office other than that which the participating candidate seeks.
- (8) Gifts, except brochures, buttons, signs and other printed campaign material.
- (9) Legal fees to defend against a formal criminal charge.
- (10) Payments to immediate family members of the participating candidate.
- (11) Any expenditure made to challenge the validity of any petition of designation or nomination or any certificate of nomination, acceptance, authorization, declination or substitution.

(N) Funds that are not matchable.

The Board, or its Co-Executive Directors, shall not make payment for any matchable fund claim it determines or anticipates to be invalid. The Board, or its duly designated

representatives, shall consider the following factors in determining that matchable fund claims are invalid and in projecting a rate of invalid matchable fund claims:

(1) Contributions that are not itemized in reports filed with the Board.

(2) Loans.

A loan must be repaid by the date of the election, November 4, 2014, or else the loan, guarantee or other security for a loan will be considered a contribution subject to contribution limits under Article 14 of the Election Law.

(a) A loan not made in the regular course of the lender's business shall be deemed, to the extent not repaid to the lender by the date of the election, a contribution by the lender.

(b) A loan made in the regular course of the lender's business shall not be deemed to be a loan on the date of the election, November 9, 2014.

(3) In-kind contributions of property, goods or services.

(4) Contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value.

(5) Transfer from a party or constituted committee.

(6) Anonymous contributions.

(7) Contributions gathered during a previous election cycle which would be on or before November 3, 2010.

(8) Contributions from persons under eighteen years of age.

(9) Contributions from lobbyists registered pursuant to subdivision (A) of section one-C of the Legislative Law.

(10) illegal contributions.

(11) contributions from vendors for campaigns.

(O) Advisory Opinions.

(1) The Board, or the Board staff, shall render advisory opinions relative to questions regarding Title II of the Election Law upon written request of a candidate, an officer of a political committee or member of the public, within thirty days of the date of receipt.

(2) The Board, or the Board staff, shall publish all questions of interpretation received and all advisory opinions rendered on its webpage.

(3) Identifying information will be redacted as the Board deems appropriate.

(P) Public Information and Candidate Education.

(1) The Board, or the Board staff, shall develop a program to inform candidates and the public of the purpose and effect of the provisions of Title II of Article 14 of the Election Law.

(2) Information will be posted on the Board's webpage, in plain language. Information will include, at a minimum, a copy of Title II of Article 14 of the Election Law, a summary of the provisions of Title II, certification forms, recordkeeping requirements and other educational information developed for the program.

(Q) Audits and Repayments.

(1) **Audits.**

(a) The Board, or the Board staff shall audit each participating candidate's records no later than six months after the election. A final report will be issued to each campaign, detailing the Board's findings.

(b) The cost of the post-election audit shall be paid by the participating candidate's authorized committee using matching funds, private funds or a combination of funds.

(c) Participating candidates in both a primary and general election must maintain a 3% reserve of matching funds for post-election audit purposes.

(2) **Repayments.**

(a) If the Board, or the Board staff, determines a payment was made to the candidate's authorized committee and it was in excess of the aggregate amount of eligible payments that the candidate was entitled to, the Board will notify the committee and the committee must pay the Board an amount equal to the excess payment.

(b) If an error by the Board, or its Co-Executive Directors, resulted in the excess payment, the Board, or the Board staff, will notify the committee and deduct the amount of excess payment from the next future payment. In the event there is no

- future payment, then neither the candidate nor the committee shall be required to repay the excess payment to the Board.
- (c) If the Board, or the Board staff, determines that a portion of the payment of matching funds was used for purposes other than qualified campaign expenditures, the Board will notify the committee of the amount disqualified and the committee must pay the Board an amount equal to the disqualified amount.
 - (d) If the total payments of matching funds paid to a participating candidate exceed the total campaign expenditures of the committee, such candidate and committee must repay the Board any excess funds no later than 27 days after all liabilities have been paid but not later than the day the Board issues its final audit report for the participating committee or candidate.
 - (i) If a participating candidate has been found to knowingly delay the post-election audit, it must immediately repay unspent matching funds.
 - (ii) A participating candidate may make post-election expenditures with matching funds for routine activities involving nominal cost associates with closing a campaign and responding to the post-election audit. Such funds cannot be expended on liabilities incurred before the election.
 - (e) Notwithstanding repayment to the Board, the campaign may make post-election expenditures with public funds only for routine activity of nominal cost associated with winding up the campaign.
 - (f) All determinations by the Board, or its Co-Executive Directors, of eligibility and payment are subject to post-payment audit and final readjustment.
 - (g) The participating candidate, treasurer and authorized committees are jointly and severably liable for any repayments to the Board.
 - (h) Participating Candidates and their respective authorized committee are not prevented from using private campaign contributions for otherwise lawful expenditures.

(R) Debates.

(1) The Board, or the Board staff, shall facilitate debates among participating candidates. Participating candidates are required to participate in at least one debate before each election for which the participating candidate receives matching funds, unless the participating candidate is unopposed.

(2) Non-participating candidates may participate in the debates.

(S) *New York State Campaign Finance Fund and Electronic Fund Transfer.*

(1) The Board, or its Co-Executive Directors, shall certify the amount of qualified matching funds to be paid by the Office of the State Comptroller to a participating candidate.

(2) As often as necessary, the Co-chairs of the State Board of Elections, the Co-Executive Directors, shall certify the amount necessary to fund estimated payments for the primary and general election.

Applicability: This regulation shall be deemed to be repealed on December 31, 2014.