

Chapter 8: Post-Election Public Funds Payments

§ 8-01 Payment Determinations.

(a) Candidates who fail to demonstrate compliance with the Act and these rules, including candidates who satisfy one or more criteria for ineligibility as provided in 52 RCNY § 3-01(d), are not eligible to receive a post-election public funds payment.

(b) Candidates have the burden of demonstrating eligibility to retain public funds received prior to the election and to receive additional public funds after the election. Candidates who fail to demonstrate eligibility to retain all or a portion of the public funds previously received may be required to repay such amount to the Fund.

(c) A candidate's post-election payment, if any, will be reduced by the amount of any applicable deductions pursuant to 52 RCNY § 7-07(a), if such amounts were not deducted from pre-election public funds payments.

(d) The post-election payment, repayment, or nonpayment determination shall be the final determination regarding that candidate's public funds payment status, except as provided in 52 RCNY § 8-05.

(Added City Record 8/16/2019, eff. 9/15/2019)

§ 8-02 Amount of Post-Election Payment.

(a) *Reasons for post-election payment.* A post-election payment shall only be made if, at the conclusion of the post-election audit, a candidate has demonstrated unpaid matching claims, a qualified expenditure surplus, and documented outstanding liabilities.

(i) *Unpaid matching claims.* Candidates may be entitled to receive a post-election payment equal to the amount by which the candidate's total valid matchable claims multiplied by the applicable matching rate pursuant to § 3-705 (2)(a) of the Code exceed the total pre-election payments received by the candidate.

(ii) *Qualified expenditure surplus.* Candidates may be entitled to receive a post-election payment equal to the amount by which the candidate's total qualified expenditures exceed the total pre-election payments received by the candidate.

(iii) *Documented outstanding liabilities.* Candidates may be entitled to receive a post-election payment equal to the amount of the candidate's properly reported and documented liabilities that remain outstanding, less the amount remaining in the candidate's principal committee bank account.

(A) Prior to issuing a post-election payment, the Board may require the candidate to submit any bank statements not previously provided.

(B) In order to be the basis for a post-election payment, an outstanding liability must be reported on or before the due date for the final disclosure statement required to be submitted for the covered election to which the liability relates.

(C) To document an outstanding liability for the purpose of receiving a post-election payment, the candidate must provide documentation demonstrating that the reported payee has made a commercially reasonable attempt to collect the debt.

(iv) *Post-election payment is smallest amount.* The amount of the post-election payment shall be the lowest of the three amounts detailed in paragraphs (i), (ii), and (iii) of this subdivision. If any of these amounts is zero, the candidate is not entitled to receive a post-election public funds payment.

(b) *Statutory maximum.* Combined with the total pre-election payments received by the candidate, the post-election payment shall not exceed the maximum payment allowed for each election in which the candidate was a participant pursuant to § 3-705 (2)(b) of the Code.

(Added City Record 8/16/2019, eff. 9/15/2019)

§ 8-03 Use of Final Post-Election Payment.

Before the Board makes the final post-election payment determination, if eligible, the candidate must submit to the Board bills or other documentation of outstanding debt for which such payment will be used. Within 60 days after the final public funds payment, the candidate must demonstrate that the public funds were used to pay such outstanding debt. If such demonstration is not made, the candidate must repay the public funds to the Board.

(Added City Record 8/16/2019, eff. 9/15/2019)

§ 8-04 Disclosure Statement Amendments.

The Board shall not make payments based on disclosure statement amendments filed after January 15 in the year following the year of the election; provided, however, that the Board may make payments based upon such amendments solely if they are made in response to invalid matching claims reports or expenditure sample reports to which the Board has requested a response after January 15 in the year following the year of the election.

(Added City Record 8/16/2019, eff. 9/15/2019)

§ 8-05 Post-Election Petitions for Review.

(a) After the Board provides a candidate a written determination specifying the basis for payment or non-payment of public funds after the election, the candidate may petition the Board in writing for reconsideration of such determination.

(b) A petition for review of a post-election payment determination must be submitted within 30 days of the candidate's final audit report, and must include:

- (i) a statement of the grounds for reconsideration;
- (ii) information or documentation that was unavailable to the Board previously and is material to such determination;
- (iii) a showing that the candidate had good cause for the previous failure to provide such information or documentation; and
- (iv) either a request to appear before the Board concerning the petition or a statement that the candidate waives such candidate's right to appear.

(c) The Board shall timely issue a written determination on the subject of the petition. If the petition is denied, the determination shall inform the candidate of the right to appeal such determination pursuant to Article 78 of the Civil Practice Law and Rules.

(Added City Record 8/16/2019, eff. 9/15/2019)