Resolution No.: 18-270
Introduced: October 6, 2015
Adopted: October 6, 2015

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: County Council

SUBJECT: Approval of Executive Regulation 12-15, Public Election Fund

Background

1. On June 29, 2015, the County Council received Executive Regulation 12-15, Public Election Fund. The proposed regulation would implement Bill 16-14, Elections – Public Campaign Financing which established a local program to provide public campaign financing to a candidate for a County elective office.

2. The Council reviewed the regulation under Method (1). Under Method (1), the regulation is not adopted until the Council approves it. If the Council approves the regulation, the regulation takes effect upon adoption of the resolution approving it or on a later date specified in the regulation.

3. On September 24, 2015, the Government Operations and Fiscal Policy Committee reviewed the proposed regulation and recommended approval.

Action

The County Council for Montgomery County Maryland approves the following resolution:

Executive Regulation 12-15, Public Election Fund is approved.

This is a correct copy of Council action.

Linda M. Lauer

Linda M. Lauer, Clerk of the Council

MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Public Election Fund	**Number** 12-15
Originating Department Department of Finance	**Effective Date** October 6, 2015

Montgomery County Regulation on:

PUBLIC ELECTION FUND

DEPARTMENT OF FINANCE

Issued by: County Executive
Regulation No. 12-15

Authority: Montgomery County Code, Chapter 16, Section 16-21
Council Review: Method (1) under Code Section 2A-15
Register Vol. 32, Issue 5

COMCOR No. 16.21.01

Comment Deadline: May 31, 2015
Effective Date: October 6, 2015
Sunset Date: None

SUMMARY: This regulation establishes the procedure to administer and implement the Public Election Fund pursuant to adoption of Bill 16-14 and specifies (1) how and when receipts for qualifying contributions from contributors must be submitted to the Board of Elections; (2) the documents that must be filed with the Board of Elections for certification; (3) the allowable uses of money in a publicly funded campaign account; and (4) other policies necessary to implement Article IV, Public Campaign Financing.

ADDRESS: Written comments on this regulation should be sent to:

Robert Hagedoorn, Chief
Division of Fiscal Management
Department of Finance
101 Monroe Street, 15th Floor
Rockville, MD 20850

STAFF CONTACT: For further information or to obtain a copy of this regulation, please contact David Crow at (240) 777-8859

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Subject Public Election Fund	**Number** 12-15
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Sec. 1. Regulation

Section I: General Provisions

A. Authority. In accordance with the authority conferred under Chapter 16, Article IV, Public Campaign Financing of the Montgomery County Code, the County Executive hereby promulgates this regulation to administer and implement the Public Election Fund ("Fund") in Montgomery County, Maryland.
B. Applicability. The Fund provides public campaign financing to a candidate for a County elective office. The legislation establishing the Fund regulates certain campaign finance activity of a candidate for County elective office who voluntarily accepts public campaign financing; authorizes the Maryland State Board of Elections ("Board") to administer and enforce the public campaign financing system; and provides for penalties for violations of the public campaign financing system.

Section II. Definitions

For purposes of this regulation, the following words and phrases have the following meanings unless the context clearly indicated otherwise:

A. Distribution period is the period during which the County distributes a public contribution from the Fund to a certified candidate, and begins 365 days before the primary election and ends 15 days after the date of the general election.
B. Interest on distributions returned to the Fund must be computed using the prime lending rate as of January 1 in the year in which the distribution is repaid to the Fund. The prime lending rate is published by the Federal Reserve Board and is the rate posted by a majority of top 25 insured U.S. chartered commercial banks.
C. Notification period is the period during which the Board may notify the Director that a distribution must be made from the Fund to an eligible candidate, and begins 365 days before the primary election and ends 5 days after the general election.
D. Public Election Fund is administered by the Director of Finance ("Director").
E. Qualifying period is the period during which candidates may submit Receipts to become a certified candidate, and begins on January 1 following the last election and ends 45 days before the date of the primary election. Receipts must be submitted to the Board with any regularly scheduled campaign finance report or may be submitted to the Board on the first and third Tuesday of each month during the Qualifying period.
F. Receipts ("Receipts") are a documented acknowledgment of a contribution that must identify the full name of the candidate for a County elective office, the contributor's name and residential property

address in Montgomery County, Maryland, amount of the contribution, date of receipt, and be signed by the contributor directly or by a digital signature using a method approved by the Board.

G. Receipts submission period is the period during which certified candidates may submit receipts for qualifying contributions to receive public contributions from the Fund, and begins 365 days before the primary election and ends the date of either the primary election or the general election. Receipts must be submitted to the Board with any regularly scheduled campaign finance report or may be submitted to the Board on the first and third Tuesday of each month during the Receipts submission period.

Section III. How and When Receipts Must be Submitted

A. Receipts for qualifying contributions from contributors must be submitted to the Board.
B. Receipts must be submitted with a summary sheet made available by the Board that lists each receipt by contributor name, property address of the contributor, date of receipt, and amount of the contribution. The summary sheet must show the name of the candidate, elective office, date of submission to the Board, and both total number and total amount of Receipts.
C. Receipts and accompanying summary sheet may be submitted either in person or by certified mail.
D. To qualify as a certified candidate, the submission of Receipts must show a sufficient number and aggregate amount of qualifying contributions based on the formula for the respective County elective office: County Executive and either At-Large or District County Councilmember.
E. To qualify as a certified candidate, Receipts must be submitted during the qualifying period.
F. For certified candidates, Receipts may only be submitted during the receipts submission period which begins 365 days before the primary election and ends the date of either the primary or the general election.

Section IV. Documents for Certification

A. All documents to determine certification of a participating candidate for a County elective office must be filed with the Board.
B. Receipts must be the original signed documented acknowledgement of a contribution.

Section V. Allowable Uses of Money

A. The allowable uses of money in a publicly funded campaign account are limited to expenses directly related to election campaign related activities and incurred during the specific time period for either the primary or general election.
B. Expenses incurred prior to the time that the candidate was certified by the Board as a participating candidate, are not permissible and therefore not allowable uses of public funds.

C. Prohibited expenses of public campaign funds include, but are not limited to, personal use or expenses related to holding office; paying for a personal endorsement; and paying late filing fees.

D. Prohibited expenses include contributions to current or future candidates for any elective office different than the one the participating candidate is currently seeking, and contributions to any entity or organization, such as a political party.

E. Under all circumstances pertaining to questions and disputes of permissible campaign expenditures, the Board determines which expenses are permissible and which expenses are not permissible, and that determination is final.

F. Upon the Board's determination that an expense is not permissible for campaign financing, the prohibited expense may not be paid by the participating candidate from the public campaign fund and, if already made, the public campaign fund must be repaid within 10 business days from the date of notification by the Board.

G. The participating candidate must submit documentation to the Board within 15 business days from the date of notification that the prohibited expense was repaid to the public campaign fund within the time required.

H. As a final remedy, if the prohibited expense is not repaid to the public campaign fund within the required time, the Board shall notify the Director that, until further notice from the Board, no distributions from the Fund will be made to the participating candidate.

I. If the Board's decision regarding the prohibited expense is not accepted by the participating candidate and the public campaign fund is not repaid in full for the prohibited expense, the participating candidate must be de-certified by the Board as a participating candidate and all distributions made during either the primary or general election from the Fund must be repaid by the participating candidate within 30 days of notification by the Board.

J. If, after de-certification of the participating candidate, the repayment of all distributions to the Fund is not made within 30 days of notification by the Board, the delinquency accrues interest charges as of the date of notification by the Board.

Section VI. Other Policies

A. Distributions from the Fund will be made only during the distribution period which begins 365 days before the primary election and ends 15 days after the date of the general election.

B. The Board must notify the Director within 5 business days from the date that the Board determines that a participating candidate is no longer in a contested election due to the other candidate or all other candidates withdrawing from the election.

C. A participating candidate who withdraws from an election, must repay to the Director all distributions from the Fund received during the election cycle plus interest computed from the date of the distribution(s).

D. If a participating candidate is no longer in a contested election, no further distributions to the participating candidate from the Fund can be made starting with the date the Board determined that there is no longer a contested election for that County elective office for either the primary or general election. Any distribution from the Fund that was made for a contribution after the Board determined that the election is no longer contested, must be repaid by the participating candidate to the Director.

E. Within 30 days after the County Board certifies the results of the general election, a participating candidate must repay to the Fund any unspent money in the candidate's publicly funded campaign account. If a candidate does not repay the unspent money to the Fund as specified, the delinquency accrues interest charges from the date the County Board certified the results of the general election.

F. If a participating candidate seeks a County elective office different from the one the candidate was certified for during the same election cycle, that candidate must withdraw from the election, must repay to the Director all distributions from the Fund received during the election cycle plus interest computed from the date of the distribution(s), and apply for certification by the Board for the new County elective office. The Board's previously approved contributions for the County elective office from which the candidate has withdrawn can be used towards the certification for the new County elective office.

G. The Board must determine the amount of a public contribution that each participating candidate is eligible for, based on the amount reflected on the Receipts as presented to the Board and the formula for the respective County elective office: County Executive and either At-Large or District County Councilmember.

H. The Board must compute and authorize the amount of public contribution, notify the Director of the amount of public contribution for each participating candidate in writing, and the Director must process the authorized public contributions and deposit the amount into a participating candidate's publicly funded campaign account within 3 business days from the date the Director receives notification that the Board authorized the public contribution if there are sufficient funds in the Fund for a full distribution.

I. If the Director determines that there are insufficient funds in the Fund for the full distribution authorized by the Board, the Director must deposit the adjusted amount of authorized public contributions into a participating candidate's publicly funded campaign account within 5 business days from the date the Director receives notification that the Board authorized the public contribution.

J. Payments will be made as direct deposit to the candidate's bank checking account through Automated Clearing House (ACH) and all candidates must furnish certain banking information to the Director at the time of filing notice of intent with the Board.

K. The Director must process all authorized public contributions by date and in the order of the earliest date first to the latest date last and based on the date they were authorized by the Board. After the Director processed and deposited all authorized public contributions for the earliest date, the Director must process and deposit all authorized public contributions for any subsequent date authorized by the Board.

L. The Board must not authorize the Director to distribute a public contribution from the Fund to a participating candidate that in aggregate would exceed the public contribution limit for either a primary or general election for that County elective office as authorized in Bill 16-14.

M. In the event that the Board authorized and the Director distributed a public contribution that exceeded the public contribution limit for that County elective office, the Board must notify the participating candidate within 5 business days from the date of that determination in writing, and the participating candidate must repay the Fund within 5 business days from the date of the notification letter.

N. If, after notification by the Board to the participating candidate of an erroneous public contribution, the amount is not repaid to the Fund within 5 business days, the delinquency accrues interest charges as of the date of notification by the Board.

O. If the Director determined that the amount of the Fund is insufficient to distribute the public contributions authorized by the Board for that date, each public contribution to a participating candidate must be reduced by the same percentage of the total public contribution authorized by the Board on that date.

P. After the Director determines that the Fund is insufficient to distribute any or all public contributions authorized by the Board, no subsequent claim may be made by a participating candidate based on a public contribution authorized by the Board on a date prior to the determination of Fund insufficiency but not received by the Director until after the date of determination of Fund insufficiency.

Q. If the Director determined that the Fund has a zero balance, the Director must notify the County Executive, County Council President, and Board within 3 business days from the date of that determination.

R. If the Director determined that the Fund has a zero balance but the Board determined that the public contribution limits for the respective County elective offices have not been reached, the Board may continue to authorize public contributions and notify the Director, and the Director must hold these authorized public contribution notifications until such time that the Fund has a balance greater than zero. At such time, the Director must process authorized public contributions in the following order: (1) in the event that a portion of previously authorized public contributions was not paid due to insufficient funds, and (2) authorized public contributions that were held must be processed by date and in the order of the earliest date first to the latest date last and based on the date they were authorized by the Board.

S. If the Director determined that the Fund has a zero balance on the day following the end of the Distribution period, but holds authorized public contributions that were not processed due to insufficient funds, the Director must notify the Board detailing the amounts not paid by date authorized and by candidate.

T. The Board, upon notification from the Director that certain authorized public contributions have not and will not be remitted to the public campaign funds and that the distribution period is closed, must notify the participating candidate(s) within 10 business days from the date of notification from the Director in writing.

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Sec. 2. Severability

If a court holds that a portion of this regulation is invalid, the other portions remain in effect.

Sec. 3. Effective Date

This regulation takes effect upon approval by the County Council.

Isiah Leggett,
County Executive

Approved as to Form and Legality
Office of the County Attorney

By: _____

Date: 6-25-15