**Portland Elections Commission Meeting Minutes**

*March 15, 2023*

**PEC members present:** Amy Sample Ward, Cristina Nieves, Jenny Lee, Anahi Segovia Rodriguez, Sabra Purifoy, Amy Ruiz. **PEC members absent:** Norman Turrill, Berk Nelson, Courtney Veronneau. **SDE staff present**: Director Susan Mottet and Deputy Director Daniel Lewkow. **Public present:** Carol Cushman, League of Women Voters of Portland.

* 7:05-7:10 - Housekeeping
  + February minutes

The PEC’s February meeting minutes were unanimously approved by members present.

* 7:10-7:30 - Program update
  + User research update
  + Audit update
  + Amendments to align Code with Charter update
  + Budget update

Small Donor Elections staff has started to collect user research data about the program’s performance in the 2022 election. Staff has sent out two surveys: one for campaign staff and candidates, and the other for donors to 2022 candidates. Early initial results have started to roll in, and SDE staff will provide a snapshot later on in this meeting.

With the 2022 audit, Director Mottet asked the current Auditor for guidance on best auditing practices. But Auditor Rede declined to provide her staff for guidance based on the desire to be independent. However the Auditor did offer to refer SDE program staff to a third-party audit vendor. Director Mottet approached the City’s Office and Management and Finance to ask if the program staff could receive guidance from an OMF comptroller, as this was more cost-effective and efficient. The OMF comptroller did give suggestions on SDE’s audit process. Since it takes a long time to finish the audit, the results of the internal audit will be shared with the public later in the year as an addendum to the PEC report.

On the amendments to align the SDE code with the charter reform measure, the PEC subcommittee that’s engaged in these discussions has outlined a series of provisions to protect the program from political interference, including limiting the City Council’s hiring/firing power and preventing an elected official from directing program determinations. The PEC subcommittee sent those recommendations to Commissioner Carmen Rubio, asking her office to include the changes in the code amendment that the Council is already considering. SDE staff is waiting to hear back from Commissioner Rubio with thoughts on the recommendations, which is necessary before getting a date that the City Council will vote on the full amendment package.

For the upcoming budget process, the Mayor’s office has sent memo to every bureau/office, asking them to note request more than their CAL (Current Appropriation Level) Target. For the SDE program that would amount to a budget request for $1.4 million. But the program needs $4 million to account for the larger number of candidates expected to run in the 2024 election. There is also a memo on the Spring BMP budget allocation stating that office should not ask for more funding. But SDE staff confirmed that there is $2 million available for the Spring BMP process. Director Mottet asked Commissioner Rubio to request a portion of those funds. But if the program does not receive additional funds, it risks catastrophic underfunding, which could be devastating to candidates who plan to participate in the program. Chair Sample Ward: can we note this in the upcoming PEC report? Director Mottet: Yes we can include that.

* 7:30-7:45 - Program Housing
  + IGA/Protections

No movement on IGA since last month. Trying to get moved to CAO with protections.

Last month, Director Mottet updated the PEC about a possible Intergovernmental Agreement with Multnomah County to administer the program in the upcoming elections and avoid any conflicts of interest that may stem from a city commissioner both running the program and running under it as a candidate. There has been no movement on this possible option. Commissioner Rubio’s Office has shared that the program will likely instead be moved under the City’s Chief Administrative Officer, who does ultimately answer to the commissioners running under the program. So that is another reason why SDE staff and the PEC subcommittee have been advocating for increased protections from political interference.

* 7:45-8:05 - PEC Program Evaluation
  + PEC report review/feedback
  + Contract with subject matter expert org on reviewing penalties/hearings

The PEC report on the 2022 election has been partially drafted, and is ready for PEC members to review and give feedback. Director Mottet offered to put the draft into a Google Doc, so that PEC members can add their edits in an easily-tracked manner. Director Mottet also asked if several PEC members can help lead the review process. Chair Sample Ward and Commissioner Purifoy volunteered. The goal would be to have the final draft ready for review for the April PEC meeting.

In the draft so far, staff added a few new sections on the Charter changes (such as aligning the Code to the Charter and the Independent Portland Elections Commission amendment that voters will consider in the next election, the fiscal situation, and the continued impact from the coronavirus pandemic. Staff will add a comparison between the 2018 and 2022 giving patterns, a proportion of the matching funds to the rest of the funds that a candidate benefits from (including independent expenditures), and a section on the impact of IEs in the races.

User research summary

Director Mottet provided the overview of the user research responses collected so far, with the caveat is still early in the process and staff expects the data to change as more results come in.

* Still collecting donor research
  + Most remember program from last election, but 32% of respondents said they learned about it from candidates
  + 82% think the program is achieving at least one goal: reducing barrier for everyday people to run for office. 57% say it does not make a difference to their vote if candidate participates. 30% never had donated to a candidate before.
* Campaign/treasurer survey
  + Only have 6 responses right now as of Mar 15
  + A few think the program is ineffective to meeting goals
  + Chair Sample Ward: we might have more lower ratings moving forward, because more candidates sign up, and thus more of them lose—and look to blame or critique the program.

On the process to review the 2022 election penalty decisions, a PEC subcommittee met to discuss how the PEC will not be able to directly hire an outside law firm to conduct the review—as originally planned. But it can hire a subject matter expert like the Brennan Center for Justice or the Campaign Legal Center to conduct the review, since then it does not need to go through an approval process run by the City Attorney’s Office. And these organizations also have attorneys on staff who can inform the review itself. The scope of the review will include examining the program’s investigatory and penalty assessment process and navigating the legal challenges, and research about how other jurisdictions with public financing programs conduct their processes.

* 8:05-8:30-Rule changes to consider

The PEC considered a number of potential changes identified by staff, as well as by the PEC subcommittee that examined how to change the Code to align with the Charter reforms. The below items were up for a preliminary discussion instead of a vote.

Allow program to withhold matching funds to campaigns that do not provide documents in required timeframe

* Commissioners Purifoy, Sample Ward, and Nieves supports

Allow campaigns to buy tickets to other campaign events

* Commissioner Purifoy supports. Chair Sample Ward is supportive but would like more information about how this would work. Commissioner Nieves asked for information on how other programs navigate this.

Parties appealing a program’s penalty decision must preserve arguments for appeal in the Request for Reconsideration and appeal form

* Chair Sample Ward: would this help ensure that both sides have to preserve those arguments, because we don’t want to look like the program is stacking the deck to win appeals. Director Mottet: we could clarify that this applies to all parties.
* Commissioners Purifoy, Segovia Rodriguez, and Nieves support. Chair Sample Ward supports and asks for language in the next PEC meeting to consider.

Prohibit using city matching funds for self-dealing: no spending money on own business—exception for reimbursing business for actual cost of legitimate campaign expenses.

* Director Mottet: should we allow candidates to use matching funds to reimburse for using their regular office as a campaign office, or using a venue for events? Use office as campaign office, use venue for events? Perhaps if a business charges a third party for such a service, it would then need to charge the campaign the same amount to stay within fair market value. Should we just prevent them from using matching funds for these purposes, or also using private funds?
* PEC members will continue to evaluate language around this provision
* Commissioners Purifoy and Sample Ward both preliminarily supported this provision

Director Mottet asked whether the PEC should hold off on recommending changing the match rate from 9:1 on $20 to 10:1 on $25 until the program knows more about the future funding level.

* Commissioners Purifoy and Sample Ward both support this plan.
* Chair Sample Ward: but we should signal that we’ve thought about this recommendation and deliberated at length, utilizing extensive data
* Commissioner Nieves: we should develop an internal option for what happens if the program is in deficit