

2019 GUIDANCE FROM THE ALBUQUERQUE CITY CLERK FOR THE USE OF THE CLEAN CAMPAIGN PORTAL

PURPOSE: The City Clerk has established an online service, the Clean Campaign Portal (“CCP”), for members of the public to make Qualifying Contributions in support of candidates seeking Open and Ethical Election Code (“OEEC”) funding. The purpose of this guidance is to provide guidelines for candidates’ use of the CCP. All candidates using the CCP must abide by the guidance herein and any amendments thereto.

AUTHORITY: Section 19 of the OEEC authorizes the City Clerk to adopt rules to insure the effective administration of the OEEC and provide the public with educational materials relating to the provisions of the OEEC.

APPLICABILITY: This guidance applies to all 2019 candidates for the office of City Council who seek to use the CCP, and should be read in combination with the 2019 Regulations for the OEEC and the Election Code.

EFFECTIVE DATE: This guidance shall be effective upon the approval and signature of the City Clerk. The City Clerk shall publish this guidance on the Office of the City Clerk website.

PART A DEFINITIONS

All terms utilized herein shall have the same meaning as defined by the OEEC, unless the guidance specifically notes otherwise. This Part also contains new definitions and clarified definitions for terms contained within the OEEC.

Applicant Candidate: A candidate, but not a write-in candidate, running for City Council, who is seeking to be a Participating Candidate.

Participating Candidate: A candidate for City Council who chooses to obtain financing pursuant to the OEEC and who is certified to participate by the City Clerk.

Person: Any individual, cooperative association, club, corporation, company, firm, partnership, joint venture syndicate, profit or nonprofit organization, or other entity.

Qualifying Contribution: A donation of \$5.00 to the OEEC Fund in support of an Applicant Candidate and given pursuant to the OEEC and the OEEC Regulations. A Qualifying Contribution is not a prohibited Contribution pursuant to Article XIII Section 4 (f) of the City Charter. Qualifying Contributions in the form of checks or money orders shall contain the name of the Applicant Candidate on the face of the check or money order. Qualifying Contributions made via credit or debit card or electronically must be made through the CCP. Applicant Candidates may not accept donations in excess of \$5.00. Credit/debit card processing fees shall be deducted from the candidate’s distribution, or paid by the candidate from seed money. The City Clerk will provide the exact number of Qualifying Contributions needed for qualification as a Participating Candidate to candidates on April 15, 2019, or no later than three (3) working days

after the candidate files his/her Declaration of Intent to Seek Public Financing, whichever date comes later. OEEC §§ 3(P) and 5.

Qualifying Period: The timeframe in which an Applicant Candidate must receive Qualifying Contributions from a minimum of 1% of applicable registered City voters. For the 2019 Election, this timeframe is May 1 to May 31, 2019. See OEEC §§ 3(Q) and 5.

PART B CANDIDATE INCLUSION ON CCP

1. All Applicant Candidates who have filed a Declaration of Intent to Seek Public Financing, have signed the Agreement Regarding Use of the Clean Campaign Portal, and who do not have any outstanding campaign finance compliance issues or fines with the Office of the City Clerk or Board of Ethics, will be included on the CCP, subject to the requirement that all candidates using the CCP must abide by the guidance herein and any amendments thereto.
2. Candidate names and photos will be included on the CCP.
 - a. The name listed must match the name listed on the Applicant Candidate's voter registration at the time of filing the Applicant Candidate's Declaration of Intent to Seek Public Financing.
 - b. Applicant Candidates may submit one (1) photo of the Applicant Candidate to be used on the CCP. Photos must be submitted to mdiemer@cabq.gov by April 29, 2019, or within three (3) days of filing the Applicant Candidate's Declaration of Intent to Seek Public Financing and signing the Agreement Regarding Use of the Clean Campaign Portal, whichever date comes later.

PART C COLLECTION OF QUALIFYING CONTRIBUTIONS WITH CCP

1. **Overview of Process:**
 - a. The CCP is the only allowable method for a candidate to accept electronic Qualifying Contributions. Please note that the CCP is for Qualifying Contributions only and not seed money contributions.
 - b. To make an electronic Qualifying Contribution, the contributor must select the Applicant Candidate the contributor wishes to contribute to, and provide the following information:
 - i. Contributor's first and last name as they appear on the contributor's voter registration;
 - ii. Contributor's date of birth;
 - iii. The last four (4) digits of the contributor's Social Security Number.
 1. The information sought in (i), (ii), and (iii), above, will allow the CCP to verify whether the contributor is a registered voter in the district the Applicant Candidate seeks to represent. If the contributor is not a registered voter in the district the Applicant Candidate seeks to represent, the CCP will not allow the contributor to proceed.

- c. If the contributor is verified as a registered voter in the district the Applicant Candidate seeks to represent, the contributor will proceed to the next page, where the contributor must enter the following information:
 - i. First and last name;
 - ii. Email address;
 - iii. Phone number;
 - iv. The contributor’s address as it appears on the contributor’s voter registration;
 - v. An affirmation that the contributor is making this contribution from the contributor’s personal funds, and the contributor did not receive anything of value in exchange for the contribution;
 - vi. In the event that any Person assisted the contributor in filling out any information on the CCP, the name of the Person providing assistance;
 - vii. The contributor’s billing address; and
 - viii. Credit card information.
 - d. To submit the contribution, the contributor must then press the “Complete Order” button. Once the contributor submits the contribution, the contributor, candidate, and Clerk’s Office will each receive an emailed copy of the receipt documenting the Qualifying Contribution.
 - e. Checking the affirmation box and pressing the “Complete Order” button to submit the contribution must be done by the contributor and not by any other Person, subject to the exceptions listed in Part C(3)(b)(i), below.
 - f. Assistance may be provided to a contributor as detailed in Part C(3), as long as the assistance is provided in-person.
 - g. An Applicant Candidate and any Person collecting Qualifying Contributions on behalf of an Applicant Candidate may not collect the required information from the contributor by phone or any other means other than in-person contact and enter it into the CCP on behalf of the contributor.
- 2. Direct access of CCP by contributors:**
- a. An Applicant Candidate and any Person collecting qualifying contributions may provide contributors with direct links to the CCP via electronic mail, social media, campaign website, or otherwise.
 - b. Communications including a link to the CCP must contain the following clear and conspicuous statements:
 - i. The name of the Applicant Candidate;
 - ii. The Applicant Candidate is collecting Qualifying Contributions in order to obtain public funding to finance the Applicant Candidate’s campaign;
 - iii. The contributor must use his or her personal funds to make the contribution; and
 - iv. The contributor must be a registered voter in the district that the Applicant Candidate is seeking to represent.
- 3. In-person collection via CCP:**
- a. An Applicant Candidate and any Person collecting Qualifying Contributions may present contributors with a device that is connected to the CCP in-person, such as a smartphone or tablet with the CCP webpage displayed.

- b.** Assistance may be provided to a contributor in using the online service, as long as the assistance is provided in person and the contributor personally checks the affirmation box and presses the “Complete Order” button to submit the contribution, subject to the exceptions listed in (b)(i), below.
 - i.** A contributor may request assistance checking the affirmation box and pressing the “Complete Order” button to submit the contribution, only if the contributor:
 - 1.** Is blind;
 - 2.** Is physically disabled;
 - 3.** Is unable to read or write; or
 - 4.** Is a member of a language minority who has an inability to read well enough to exercise the elective franchise.
- c.** A Person collecting Qualifying Contributions should never insist upon providing assistance to a contributor or provide assistance prior to a contributor requesting such assistance. The name of any Person assisting the contributor must be noted in the field asking if the contributor received any assistance.
- d.** Beyond entering the information in to the CCP at a contributor’s request, an Applicant Candidate and any Person collecting Qualifying Contributions shall not capture or store the following contributor information in any way:
 - i.** Date of birth;
 - ii.** Last four (4) digits of Social Security Number; and
 - iii.** Credit card information.

PART D FRAUDULENT QUALIFYING CONTRIBUTIONS

- 1.** If the Clerk’s staff reasonably believes that fraudulent Qualifying Contributions have been submitted, the staff shall undertake an investigation to determine whether the Qualifying Contributions are fraudulent. The staff may request investigative assistance from the Board of Ethics or City Attorney, or refer the matter for possible criminal prosecution. For purposes of this guidance, “fraudulent Qualifying Contributions” includes, but is not limited to, asking an individual affirm and submit payment as a contributor when the individual did not make the Qualifying Contribution, giving money or something of value to someone in exchange for making a Qualifying Contribution, making false statements in the information submitted on the CCP, checking the affirmation box and/or pressing the “Complete Order” button to submit the contribution if the contributor did not qualify for or request such assistance; capturing or storing a contributor’s date of birth, last four digits of Social Security Number, or credit card information, or failing to disclose the name of any Person providing assistance. Fraudulent Qualifying Contributions must be rejected and may constitute violations of the OEEC and Election Code.

PART E TRAINING

- 1.** Applicant Candidates are responsible for ensuring that their campaigns are familiar with this guidance. This should include, at a minimum:
 - a.** Training Persons who will be collecting Qualifying Contributions; and

- b. Responding appropriately when fraudulent qualifying contributions have been collected through investigating the extent of the error or fraud and taking remedial action to avoid risk of future error or fraud.

PART F CREDIT CARD PROCESSING FEES

- 1. Credit/debit card processing fees shall be deducted from the Participating Candidate’s distribution, or paid by the Applicant Candidate from seed money.
- 2. In the event that an Applicant Candidate becomes a privately financed candidate, any outstanding processing fees must be paid from the candidate’s campaign funds.
- 3. In the event that an Applicant Candidate ceases to be a candidate, any outstanding processing fees must be paid from the Applicant Candidate’s seed money prior to withdrawal as a candidate.
- 4. Prior to withdrawing as a candidate, an Applicant Candidate may petition the Clerk for waiver of the outstanding processing fees. Such petition must include, but is not limited to, the amount of outstanding processing fees, the amount of seed money on hand, and an explanation of why the candidate has not paid the processing fees before this point, and why the candidate is requesting waiver.
- 5. Individuals who do not pay their processing fees, and do not obtain a waiver of those fees from the Clerk, will not be placed on any future City of Albuquerque ballot until the debts are resolved.

PART G AMENDMENTS TO GUIDANCE

- 1. From time to time, this guidance may be amended. In the event of amendment, all Applicant Candidates on the CCP will be notified of the amendment and will be given a reasonable period for voluntary compliance with any changes made.
- 2. In the event that an Applicant Candidate does not voluntarily comply with amendments by the deadline set by the Clerk, the Applicant Candidate will be removed from the CCP.

Approved:

Katy Duhigg, City Clerk

Date