

GUIDANCE FROM THE ALBUQUERQUE CITY CLERK FOR THE USE OF THE ELECTRONIC CONTRIBUTION WEBSITE

PURPOSE: The City Clerk has established an online contribution website (“the contribution website”), for members of the public to make Qualifying Contributions in support of Applicant Candidates seeking Open and Ethical Election Code (“OEEC”) funding. The purpose of this guidance is to provide guidelines for Applicant Candidates’ use of the contribution website. All Applicant Candidates using the contribution website 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 Applicant Candidates for the office of Mayor and City Council who seek to use the contribution website, and should be read in combination with the City Clerk 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 Mayor or City Council, and seeking to be a Participating Candidate.

Participating Candidate: A candidate for Mayor or 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 contribution website. 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 bill Candidates for processing fees following the qualifying period. The City Clerk will provide the exact number of Qualifying Contributions needed for qualification as a Participating

Candidate to Applicant Candidates no later than three (3) working days after the Applicant Candidate files his/her Declaration of Intent to Seek Public Financing. 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.

PART B: CANDIDATE INCLUSION ON THE CONTRIBUTION WEBSITE

1. All Applicant Candidates who have filed a Declaration of Intent to Seek Public Financing, have signed the Use Agreement of the contribution website, and who do not have any outstanding campaign finance compliance issues or fines with the Board of Ethics, will be included on the contribution website, subject to the requirement that all Candidates using the contribution website must abide by the guidance herein and any amendments thereto.
2. Applicant Candidate names and photos will be included on the contribution website.
 - 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 contribution website. Photos must be submitted to elections@cabq.gov within three (3) days of filing the Applicant Candidate's Declaration of Intent to Seek Public Financing and signing the Use Agreement.

PART C: COLLECTION OF QUALIFYING CONTRIBUTIONS WITH THE WEBSITE

1. **Overview of Process:**
 - a. The contribution website is the only allowable method for an Applicant Candidate to accept electronic Qualifying Contributions. Please note that the contribution website is for Qualifying Contributions only and not seed money contributions.
 - b. To make an electronic Qualifying Contribution, the contributor must provide information for the system to determine their eligibility to donate:
 - i. Contributor's first and last name as they appear on the contributor's voter registration;
 - ii. Contributor's date of birth;
 - c. If the contributor is verified as a registered voter, the system will populate a page where the voter can select from a list of Applicant Candidates to whom they are eligible to make a Qualifying Contribution based on their voter registration information.
 - d. The contributor can select one Applicant Candidate from this list and move on to the Qualifying Contribution page where the contributor will enter payment information.
 - e. If no list of Applicant Candidates populate for a contributor, information will be made available to direct the contributor to the Secretary of State's website where they can verify they are a registered voter in the City of Albuquerque, or get

registered if they need to. They are also given an email to the City Clerk's Office to direct their questions.

2. Direct access to the website by contributors:

- a. An Applicant Candidate and any person collecting Qualifying Contributions may provide contributors with direct links to the contribution website, via electronic mail, social media, campaign website, or otherwise.
- b. This step will bypass the list of all Applicant Candidates and will only allow contributors to make a Qualifying Contribution to the specific Applicant Candidate. If the contributor is not a registered voter in the Applicant Candidate's district, the contributor will not be able to proceed with making the Qualifying Contribution.
- c. Communications including a link to the website 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 Qualifying Contribution; and
 - iv. The contributor must be a registered voter in the district that the Applicant Candidate is seeking to represent or, in the case of a Mayoral Candidate, a registered voter in the City.

3. In-person collection via the website:

- a. An Applicant Candidate and any person collecting Qualifying Contributions may present contributors with a device that is connected to the website in-person, such as a smartphone or tablet with the website displayed.
- b. A person collecting Qualifying Contributions must allow the person providing a petition signature to complete the online process with only such assistance as the person signing specifically requests.

PART D: FRAUDULENT QUALIFYING CONTRIBUTIONS

- 1. The Clerk's staff reserves the right to investigate any concerns that fraudulent Qualifying Contributions have been submitted. The staff may request investigative assistance from the Board of Ethics or City Attorney, or refer the matter for possible criminal prosecution. [MB1]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 and follow 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. The charge will be a flat \$.35/transaction. The City Clerk will provide the candidate a report stating the number of transactions that were placed on the contribution website for the candidate and the total amount due to the City of Albuquerque at the end of the qualifying period.
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 Applicant Candidate has not paid the processing fees before this point and why the Applicant Candidate is requesting waiver.
5. Applicant Candidate's 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 website 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 website.

Approved:



3/15/2021

Ethan Watson, City Clerk

Date

I, _____, hereby swear or affirm, under penalty of perjury under the laws of the State of New Mexico, to abide by the guidance for use of the contribution website.

Date