

**DOLLARS AND**

**DISCLOSURE**

**Campaign Finance**

**Reform**

**in New York City**

September 1990

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NEW YORK CITY  
CAMPAIGN FINANCE BOARD





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CAMPAIGN FINANCE BOARD**

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*Dedication*

*The members and staff of the Campaign Finance Board  
dedicate this report on the 1989 New York City elections  
to their late colleague and friend,  
Dean Robert B. McKay,  
whose counsel and integrity defined the standards  
to which the Board remains committed.*



The New York City Campaign Finance Board (from left): Joseph Messina; Sonia Sotomayor; Chairman Joseph A. O'Hare, S.J.; Robert B. McKay; Executive Director Nicole A. Gordon; and James I. Lewis.



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## FOREWORD

The 1989 New York City elections were notable for an extraordinary political experiment: the first test of the most ambitious campaign finance reform program ever attempted in a municipality in the United States. For reasons abundantly documented in the pages that follow, the experiment, by any reasonable standard, must be judged a success. But the experiment also remains unfinished. Much can be learned from this first experience with the New York City Campaign Finance Program, but much still needs to be done if the far-reaching reforms implicit in this Program are to be realized.

The Campaign Finance Act of 1988 was passed into law by the City Council in February of that year. Section 3-713 of the Act mandates that the Campaign Finance Board publish a report by September 1990 and every fourth year thereafter that reviews the conduct of the Program in the preceding campaign and makes recommendations for any changes in the Program that seem desirable in the light of that experience. This Report, entitled "Dollars and Disclosure: Campaign Finance Reform in New York City," and an Executive Summary of the Report are presented in fulfillment of that mandate.

There were several distinct but related goals envisioned in the passage of the Campaign Finance Act. Probably the most important of these was the reduction of the influence of wealthy contributors on electoral campaigns and the attempt to address the public perception that large contributions to candidates purchased special access to elected officials and special privilege in the conduct of government business. In describing the political context in which the Campaign Finance Act became law, Chapter 2 recalls the fact that campaign finance reform has been a national and state concern for nearly 20 years.

To restrict the influence of money on electoral campaigns, the Campaign Finance Program sets limits on contributions and expenditures and also imposes strict requirements for disclosure of campaign finances. By providing matching public funds to candidates who agree to observe these limits and requirements and who reach certain threshold levels in fund raising, the Program also intends to "level the playing field" for all candidates, whether or not they have access to substantial wealth. In this way, wider participation in the electoral process by both candidates and voters can be encouraged.

Finally, the Campaign Finance Program, through its stringent disclosure requirements and the publication and distribution of a Voter Guide, seeks to promote public information and the education of voters.

Not all of these goals were equally achieved in this first experience with the Program. Certainly the impact of large contributions was diminished considerably, and new patterns of fund raising became necessary, as Chapter 6 documents. A most encouraging sign of the Program's impact is the substantial increase in the role played by small givers. The amount of information made available to the voting public was unprecedented, and some observers thought that the disclosure requirements of the Program constituted its most significant feature. But the impact of these reforms was far more evident in citywide campaigns than in the City Council races, where it appears the Program may have had only limited success in encouraging more candidates to participate.

Throughout this Report, the Campaign Finance Board makes a number of recommendations, summarized in Chapter 15, for amending the Act in ways that should encourage more

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candidates to enter the Program, by simplifying the reporting requirements and increasing the incentives for participation. In considering these proposed amendments to the Act, it is important to realize that the mere appearance of reform, without any real change in the way electoral politics are carried on in New York City, would be a dangerous illusion, one that could only increase the already considerable public cynicism about national, state, and City politics. One of the most disconcerting discoveries of the campaign was the realization that many in the media who are most vocal about campaign abuses remain most skeptical about campaign reform.

It may well be that those who enacted this historic legislation did not fully appreciate what its effective implementation would entail. The Campaign Finance Program did not represent a minor adjustment in campaign bookkeeping, but a profound change in the political culture in which campaigns are conducted. Fund-raising strategies had to be redefined, becoming more democratic in the process. Candidates and their campaign staffs, accustomed to older methods of fund raising and less stringent requirements of accountability, undoubtedly found the financing of their campaigns more difficult.

For this reason those candidates who did choose to participate in the Campaign Finance Program in this, its first experiment, demonstrated that their commitment to electoral reform went well beyond conventional verbal assurances. In fact, in some cases, participation could even have entailed a risk to personal political fortunes. This kind of commitment on the part of the political leadership of New York City is the most reassuring sign of hope for the political future of the City.

I would be remiss if I did not recognize, on behalf of the other members of the Campaign Finance Board, the extraordinary accomplishments of the Executive Director, Nicole Gordon, and her staff. The members of the Campaign Finance Board were not appointed until June of 1988, and the Executive Director was not appointed until September 1988. It was two months before office space was even secured for the staff, yet by December 1988 a staff had been assembled and was hard at work developing regulations for the Campaign Finance Program and educating themselves as well as the candidates about its demands. In the pages that follow, the data carefully assembled and the thorough analyses developed reflect a remarkable administrative achievement. Furthermore, the staff scrupulously maintained the non-partisan character of the Board in dealing with different candidates, their staffs, and a great deal of confidential information throughout the campaign.

Because of the changes in the New York City Charter adopted by the voters in the November 1989 elections, the next test of the Campaign Finance Program will not be in 1993, as the Campaign Finance Act originally envisioned, but in 1991, when elections for an expanded City Council will take place. The Campaign Finance Board and its staff are confident that the political leaders of New York City, who have already demonstrated their commitment to campaign finance reform, will now act promptly on the recommendations contained in this Report so that the necessary preparations for the 1991 City Council elections can begin immediately.

Joseph A. O'Hare, S.J.  
Chairman  
New York City  
Campaign Finance Board

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**PART I**

**THE NEW YORK CITY**  
**CAMPAIGN FINANCE ACT**

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## Chapter 1:

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# Introduction

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he enactment of the New York City Campaign Finance Act in February 1988 and the implementation of the Campaign Finance Program for the 1989 municipal elections place New York City in the forefront of campaign finance reform in the United States. Only a handful of other jurisdictions have public campaign finance programs, and New York City's is by far the largest at the local level.<sup>1</sup> Even as the debate continues in Congress whether to extend campaign financing at the federal level beyond the Presidency, New York City's Program, unlike most others, already covers both executive and legislative offices. Five elective offices, including mayor, City Council president, comptroller, borough president, and Council member, are covered by the Act; 48 candidates who appeared on the ballot participated in the Program for the 1989 elections; more than \$4.5 million in public matching funds was distributed; and an unprecedented amount of information was made publicly available about the flow of money into and out of participants' 1989 campaigns.

The chief purpose of the Campaign Finance Act is to diminish the possibility that large private contributions may result in corruption or improper influence on elected officials and to address the public perception that such corruption or influence does exist. The Act also seeks to increase voter awareness of local issues and meaningful participation by both voters and candidates in local campaigns. To achieve these ends, the Campaign Finance Board was created to administer the voluntary Program, which makes public funds available to candidates who agree to limit the size of contributions they accept and the amount of money they spend on their campaigns and to provide a detailed public accounting of their campaign finances. As required by an amendment to the New York City Charter adopted in November 1988, the Campaign Finance Board also publishes a non-partisan Voter Guide and distributes it to all eligible voters. The Voter Guide provides free space to all candidates in a non-partisan forum, whether or not they choose to participate in the Campaign Finance Program.

Several political science studies have shown a positive relationship between contributions made to candidates by political action committees ("PACs") and the candidates' votes in legislatures on issues of concern to those PACs.<sup>2</sup> "I take money from labor," said former New York Congressman Richard Ottinger, "and I have to think twice in voting against their interests. . . . I shouldn't have to do that."<sup>3</sup> Even though other considerations, such as an elected official's party affiliation, ideology, and constituency are major influences on voting, politicians themselves acknowledge that persons or PACs who give large sums of money get, at the least, greater access to the politicians.<sup>4</sup> As political consultant Norman Adler, who

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## Chapter 1

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headed New York City's Council Political Action Committee said, contributors are seeking "access," not influence.<sup>5</sup>

The Campaign Finance Act dramatically reduces contribution limits to lessen participating candidates' reliance on monied private contributors. During the 1989 elections, mayoral candidates who joined the Program, for example, could accept contributions of no more than \$3,000 per election; the limit under current state law is \$50,000. These contribution limits are one remedy for the problem of improper influence. They minimize the influence, real or apparent, that large contributions can have on candidates, and they enable candidates who are not wealthy or who lack a base of wealthy supporters to compete more effectively in elections.

One sign of the democratization of fund raising encouraged by the Act is that participating candidates in the 1989 municipal elections received an unprecedented number of smaller contributions. More than 108,800 itemized contributions were reported for the 1989 elections by the 48 participating candidates who appeared on the ballot. These transactions represent a base of more than 81,000 different individuals and organizations. Although precisely comparable data are not available for all municipal candidates in the 1985 elections, the data that do exist suggest that it is unlikely that the total number of contributors in 1985 could have reached even a third of this number.

A second means of enhancing public confidence in elected officials is to curb excessive campaign spending. Republican candidate Ronald Lauder, who chose not to participate in the Campaign Finance Program, spent \$13 million of his own money on his failed 1989 mayoral bid, while the five major mayoral candidates who did join the Program agreed to spend no more than \$3.6 million per election. Realistic spending limits reduce the public perception that elective offices are for sale and create a more level financial playing field on which all candidates, including challengers, can compete more meaningfully.

Public funds to help candidates finance their campaigns are the third key element of the Campaign Finance Program. Like contribution limits, public funding reduces candidates' reliance on large contributions and gives candidates without access to wealth or wealthy contributors the resources necessary to conduct a meaningful campaign. Once candidates who participate in the Program raised a specific "threshold" amount of contributions from local residents to demonstrate that they are serious candidates and have public support, the Program matched contributions from City residents dollar-for-dollar up to \$500.

During her appearance at a public hearing conducted by the Board, Council candidate C. Virginia Fields testified that public funds were very important to her successful campaign against an incumbent and that running her campaign "would have been much more difficult without the assistance offered through the Campaign Finance Program." The Program's dollar-for-dollar matching formula "really served as an added incentive for local people to become involved," she said, because as she campaigned throughout her district she would tell contributors that their \$10 or \$25 contributions would be matched and were therefore worth twice as much to her campaign.



The Campaign Finance Board disbursed more than \$4.5 million to 36 eligible candidates during the 1989 elections. Although this amount was far less than anticipated, public funds played a significant role in many candidates' campaigns, representing 15 percent of participants' total 1989 primary and general election expenditures. Public funds made up about 20 percent of Rudolph Giuliani's 1989 primary and general election campaign expenditures, 12 percent of David Dinkins', 16 percent of Elizabeth Holtzman's, 41 percent of Ruth Messinger's, and were significant in many Council candidates' campaigns.

Another major goal of the Campaign Finance Program is to increase the information available to the public about campaign finances. Participating candidates file detailed reports at periodic intervals with the Campaign Finance Board that list their contributions and expenditures. This information is then made directly available to the press and the public. For contributions, candidates report the donor's name, address, employer, and amount. They also report the amount and purpose of all campaign expenditures. Information was submitted by candidates on more than 132,000 campaign transactions. The data were entered into the Campaign Finance Information System ("CFIS"), a computer database developed by the Board as mandated by law, to help administer the Program and monitor compliance with the Act. The Campaign Finance Board responded to hundreds of requests for information throughout the 1989 elections, most of these from members of the press who relied on the Board's data as the most accurate and useful source of information about what participating candidates were raising and spending. The public disclosure of campaign finance information in a timely fashion and in a useful format was a major accomplishment of the Program.

Consistent with the Campaign Finance Board's purpose to increase voter awareness of local issues under the Campaign Finance Act, a 1988 City Charter amendment added to the Board's responsibilities the production and distribution of a Voter Guide. The Campaign Finance Board produced and distributed more than 4.7 million borough-specific, bilingual (English and Spanish) primary and general election Voter Guides, and mailed them to every New York City household with a registered voter. The Voter Guide increased public awareness and helped reduce candidates' reliance on private contributions by providing a free public forum reaching the entire electorate. The Guides contained statements by and photographs of candidates, as well as information about voting. Probably the most visible of the Board's activities to the average voter, the Guide was enthusiastically received. Newspaper editorials hailed the "non-partisan, impartial guide" as a "great help" to voters, and dozens of voters sent letters to the Board praising the Guide.

The history and requirements of the Campaign Finance Act and the structure of the Board are explained in Part I. The results of the 1989 elections, including information about contributions, campaign spending, and how much candidates received in public funds, are reported in Part II. The Campaign Finance Program's operations, enforcement of the Act, public information, and the Voter Guide are covered in Part III.

Despite the generally successful operation of the Act, further amendments to the Act are needed to simplify and strengthen the Campaign Finance Program. The Program was

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most effective at the citywide level, but participation by candidates at the Council level was more limited.

The Board's recommendations cover contribution limits, expenditure limits, and threshold levels for each office summarized below. To encourage greater participation by City Council candidates and maintain the high level of participation by citywide and borough president candidates, the Board supports increasing the financial rewards of the Program and streamlining the candidates' reporting requirements, while maintaining a high standard of disclosure. The Board itself is beginning the process of simplifying its regulations and procedures and preparing plain-language materials and sample "compliance kits" that will make compliance much easier for candidates, especially at the Council level. Major reform, even in the area of simplification, however, can only be achieved by amending the law itself.

Proposed changes in the Act are discussed and noted throughout this Report, and set forth in detail in Part IV. The recommendations are highlighted below:

### **Summary of Recommendations**

#### **Match Threshold Contributions**

The Board strongly recommends matching contributions used to reach the threshold requirement once the threshold is reached.

#### **Contribution Limits**

The Board recommends combining the separate contribution limits for the primary and general elections into one "per campaign" limit covering both elections. The Board supports setting the new "per campaign" contribution limits at the following amounts:

Mayor:	\$ 6,500
Comptroller:	5,000
City Council President:	5,000
Borough President:	3,500
City Council:	3,000

Runoff and special election limits should be set at one-half these limits.

#### **Match Contributions Two-for-One up to \$500**

The Board recommends matching contributions on a "per campaign" rather than a per election basis. Instead of the one-for-one match for up to \$500 per contributor in the primary and another \$500 in the general election, the Board proposes that contributions be matched at a two-for-one rate, up to \$500 per contributor for the primary and general elections combined.

**Threshold Levels**

The Board recommends the following threshold levels to establish eligibility for matching funds:

Mayor:	\$ 150,000
Comptroller:	100,000
City Council President:	100,000
Borough President:	30,000
City Council:	5,000

**Expenditure Limits**

The Board proposes combining expenditures for fund raising under the same ceiling as other expenditures, and consolidating the five separate expenditure limit time periods into two expenditure limit periods covering the entire four-year election cycle. The primary election period would cover the first day of the term of office until primary election day, and the general election period would cover the day after the primary until the general election. The Board proposes the following expenditure limits for the primary and general election periods each:

Mayor:	\$ 4,500,000
Comptroller:	3,000,000
City Council President:	3,000,000
Borough President:	1,000,000
City Council:	150,000

**Increase Rewards for Participants Who Face Free-Spending Non-Participants**

To protect participating candidates from being overwhelmed by high-spending non-participants, the Board recommends additional bonuses in order to enhance the participants' competitiveness: (i) the matching fund payment rate should be increased from two-for-one to three-for-one; (ii) the maximum public fund payment to a participant should be increased from one-half to three-quarters of the expenditure limit; and (iii) these bonuses should be triggered when the non-participant accepts contributions or makes expenditures in excess of one-tenth of the expenditure limit, rather than one-half.

**Streamline Reporting Requirements**

**Repeal the "deduction rule,"** which requires that the amount of a matchable contribution claim be reduced by the value of goods and services (including fund-raising dinners) given to a contributor.

**Repeal the "household rule,"** which treats a husband, wife, and unemancipated children as a single contributor for purposes of determining the amount of a matchable contribution.

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**No Itemizing for Small Contributions and Expenditures.** Candidates should not be required to itemize contributions of \$99 or less and expenditures below \$50 in a campaign. Similarly, disclosure requirements for employment information should not apply to contributors who have given \$99 or less in a campaign. Unitemized contributions would not, however, be matched.

**Deferral of Reporting for Periods of Low Financial Activity.** Candidates should be permitted to defer a filing deadline if they have received less than \$2,000 in contributions and loans since their last report.

**Maintain High Standard for Disclosure.** The Board will reduce the number of its required campaign finance disclosure forms and will work with the State and City Boards of Elections to devise forms that will be acceptable both for purposes of the Campaign Finance Program and state election law disclosure requirements. The Board, however, is strongly committed to maintaining the high standard of disclosure embodied in the Act as possibly the single most important government reform achieved by the Program and vigorously opposes the suggestion that it accept State Board of Elections disclosure forms for Campaign Finance Board purposes.

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The legislative history of the Campaign Finance Act is set forth briefly in the next chapter.

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### NOTES

<sup>1</sup> In addition to the federal presidential matching funds program, the following nine states currently have laws for providing some form of public financing to candidates: Florida, Hawaii, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Jersey, and Wisconsin. North Carolina adopted a program in 1989, which has not yet become effective. The states which have the largest public financing programs are New Jersey, Michigan, Minnesota, and Wisconsin. With adoption of the Campaign Finance Act in 1988, New York became the third city to enact contribution and expenditure limits and to provide public financing for municipal candidates, joining Seattle, Washington, and Tucson, Arizona. Sacramento County, California, also has a public financing program for local offices, but the legality of that program is currently in doubt. King County, Washington, adopted a program of public financing in 1989, and Los Angeles, California adopted a program in 1990.

<sup>2</sup> David Adamany, "The New Faces of American Politics," in *Regulating Campaign Finance*, the Annals of the American Academy of Political and Social Science, eds. Lloyd N. Cutler, Louis R. Cohen, and Roger M. Witten (Beverly Hills: Sage Publications, July 1986), 12-33; John P. Frensdreis and Richard W. Waterman, "PAC Contributions and Legislative Behavior: Senate Voting on Trucking Deregulation," *Social Science Quarterly*, Vol. 66, No. 2 (June 1985), 401-412; and Allen Wilhite and John Theilmann, "Labor PAC Contributions and Labor Legislation: a Simultaneous Logit Approach," *Public Choice*, Vol. 53 (1987), 267-276.

<sup>3</sup> Larry J. Sabato, *PAC Power: Inside the World of Political Action Committees* (New York: W.W. Norton & Co., 1984), 126.

<sup>4</sup> *Ibid.*, 126-28.

<sup>5</sup> Frank Lombardi, "Checkbooks and Balances," *New York Daily News* (January 8, 1990), 17.

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## Chapter 2:

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# History of Local Law 8

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ampaign finance laws like those in New York City, which place limits on what candidates and individuals may receive and spend on political campaigns, regulate activities that are rigorously protected by the First Amendment to the United States Constitution. Federal campaign finance reform efforts resulted in the passage of the Federal Election Campaign Act and the Presidential Election Campaign Fund Act in 1971. As originally enacted, these laws strictly limited contributions and expenditures in congressional and presidential races, and provided public financing in presidential campaigns. There is currently an ongoing debate in Congress over whether to extend public financing to congressional races.

In the 1976 landmark case of *Buckley v. Valeo*,<sup>1</sup> the Supreme Court ruled that the federal government could place reasonable limits on campaign contributions, but that mandatory limits on overall campaign expenditures, limits on expenditures by “independent” organizations supporting a candidate, and limits on candidates’ expenditures of personal funds, were unconstitutional. While the Supreme Court considered that all these activities are entitled to First Amendment protection, it recognized that the prevention of real or perceived corruption in elections is a legitimate governmental interest justifying the imposition of contribution limits, but not the other limitations, which the Court would countenance only as a part of a voluntary program of public financing of campaigns. The *Buckley* case has shaped all the campaign finance programs in the country, including that of New York City, in which candidates voluntarily agree to abide by contribution and expenditure limits in return for receiving public matching funds.

The New York City Campaign Finance Act is additionally limited by the fact that it may not conflict with New York State election law. For example, the contribution limits of the New York City Program can be lower than those allowed under state law, but not higher. In addition, although state election law can regulate all candidates and contributors directly, the New York City Program is based on voluntary participation by candidates, and therefore can only regulate participating candidates directly.

The development and adoption of the Campaign Finance Act reflects the work of many individuals and groups who have advocated campaign finance reform in New York State and New York City for more than a decade. A series of corruption scandals that were exposed in New York City government in the mid-1980’s involving the Wedtech Corporation, Brooklyn Navy Yard contracts, and the Parking Violations Bureau added impetus to the movement for reform. Although none of these scandals arose directly from campaign

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financing activities, they focused public attention on the issue of influence over elected officials and whether that influence leads officials to act for private gain rather than for the public welfare. Because large campaign contributions are widely perceived as a way to buy access to elected officials, revelations of municipal corruption increased the pressure for campaign finance reform in New York City.

The modern history of campaign finance reform in New York State began in 1974, in the wake of the Watergate scandals in the federal government. Mandatory state campaign expenditure limitations enacted in 1974 were repealed in 1976, as required by the Supreme Court's decision in *Buckley v. Valeo*. Currently, state law sets forth basic campaign finance disclosure and record-keeping requirements for candidates and political committees. In addition, state law limits the size of campaign contributions under a formula which varies according to the office sought and the number of persons eligible to vote, and which results in extraordinarily high contribution limits for some offices, up to \$50,000 to a candidate for citywide office in a party primary and another \$50,000 to the same candidate in the general election, for a total of \$100,000 to one candidate in a campaign.

During the 1980's, the New York State Assembly repeatedly passed legislation to set lower contribution limits and provide spending limits and optional public financing for statewide elected officials and the State Legislature. None of these measures passed the State Senate. In June 1987, state legislation was proposed to establish an optional system of public financing for New York City elections only. This bill also failed because of opposition in the State Senate. Attention therefore turned to the possibility that New York City could enact its own reform program.

In 1986, City Council members Albanese, Alter, DiBrienza, Dryfoos, Gerges, and Maloney had introduced bills to provide optional partial public financing for certain New York City election campaigns. The Charter Revision Commission, then chaired by Richard Ravitch, began to study campaign finance reform in the spring of 1987. In August of that year, Corporation Counsel Peter Zimroth presented to Mayor Koch and City Council Vice-Chairman Vallone an analysis supporting the City's authority to adopt optional public financing legislation independently of the State.

In September 1987, a bill prepared by the Corporation Counsel was introduced in the City Council, at the request of Mayor Koch, by Council members Katzman, Messenger, and Michels. The proposed Act received the support of a number of groups at several public hearings conducted by the Governmental Operations Committee of the City Council, including the New York Public Interest Research Group, Inc. ("NYPIRG"), Citizens Union, and Common Cause. Amendments were developed during several months of negotiations, and the bill, strongly supported by City Council Vice-Chairman Peter Vallone, passed the Council on February 9, 1988 by a vote of 24 to 9. The New York City Campaign Finance Act became law on February 29, 1988 (Local Law No. 8 of 1988). In his bill-signing statement, Mayor Koch characterized the Act as "the most fundamental reform of the political process ever enacted by the city. . . . [The Act] will achieve a more equitable and open system of financing candidates who seek elective office in New York City."

In its declaration of legislative intent, the City Council stated that the Act was designed to enhance ethics and public confidence in City government. The Council sought to “ensure that citizens, regardless of their personal wealth, access to large contributions or other financial connections, are enabled and encouraged to compete effectively for public office. . . .” The Act was intended to promote candidate and voter participation and to reduce the appearance and possibility that large campaign contributors exercise undue influence on elected officials.

In November 1988, New York City voters had an opportunity to vote on various Charter amendments proposed by the New York City Charter Revision Commission, including changes relating to campaign finance reform. The campaign finance amendments were approved by a 79 percent majority. The Commission’s proposals established the Campaign Finance Board, originally created by Local Law No. 8, as a Charter agency and added a key responsibility to the Board’s mandate: the publication and distribution of a non-partisan Voter Guide to all registered voters.

The Campaign Finance Board began implementing the Act in the fall of 1988 for the 1989 municipal elections, including the promulgation of regulations, following public hearings and comment periods, and the issuance of advisory opinions necessary for the administration of the Act. From December 1988 to July 1990, the Board issued 69 advisory opinions, almost all in response to questions from candidates and their staffs about the new law.<sup>2</sup>

In January 1989, the Council enacted amendments to the Act (Local Law No. 4 of 1989). These amendments gave candidates additional time to decide whether to join the Program in 1989; added a fund-raising allowance in addition to the existing expenditure limits, thereby effectively raising the expenditure limits; allowed participants additional flexibility in meeting the Act’s spending limits by permitting the use in 1989 of some funds unexpended in 1988; and exempted the cost of challenging an opponent’s petitions from the spending limits.

Shortly after the November 7, 1989 general election, the Campaign Finance Board began reviewing the results of the first implementation of the Act. The Board held two days of public hearings (the “Public Hearings”) in December 1989, at which 38 speakers testified about the Program, including former Mayor Koch, Rudolph Giuliani, Ruth Messinger, Corporation Counsel Peter Zimroth, Dean John Feerick, the Chair of the New York State Commission on Government Integrity (the “Feerick Commission”), and 14 Council candidates, including Speaker Vallone<sup>3</sup> and Council members Sal Albanese, Herbert Berman, C. Virginia Fields, Miriam Friedlander, Abraham Gerges, Arthur Katzman (by letter), Carolyn Maloney, and Stanley Michels. The Board also received written submissions and informal comments from participants and others on the 1989 Program. In addition, legal and statistical analyses were prepared by Board staff based upon the data maintained on CFIS.

As a result of this review, on March 27, 1990, the Board submitted expedited proposed amendments intended to simplify the requirements of the Act and create greater incentives to participate in the Program.<sup>4</sup> The purpose of the proposed changes was to

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address issues of immediate importance to candidates for the City Council, which has elections scheduled to be held in 1991 by virtue of recent Charter amendments expanding the size of the Council. The Board urged the Mayor and the City Council to act on the proposed changes at the earliest possible date, so that the Board could proceed immediately to revise its rules and forms, modify the computerized Campaign Finance Information System, and initiate a broad public and candidate education program for the 1991 elections.

In May 1990, Speaker Vallone and Council members Gerges, Albanese, Dryfoos, Eisland, Greitzer, and Harrison introduced a bill containing the Board's proposals for changes in the Act (Intro. No. 441). The City Council's Committee on Governmental Operations, chaired by Council member Abraham Gerges, held public hearings on the bill on June 18, 1990. As of the time this Report went to press, no further official action had taken place.

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The major provisions of the Campaign Finance Act are described in the next chapter.

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### NOTES

<sup>1</sup> 424 U.S. 1, 46 L.Ed.2d 659, 96 S.Ct. 612 (1976).

<sup>2</sup> An advisory opinion topic list and full sets of advisory opinions are available from the Campaign Finance Board upon request.

<sup>3</sup> City Council Vice-Chairman Peter Vallone became Speaker of the Council when that office's title changed under New York City's new Charter adopted in November, 1989.

<sup>4</sup> The Board's mandate requires that its review and recommendations for change be submitted at least once every four years in conjunction with the election cycle and ". . . at such other times as the Board deems appropriate. . . ." Campaign Finance Act §3-713(1). Given the unexpected Council elections mandated by the new Charter in the midst of the regular election cycle, the Board expedited recommendations pertaining to the 1991 elections.



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## Chapter 3:

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# Requirements of the Campaign Finance Act

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**M**any candidates, particularly at the Council level, found the requirements of the Act burdensome, especially those relating to the filing of public disclosure reports. It was the Board's mission to promulgate regulations implementing the law that were "as simple as possible, but as complete as necessary." Unfortunately, the complexity of the law itself was reflected in the Board's regulations and disclosure forms, which followed the plain language and intent of the Act. The Board's recommendations are therefore largely geared toward simplifying those aspects of the Act's requirements that were burdensome and provided the public with little benefit. While the Board is already making efforts to streamline and simplify administrative requirements, it will be obvious from the material below that the existing law must be changed in order to achieve any major reform to ease burdens on the candidates.

To qualify for public financing, a candidate must meet certain minimum or "threshold" requirements on the amount and number of contributions raised; abide by contribution and expenditure limits; file disclosure reports on campaign contributions and expenditures with the Board; and meet all the legal requirements for being on the ballot. Candidates who are unopposed on the ballot are not eligible to receive matching public funds.

The following is a brief explanation of the four major components of the Act—contribution limits, expenditure limits, public financing, and disclosure reports.

### **Contribution Limits**

Participating candidates can receive a limited amount of money from a single individual or organization for each election. (See Table 3.1.) Contributions subject to the limit include monetary contributions to candidates and "in-kind" contributions of goods or services (such as printing campaign literature or operating a telephone bank free of charge or below market costs). Funds received by one candidate's political committee from another candidate's committee, as distinct from transfers between a candidate's own committees, are also subject to the contribution limit. The services of volunteer campaign workers are not considered contributions and neither are the unreimbursed travel expenses of volunteers of up to \$500 per election. A meet-the-candidate party held at the home of a supporter is not

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**Table 3.1**  
**1989 CONTRIBUTION LIMITS\***

<u>Office</u>	<u>Limit per Contributor</u>	
	<u>Primary</u>	<u>General</u>
Mayor**	\$ 3,000	\$ 3,000
Comptroller**	3,000	3,000
City Council President**	3,000	3,000
Borough President	2,500	2,500
City Council	2,000	2,000

\* Lower contribution limits set by state law may apply in certain primaries for political parties that have small party enrollments.

\*\* The same \$3,000 contribution limit applies in the event of a runoff election for these offices.

considered to be a contribution if the cost of the invitations, food, and drinks for the party is \$500 or less per election.

The contribution limits apply uniformly to individuals, including the candidates themselves and their family members, and to political parties, corporations, unions, partnerships, and political action committees. Contributions received from a corporation and that corporation's parent, subsidiary, or affiliated corporation, are treated as coming from a single source and, totaled together, cannot exceed the contribution limit. This latter rule, codified in the Board's regulations, is significantly more stringent than state law, which does not restrict contributions by affiliates and subsidiaries.

### **Loans**

Under the Act, as under state law, loans to candidates must be repaid by the date of the election. If a loan is not repaid on time, the outstanding balance is considered to be a contribution to the candidate from the lender or anyone who guaranteed the loan. If the amount of an unpaid loan exceeds the contribution limit, the candidate is in violation of the law, and may face applicable penalties.

### **Expenditure Limits**

The Act sets forth separate spending limits for the primary, runoff, and general elections, and for the year preceding the election. The Board also has authority to set spending limits for the first and second years of the election cycle, subject to City Council veto. As the result of amendments passed in January 1989, expenditures up to a certain amount for fund-raising purposes and the permitted use of some funds unexpended in the year preceding the election effectively increased the overall expenditure limit. The fund-raising

## Requirements of the Campaign Finance Act

allowance is set by law at 20 percent of the applicable expenditure limit or \$20,000, whichever is greater. The 1989 expenditure limits and fund-raising allowances applicable separately to the primary and general elections, as well as the 1988 limits, are set forth in Table 3.2.<sup>1</sup>

The Program gives candidates some flexibility in complying with the third-year limit. For example, if a candidate exceeded the expenditure limit for 1988, he or she could reduce the 1989 primary election limit by the amount overspent in 1988 and still remain in compliance with the Program. Alternatively, if a candidate had not spent the full amount of the 1988 limit, he or she could use up to 50 percent of the 1988 limit in the 1989 primary.

The spending limits cover all expenditures made to advance a candidate's campaign or in furtherance of his or her opponent's defeat. Expenditures covered by the limit include the costs of campaign literature, television or print advertising, campaign headquarters, campaign workers' salaries, and the fees of political consultants.

Expenditures exempt from the spending limits include those for professional services necessary to comply with the Act (such as for accountants and lawyers), and expenditures to challenge or defend ballot petitions. Candidate expenditures to pay off debt from campaigns not covered by the Program, for campaigns in which the candidate did not participate

**Table 3.2**

### EXPENDITURE LIMITS AND FUND-RAISING ALLOWANCES

<u>Office</u>	1988 LIMITS		1989 LIMITS APPLIED SEPARATELY TO THE PRIMARY AND GENERAL ELECTIONS	
	<u>Expenditure Limit</u>	<u>Fund-raising Allowance</u>	<u>Expenditure Limit</u>	<u>Fund-raising Allowance</u>
Mayor	\$ 150,000	\$ 30,000	\$ 3,000,000	\$ 600,000
Comptroller	150,000	30,000	1,750,000	350,000
City Council President	150,000	30,000	1,750,000	350,000
Borough President	100,000	20,000	625,000	125,000
City Council	50,000	20,000	60,000	20,000

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## Chapter 3

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in the Program, or for campaigns that took place before the law became effective (February 29, 1988) are also exempt from the limits.

### Public Financing

Funding for the public financing of campaigns is provided in the New York City Expense Budget. The New York City Election Campaign Finance Fund (the "Fund"), must be kept separate and includes appropriations and any donations received. After careful review of each candidate's matching fund claims, the Board votes to issue the payment. As mandated by Local Law 8 and the City Charter, the Board must submit to the Mayor each year for inclusion in the Executive Budget, and at such other times as necessary, estimates of the amount of public funds sufficient to finance the elections in the following year. If insufficient funds are allocated, the Board has the power under the Charter to direct the Commissioner of Finance to replenish the Fund.

**Joining the Program.** A candidate who wishes to qualify for public financing must first file a candidate certification with the Board. The certification represents the candidate's decision to participate in the Program. The deadline by which candidates must decide whether to join the Program varies. Candidates who have filed notice with the New York City Board of Elections that they already have an authorized political committee in place are required to file a certification with the Board by January 1 of the election year.<sup>2</sup> Candidates who create new authorized political committees for the upcoming elections must decide whether to join the Program within 10 days after they have filed statements with the City Board of Elections authorizing a political committee. All candidates must file to join the Program not later than the 30th day before the first day to file designating petitions (June 10, 1989), or, if the candidate does not file a designating petition, not later than the seventh day after nomination. The candidate may declare the office he or she seeks at the time the initial certification is filed, or later if the candidate is undecided at that time.

The authorized political committees of candidates who join the Program also must file a committee certification form with the Board indicating the committees' agreement to abide by the contribution and expenditure limits of the Act and to file disclosure reports with the Board.

**Threshold Requirements.** The Act requires that candidates show they have significant public support before they can receive public monies. To qualify to receive public financing, a candidate must raise a threshold dollar amount of contributions from a minimum number of New York City residents as described in Table 3.3.

A candidate may count only the first \$500 of contributions from any individual towards the threshold, but the candidate may accept and use contributions from that individual in an amount up to the applicable contribution limits. To meet the threshold minimum number of contributors for borough president and City Council member, the minimum number of contributors must be from the borough or district in which the office is sought. In addition to these in-borough or in-district contributors, the candidate may use contribu-

**Table 3.3**

**1989 THRESHOLD REQUIREMENTS**

<u>Office</u>	<u>Minimum Aggregate Amount of Threshold Contributions</u>	<u>Minimum Number of Contributors Giving Between \$10 and \$500</u>
Mayor	\$ 250,000	1,000 contributors who are NYC residents
Comptroller	125,000	500 contributors who are NYC residents
City Council President	125,000	500 contributors who are NYC residents
Borough President*		
Bronx	23,379	100 contributors who are residents of the borough in which the office is sought
Brooklyn	44,619	
Manhattan	28,566	
Queens	37,827	
Staten Island	10,000	
City Council	7,500	50 contributors who are residents of the district in which the office is sought

\*Computed at \$0.02 per person in the borough population (based on the 1980 census), or \$10,000, whichever is greater.

tions from individuals who reside outside the candidate's borough or district to meet the minimum aggregate dollar amount of threshold contributions, as long as those individuals are City residents.

Candidates who join the Program agree to participate for both the primary and general elections. Once a candidate meets the threshold requirement for the primary election, he or she is eligible for public financing in both the primary and the general elections. A primary election candidate who does not join the Program for the primary may not participate for the general election.

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**Matching Funds.** Once participating candidates have met the threshold and other requirements, they are eligible to receive public matching funds dollar-for-dollar up to \$500 of a contribution they receive from any individual. Although only \$500 of a contribution will be counted as matchable in an election, a candidate may accept and use contributions from that individual in an amount up to the contribution limit for the election. The Program only matches contributions from individuals residing in New York City, not from corporations, unions, or other organizations.

The maximum in public matching funds that a candidate can receive is equal to half the applicable expenditure limit. For example, a mayoral candidate can receive up to \$1.5 million in public funds—half the \$3 million mayoral expenditure limit in an election. Funds raised by the candidate to reach the threshold are not matched under current law. Thus, for example, a mayoral candidate who raises the \$250,000 required to reach the threshold for the office of mayor receives matching public funds only for contributions raised after that first \$250,000. Under the Act, participating candidates in a runoff election receive a grant of public funds equal to one-fourth the amount they received in public funds for the primary.

If a participating candidate is running against a non-participant, and the non-participant raises or spends more than half the applicable expenditure limit, the participating candidate is eligible to receive two dollars for every dollar of matchable contributions, and the expenditure limit is lifted for that race. The amount of total public funds the participant may ultimately receive may not in any case exceed one-half the expenditure limit, but the two-for-one matching helps a participant raise money more quickly when faced by a high-spending opponent. Lifting the expenditure limit enables the participating candidate to compete against free-spending opponents to the extent the participant can raise contributions to do so.

**Use of Public Funds.** The Act imposes restrictions on candidates' use of public funds. A candidate may spend public funds only to further the candidate's election, and only on goods and services used to educate the public about the candidate and the issues in the election. These kinds of educational expenditures are called "qualified campaign expenditures," and they include money spent on advertising, the printing and distribution of campaign literature, communication with the public, voter registration drives, and other means of educating the public.

The Act contains specific prohibitions on the use of public funds. Public funds cannot be used for expenditures in violation of any law; payments to a candidate or the candidate's family or business; payments in excess of fair market value; cash payments; expenditures for gifts; or expenditures to challenge or defend ballot petitions. In addition, public funds cannot be used for expenditures for food, drink, or entertainment; expenditures for professional services used to comply with the law; the payment of campaign workers' salaries; or expenditures after the candidate or his or her only remaining opponent has been disqualified from the ballot.

If candidates have surplus campaign funds (from private contributions or public funds) remaining after the elections are over, they must return these funds to reimburse the Fund up to the amount of public funds they received.

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## Requirements of the Campaign Finance Act

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### Disclosure

The Act requires candidates to designate a single authorized political committee, or “principal committee,” to submit a series of detailed disclosure reports.<sup>3</sup> The principal committee is required to report “to the best of its knowledge” every contribution and loan received, and every expenditure made, by the candidate and all the candidate’s authorized committees.

Most of the Board’s filing dates coincide with report-filing deadlines set by the New York State Board of Elections, as required under the Act. The Campaign Finance Board also requires disclosure reports on the fourth day prior to an election so that candidates’ filings will be as up to date as possible on election day. In addition to these reports, candidates who have contributions or expenditures in excess of \$1,000 or receive loans in excess of the contribution limits during the seven days prior to an election must disclose these transactions in reports to the Board within 24 hours.

Candidates who had received contributions before February 29, 1988, the day the Campaign Finance Act took effect, were required to file their first report on May 1, 1989. This May 1st filing was a one-time effort and will not be repeated, because pre-effective date contributions will rarely be available to candidates in future elections. Candidates did not have to file a disclosure report for any period in which they had no financial activity. In response to candidates’ concerns that there were too many filing dates, the Board issued regulations exempting candidates not having a primary from filing three disclosure reports scheduled before the primary election and ruled that candidates who were defeated in a primary election were not required to file four of the disclosure reports scheduled before and after the general election.<sup>4</sup>

The information subject to disclosure includes the contributor’s occupation, employer, and business address, and any person or organization serving as an “intermediary” by delivering a contribution made by a third party. Candidates and their campaign staffs are required to make a good faith effort to obtain this information. For example, campaigns must request the required information from every contributor, in written fund-raising solicitations or by contacting contributors after donations are received. Candidates must also report the amount of each contribution and indicate whether it is monetary or in-kind; whether it is from an individual or an organization; and whether the contribution is being claimed for threshold or matching purposes. Any contributions that are refunded to donors, and all other campaign receipts in addition to contributions, such as interest income from bank accounts, must also be reported. For any loan received, candidates must identify the lender and amount, as well as anyone who guaranteed or provided other security for the loan. For each expenditure, candidates identify the payee, amount paid, check number, bank account, and any amount remaining due. Candidates must also report the purpose of each expenditure. In addition, candidates may classify an expenditure as qualifying for the use of public funds, as a fund-raising expense subject to the separate fund-raising allowance, or as exempt from the expenditure limits altogether, such as compliance costs.

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## Chapter 3

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After repayment of all debt for the 1989 elections, candidates must file “close-out” questionnaires, indicating when the debt was extinguished, final bank account balances, and any remaining large non-liquid campaign assets. The filing of this questionnaire concludes the participating candidate’s reporting obligations.

### Penalties

Candidates who violate the Act are liable for civil and criminal penalties. Civil penalties of up to \$10,000 can be imposed for failure to file required reports and for violations of other provisions of the Act. There are civil penalties for violations of expenditure limits of up to three times the amount of expenditures made over the applicable expenditure limit and criminal penalties for the intentional or knowing violation of the Act, including the filing of false reports.

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The five-member Campaign Finance Board is responsible for administering the Act, as described in the next chapter.

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### NOTES

<sup>1</sup> Separate spending limits and fund-raising allowances for runoff primary races are equal to half the spending limits and fund-raising allowances applicable to the primary or general elections.

<sup>2</sup> For the 1989 elections, because it was the first year of the Program’s existence, this filing deadline was extended to February 3, 1989 by Local Law No. 4 of 1989.

<sup>3</sup> For 1989, the Campaign Finance Board report filing deadlines were: May 1, 1989; June 15, 1989; July 15, 1989; August 11, 1989; September 1, 1989; September 8, 1989; September 22, 1989; October 6, 1989; October 27, 1989; November 3, 1989; December 4, 1989; January 15, 1990; and July 15, 1990. Candidates with 1989 election debt outstanding after July 11, 1990 must file semi-annual reports until the debt is extinguished.

<sup>4</sup> Campaign Finance Board Rule 331(c) and Advisory Opinion No. 1989-47 (September 21, 1989).



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## Chapter 4:

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# Campaign Finance Board

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**I**t is the goal of the New York City Campaign Finance Board, an independent, non-partisan City agency, to administer the Program in a manner that (i) distributes public monies to candidates as expeditiously as possible so that their campaigns are effectively enhanced by participation in the Program; (ii) ensures compliance by participating candidates with the conditions of the Program; and (iii) provides the public with timely and accurate information about the candidates and their campaign finances.

### Structure

The Board consists of five members. Two are appointed by the mayor and must be from different political parties. Two are appointed by the speaker of the City Council and must also be from different political parties. The chairman is appointed by the mayor in consultation with the speaker of the City Council. The Board members serve staggered five-year terms and can be removed only for cause.

Board members must be registered to vote in New York City. Under the law, they may not participate in any campaign for offices under the Board's jurisdiction. City employees and lobbyists are not eligible to serve on the Board. Under additional Ethical Guidelines adopted by the Board, Board members may not make any contributions to candidates running for offices under the Board's jurisdiction. The current Board members are:

**Joseph A. O'Hare, S.J., Chairman.** A Democrat appointed in June 1988 to a five-year term by the mayor in consultation with the speaker of the City Council, Father O'Hare is the president of Fordham University. He served on the New York City Charter Revision Commission from 1986 to 1988.

**James I. Lewis.** A Liberal initially appointed in July 1988 by the speaker of the City Council to a one-year term, he was reappointed in 1989 to serve an additional five years. He is a lecturer in the History Department at Hunter College and Bernard Baruch College.

**Robert B. McKay.** A Republican appointed to a two-year term by the mayor in June 1988, he was a professor at and former dean of the New York University School of Law. He was a past president of the Association of the Bar of the City of New York. Dean McKay, to whom this Report is dedicated, died on July 13, 1990. As of the time this Report went to press, his position remained unfilled.

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**Joseph Messina.** A Democrat filling an unexpired three-year term, appointed by the speaker of the City Council, he is the president of the non-profit Motor Vehicle Accident Indemnification Corporation. Mr. Messina was appointed in December 1988 to replace Frank Macchiarola, who resigned from the Board when he ran for comptroller.

**Sonia Sotomayor.** An Independent appointed by the mayor in June 1988 to a four-year term, she is a member of the law firm of Pavia and Harcourt and a former Manhattan Assistant District Attorney.

### Staffing and Start-up

The Campaign Finance Board hired its first staff member, the Executive Director, in September, 1988. By January 1, 1989, the Board had hired eight other staff members, including the Deputy Executive Director, the Counsel to the Executive Director, and the directors of three of the agency's departments: systems administration, administrative services, and public relations and education. The director of the agency's auditing and accounting department and the Chief Litigation Counsel had joined by April, completing the senior staff. At the end of July 1989, the agency had all its departments and its computer system in place and was issuing the first checks to candidates who qualified for public matching funds under the Campaign Finance Program. (See Figure 4.1.)

In late 1988, the Board and its staff began administering the Program and educating potential participants on the law's application to the 1989 municipal elections. By early August, less than a year after the first staff member was hired, the first copies of the Voter Guide for the 1989 primary election were on their way to New York City voters.

The Board had 39 authorized personnel during the 1989 elections. For fiscal year 1991, an additional five positions were authorized, bringing the agency's total personnel to 44. During peak election activity periods, the Board hires temporary personnel and summer interns to assist the permanent staff, particularly with data entry, auditing, and production of the Voter Guide.

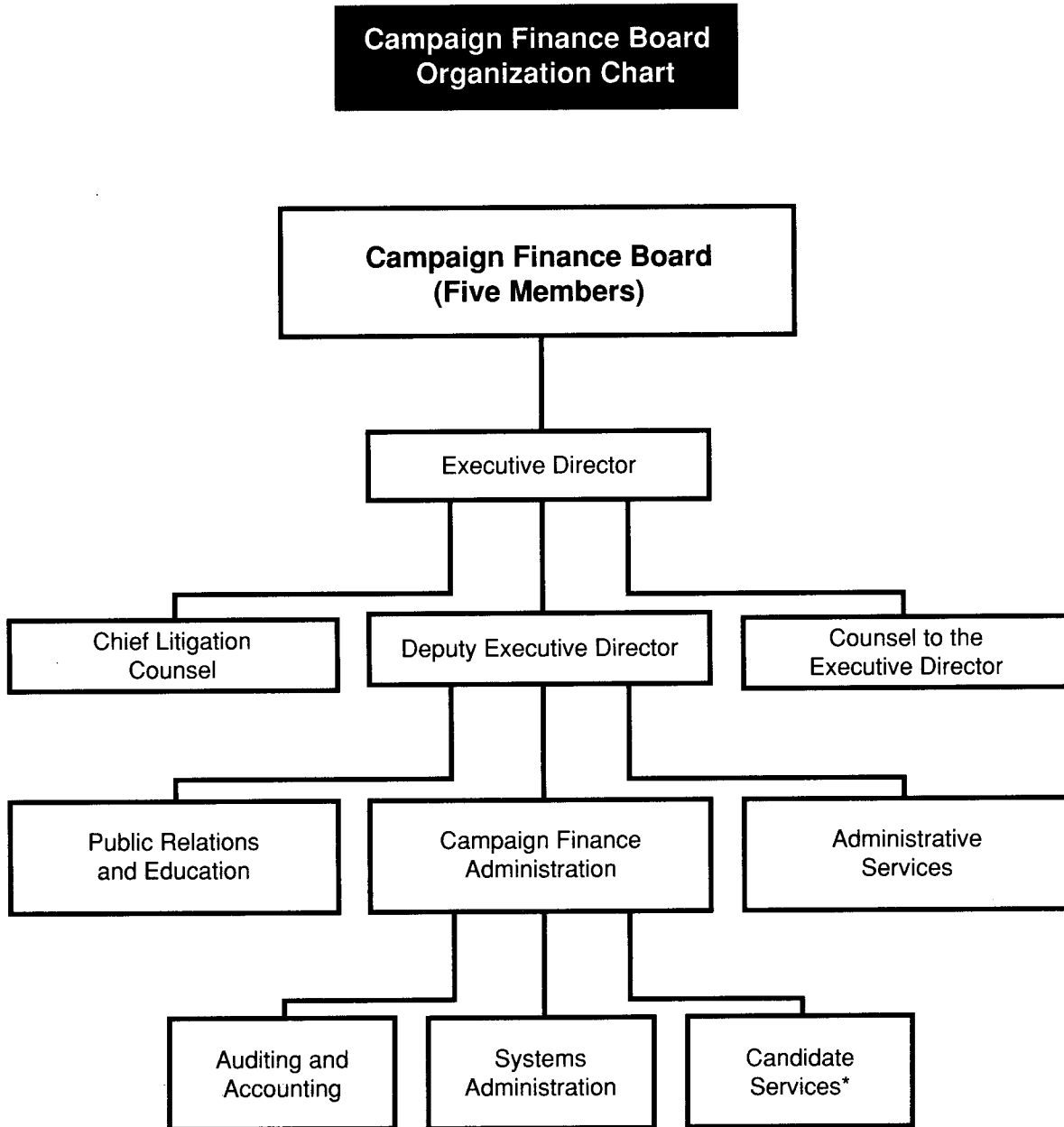
### Budget

The Campaign Finance Board administers two separate budgets. The first is the Fund, which contains the public money distributed to candidates who qualify for matching funds. The second is the Board's operating budget, which covers staff salaries and operating expenses.

In the spring of 1988, the City's Office of Management and Budget estimated that \$28 million should be placed in the Fund for the 1989 elections. For Fiscal Year 1990, \$20 million was actually appropriated to the Fund. A total of only about \$4.5 million was actually paid to qualifying candidates during the 1989 New York City elections. The remainder was returned to the City's general fund.

The Board's operating budget is divided into personal services ("PS") and other than personal services ("OTPS"). For fiscal year 1990, the PS budget was about \$1.6 million and

Figure 4.1



\*Candidate Services is a new division being formed by the Board.

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## **Chapter 4**

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the OTPS budget was about \$1.4 million. An additional \$4 million in OTPS was budgeted for the printing and mailing of the 1989 Voter Guide to New York City voters. In fact, the Board published and distributed 4.7 million copies of the Voter Guide for a total cost of about \$1.6 million, significantly under budget.

### **Relationship to Other Government Agencies**

The Campaign Finance Board regularly consults with the City and State Boards of Elections, the Federal Election Commission and campaign financing agencies in other states, and other government agencies, as necessary in the day-to-day administration of the Program. The Board frequently obtains copies of candidates' financial disclosure reports filed with the City Board of Elections to assist in monitoring the finances of non-participating candidates and in verifying certain information received from participating candidates. For example, the Board must know when a non-participant raises or spends more than half of the expenditure limit set by the Program, because this lifts the expenditure limits for participating candidates in that race. In addition, the Board uses information from the City Board of Elections to track which candidates are on the ballot during petition litigation, because a candidate must be on the ballot (and have an opponent who is on the ballot) to receive public funds. The Board also tracks petition filings with the City Board to identify and contact candidates for inclusion in the Voter Guide.

The Campaign Finance Board's legal staff communicates with lawyers for the State Board of Elections concerning interpretation of state election law. In addition, the Campaign Finance Board has had preliminary contacts with the State and City Boards of Elections to discuss the possibility of redesigning the Board's disclosure forms so that they may be accepted for filing by the Boards of Elections as well. If this is accomplished, participating candidates will only be required to file one set of forms for purposes of both state and local law, greatly simplifying the reporting process for Program participants. (During the 1989 elections, participating candidates had to file two sets of disclosure forms, one with the City or State Board of Elections, and one with the Campaign Finance Board.)

Like all City agencies, the Campaign Finance Board determines its budget in conjunction with the Office of Management and Budget. Consistent with the recent Charter revisions, the City Council approves the Board's budget. The Campaign Finance Board submitted all its major contracts for approval by the Board of Estimate, which went out of existence by operation of law in August of 1990.

### **Independence**

Because of the politically sensitive nature of the Campaign Finance Program, the Campaign Finance Board was established as an independent, non-partisan body. It is important that the Board remain as independent as possible for a City agency. Conflicts or the appearance of conflicts could arise because the candidates (or their opponents) who participate in the Program and who are regulated by the Board during the elections are or may become the officeholders who make appointments to the Board, negotiate and approve

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the Board's budget, and approve its contracts. Only the continued appointment of completely non-partisan members will ensure public confidence in the Program and allow it to function effectively.

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The Board first administered the Campaign Finance Program for the 1989 municipal elections. The candidates who participated in the Program and their 1989 campaigns are described in the next chapter.



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**PART II**

**RESULTS OF THE  
CAMPAIGN  
FINANCE PROGRAM  
IN THE 1989 ELECTIONS**

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## Chapter 5:

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# Candidate Participation in the Program and Profiles of Races

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**D**uring the 1989 New York City elections, citywide and borough president candidates, including incumbents, participated in the new Program at a very high rate. Council candidates' participation, however, was lower, and half of the Council incumbents running for re-election did not participate. A total of 57 potential contestants for municipal office joined the Campaign Finance Program in 1989.<sup>1</sup> Of these, 48 appeared on the ballot as candidates in either the primary or general elections, and 36 ultimately received public funds. Eleven participants on the ballot either did not reach the threshold or did not claim matching payments.

All the major Democratic mayoral candidates—David Dinkins, Edward Koch, Harrison Goldin, and Richard Ravitch—participated in the Program. Among the Republicans, Rudolph Giuliani, who won the primary, joined the Program; his opponent, Ronald Lauder, did not. The major candidates for comptroller, all Democrats—Elizabeth Holtzman, Frank Macchiarola, Alan Hevesi, and Jerrold Nadler—also participated in the Program, as did all the successful borough president candidates. Participation at the Council level was highest in primary contests, where the most competitive races usually occur. Almost two-thirds of the City Council candidates who were on the primary election ballot participated in the Program. Campaign Finance Program participants in the primary and general elections are listed in Tables 5.1 and 5.2.

Successful candidates and candidates in competitive races were more likely to participate in the Campaign Finance Program than others. A statistical analysis of the outcome of the 1989 elections shows that although incumbency was the strongest predictor of a candidate's success, participation in the Program was also a significant predictor of success. The relationship between Program participation and a candidate's success may well be a two-way street. Strong, competitive candidates may be more likely to join the Program than others, and the Program, by providing matching funds, may bolster the campaigns of participants, increasing their competitiveness. In any event, the statistical evidence indicates that participation in the Program in 1989 did not have an adverse effect on candidates' ability to win.

Because voter registration in New York City favors Democrats five-to-one over Republicans, the Democratic primary election is usually where the most contested battles take place. Winning the Democratic nomination is tantamount to election in most districts. The rate of

**Table 5.1  
CAMPAIGN FINANCE PROGRAM PARTICIPANTS  
ON THE 1989 PRIMARY ELECTION BALLOT**

<u>Office</u>	<u>Borough/C.D.</u>	<u>Candidate</u>	<u>Party</u>
Mayor		Dinkins, David N.	D
		Giuliani, Rudolph W.	R
		Goldin, Harrison J.	D
		Koch, Edward I.*	D
		Ravitch, Richard	D
Comptroller		Hevesi, Alan G.	D
		Holtzman, Elizabeth	D
		Macchiarola, Frank J.	D
		Nadler, Jerrold L.	D
Borough President	Manhattan	Messinger, Ruth	D
City Council	3rd C.D.	Greitzer, Carol*	D
	4th C.D.	Cline, Raymond	D
	4th C.D.	Eldridge, Ronnie M.	D
	4th C.D.	Goldfeder, Jerry	D
	4th C.D.	Sheffer, Ethel	D
	4th C.D.	Shorenstein, Janice W.	D
	4th C.D.	Stringer, Scott	D
	4th C.D.	Taylor, David	D
	5th C.D.	Fields, C. Virginia	D
	6th C.D.	Espallat, Adriano	D
	6th C.D.	Michels, Stanley E.*	D
	8th C.D.	Maloney, Carolyn B.*	D
	8th C.D.	Perkins, William	D
	19th C.D.	Harrison, Julia*	D
	26th C.D.	Owens, Chris	D
	27th C.D.	Robles, Victor L.*	L
	29th C.D.	Gerges, Abraham G.*	D
	31st C.D.	Albanese, Sal F.**	D
32nd C.D.	Eichenthal, David R.	D	
33rd C.D.	Cohen, Adele	D	
33rd C.D.	Horwitz, Samuel*	D	

\*Incumbent

†Albanese did not actually appear on the ballot because of a petition challenge. He won the primary election as a write-in candidate.

Party Key: D = Democratic  
L = Liberal  
R = Republican

**Candidate Participation in the Program and Profiles of Races**

**Table 5.2  
CAMPAIGN FINANCE PROGRAM PARTICIPANTS  
ON THE 1989 GENERAL ELECTION BALLOT**

<u>Office</u>	<u>Borough/C.D.</u>	<u>Candidate</u>	<u>Party</u>
Mayor		Dinkins, David N.	D
		Giuliani, Rudolph W.	R, L, I
Comptroller		Holtzman, Elizabeth	D, L
Borough President	Brooklyn	Golden, Howard*	D
	Bronx	Ferrer, Fernando*	D, L
	Manhattan	Messinger, Ruth	D, L
	Queens	Shulman, Claire*	D
	Staten Island	Lamberti, Ralph J.*	D, SIS
	Staten Island	Molinari, Guy V.	R, C, RTL
City Council	1st C.D.	Molinari, Susan*	R, C
	1st C.D.	Paperman, Dennis	D, SIS
	2nd C.D.	Friedlander, Miriam*	D
	3rd C.D.	Greitzer, Carol*	D
	4th C.D.	Eldridge, Ronnie M.	D, L
	5th C.D.	Fields, C. Virginia	D
	6th C.D.	Michels, Stanley E.*	D, L
	7th C.D.	Dryfoos, Robert J.*	D, L
	8th C.D.	Maloney, Carolyn B.*	D, L
	10th C.D.	Eisland, June Margolin*	D, L
	14th C.D.	Crispino, Jerry*	D, C, L
	19th C.D.	Harrison, Julia*	D, L
	20th C.D.	Vallone, Peter F.*	D
	23rd C.D.	Berman, Herbert E.*	D, R, L
	25th C.D.	Alter, Susan D.*	D, L
	27th C.D.	Robles, Victor L.*	D, R, L
	29th C.D.	Gerges, Abraham G.*	D, L
30th C.D.	DiBrienza, Stephen*	D, L	
31st C.D.	Albanese, Sal F.*	D, I	
31st C.D.	Maresca, Stephen M.	R, C	
33rd C.D.	Horwitz, Samuel*	D, L	
35th C.D.	Perednia, Theodore	R	

\*Incumbent

Party Key:

C = Conservative  
D = Democratic  
I = Independent  
L = Liberal

R = Republican  
RTL = Right-to-Life  
SIS = Staten Island Secession

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candidates' participation in the Program was accordingly higher in the primary election (which consisted mostly of Democratic races) than in the general election. Out of 47 candidates who appeared on the primary election ballot (43 of whom were Democrats), 30 candidates, representing 64 percent of the total, participated in the Program, as shown in Table 5.3.

In the general election, out of 115 candidates listed on the ballot, 31 candidates, representing 27 percent of the total, participated in the Program. The overall participation rate was lower in the general election in large part because, in addition to the Democratic, Republican, and Liberal candidates who had races in the primary election, Conservative and Right-to-Life Party candidates and a sizeable number of independent candidates were on the ballot but did not participate. In 1989, 39 candidates running exclusively as Conservative, Right-to-Life, New Alliance, Socialist Workers, Workers League, Libertarian, and Staten Island Secession party candidates appeared on the general election ballot. Many of these candidates enter the campaign seeking to advance issues and positions they believe major party candidates ignore. For example, Henry Hewes, the Right-to-Life Party candidate, said he was "running for mayor to advance his ideological goals and to keep other candidates intellectually honest."<sup>2</sup> Lenora B. Fulani, running on the New Alliance Party line, joined the mayoral race because she believed it was important to "speak the issues of the black agenda."<sup>3</sup> Most independent and minor party candidates had minimal campaign contributions and expenditures. Many filed statements with

**Table 5.3**

**CANDIDATE PARTICIPATION IN  
THE CAMPAIGN FINANCE PROGRAM**

	<u>1989 Primary Election</u>		<u>1989 General Election</u>	
	<u>All Candidates on Ballot</u>	<u>Campaign Finance Program Participants</u>	<u>All Candidates on Ballot</u>	<u>Campaign Finance Program Participants</u>
Mayor	6	5	8	2
City Council President	2	0	6	0
Comptroller	5	4	7	1
Borough President	2	1	15	6
City Council	<u>32</u> 47	<u>20</u> 30	<u>79</u> 115	<u>22</u> 31

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## **Candidate Participation in the Program and Profiles of Races**

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the Board of Elections certifying that they would not make any expenditures or would not spend more than \$1,000 on an entire campaign. These candidates do not have a strong incentive to join the Campaign Finance Program, as they do not intend to raise substantial contributions and do not expect to run a competitive race.

Some incumbent Council members who did not face serious opposition in the 1989 elections, and thus did not have large campaign contributions or expenditures, also had little incentive to join the Program. Seven Council incumbents who did not participate in the Program had no primaries and only minor opposition in the general election. Another five non-participating incumbents had no primaries and ran unopposed in the general election. During the first year there was an added deterrent: the fact that the Program was entirely new and unfamiliar. Council member Arthur Katzman stated at Governmental Operations Committee hearings held on the Program, "I was a very strong proponent of the bill. . . . I sponsored it through the committee. . . . [But] I wouldn't have gone into [the Program] anyway. . . . [because] I had no opponent. . . [and] you began confronting us with regulations. . . ." Finally, at least one candidate stated that he was opposed to public financing and therefore did not participate in the Program.

**Recommendation:** In response to testimony received at the Public Hearings, the Board recommends giving candidates more time to decide whether to participate in the Program. The first deadline for joining should be postponed from January 1 to March 31 in the year of the election. This deadline would apply to candidates with campaign committees in place on March 31. A later deadline, June 15, would apply to candidates seeking party nominations who first form their campaign committees after March 31.

The Board strongly recommends against providing candidates with an opportunity to withdraw from the Program after they have joined. An "opt-out" procedure would confuse and mislead the voters about whether a candidate is participating and would waste administrative resources on participants who ultimately withdraw from the Program. Moreover, it would threaten to undermine participation through a series of "last minute" decisions to withdraw from the Program. Candidates should make their decision to commit or not commit to the goals of the Campaign Finance Program prior to the certification deadline. Rather than using an opting-out procedure to protect participating candidates from non-participating opponents, the Board supports increasing the Program's benefits to allow participants to run competitive races against free-spending opponents. (See Recommendation No. 8 in Chapter 15.)

### **Profiles of Races**

#### **Mayoral Race**

The mayor's race in 1989 was one of the most highly competitive in years, with hard-fought contests in the Democratic and Republican primaries and, especially rare, in the general election. Manhattan Borough President David Dinkins, Comptroller Harrison Goldin, Mayor Edward Koch, and former Metropolitan Transit Authority Chairman Richard Ravitch vied for the Democratic nomination. Former U.S. Attorney Rudolph Giuliani and former Ambassador Ronald

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Lauder sought the Republican nomination. All the Democratic primary candidates joined the Campaign Finance Program, and thus were required to abide by the contribution limits of \$3,000 per election and expenditure limits (including a fund-raising allowance) of \$3.6 million per election. Dinkins and Koch reported spending \$3.2 and \$3.7 million, respectively, for the primary (including exempt expenditures),<sup>4</sup> and received \$461,739 and \$334,433, respectively, in public funds. As Table 5.4 shows, Goldin and Ravitch each spent approximately \$1.8 million for the primary.

**Table 5.4**

**MAYORAL DEMOCRATIC PRIMARY**

<u>Candidate</u>	<u>Contributions for Primary</u>	<u>Expenditures for Primary (Including Exempt)</u>	<u>Public Funds Earned</u>	<u>Percent of Total Votes</u>
Dinkins*	\$ 3,224,601	\$ 3,242,715	\$ 461,739	51 %
Goldin*	1,678,128	1,804,721	14,641**	3
Koch*	3,477,968	3,725,792	334,433	42
Ravitch*	1,565,236	1,832,988	225,321***	4

\*Program participant

\*\*Goldin returned the total amount to the Fund.

\*\*\*Ravitch returned \$1,845 from campaign surplus to the Fund.

Source: Campaign Finance Board Data

Rudolph Giuliani, who also joined the Campaign Finance Program, spent \$3.2 million for the Republican primary and received \$756,188 in public matching funds. (See Table 5.5.) Giuliani's opponent Ronald Lauder, who declined to participate in the Program, spent approximately \$13 million of his own money on his campaign.<sup>5</sup> Because Giuliani faced a high-spending primary opponent who was not participating in the Program, the expenditure limits for Giuliani's campaign were lifted, as called for by the Act, and he received public matching funds at the rate of two public dollars for every dollar raised, rather than the standard one-for-one rate.<sup>6</sup> A candidate who gets matching funds at the two-for-one rate receives public funds earlier, but is subject to the same maximum amount of public funds—one-half the expenditure limit, or \$1.5 million—for participating mayoral candidates. Despite the lifting of the \$3.6 million applicable limit, Giuliani's spending for the Republican primary did not exceed this amount, nor did he qualify for the maximum amount of public funds.

David Dinkins and Rudolph Giuliani won their respective primaries and faced each other in the November general election. (See Table 5.6.) Dinkins ran on the Democratic line, and Giuliani ran on the Republican, Liberal, and Independent lines. Both major contenders were Program participants. Ronald Lauder, running as the nominee of the Conservative party, and

**Candidate Participation in the Program and Profiles of Races**

**Table 5.5**

**MAYORAL REPUBLICAN PRIMARY**

<u>Candidate</u>	<u>Contributions for Primary</u>	<u>Expenditures for Primary (Including Exempt)</u>	<u>Public Funds Earned</u>	<u>Percent of Total Votes</u>
Giuliani*	\$ 2,357,610	\$ 3,180,832	\$ 756,188	67 %
Lauder	12,283,746**	13,789,889**	NA (not applicable)	33

\*Program participant

\*\*Based on the Lauder campaign report to the City Board of Elections dated September 18, 1989

Source: Campaign Finance Board and City Board of Elections Data

**Table 5.6**

**MAYORAL GENERAL ELECTION**

<u>Candidate</u>	<u>Contributions for General</u>	<u>Expenditures for General (Including Exempt)</u>	<u>Public Funds Earned</u>	<u>Percent of Total Votes</u>
Dinkins*	\$ 3,422,230	\$ 3,899,630	\$ 524,410***	50 %
Fulani	3,951	3,459	NA	**
Giuliani*	2,486,308	2,974,411	462,776	48
Harris	†	†	NA	**
Hewes	‡	‡	NA	1
Lauder	1,097,200§	716,426§	NA	1
Mazelis	‡	‡	NA	**
Raum	†	†	NA	**

\*Program participant

\*\* Received less than 0.5 percent of the vote

\*\*\*Dinkins returned \$100,000 from campaign surplus to the Fund.

†Candidate did not file with City Board of Elections or no reports were available.

‡Candidate certified to City Board of Elections that contributions and expenditures were less than \$1,000.

§These figures represent the total contributions and expenditures in the Lauder campaign's report to the City Board of Elections dated January 15, 1990, minus those reported in the September 18, 1989 filing.

Source: Campaign Finance Board and City Board of Elections Data

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Henry Hewes, the Right-to-Life candidate, did not participate. Four independent candidates on the general election ballot who did not participate in the Program were New Alliance candidate Lenora B. Fulani, Socialist Workers candidate James Harris, Workers League candidate Fred Mazelis, and Libertarian candidate Warren L. Raum. The \$3.6 million spending caps for Dinkins' and Giuliani's campaigns remained in effect in the general election, because none of their non-participating opponents raised enough to lift the expenditure limits. Dinkins spent a total of \$3.9 million for the general election (including his exempt expenditures) and received \$524,410 in public funds, whereas Giuliani spent \$3 million and earned \$462,776 in public funds. David Dinkins won the general election and was inaugurated as Mayor on January 1, 1990.

### **Comptroller Race**

In the most highly contested comptroller's primary race since 1973, the four major candidates, former U.S. Representative and Brooklyn District Attorney Elizabeth Holtzman, Assemblyman Alan G. Hevesi, former City Schools Chancellor Frank J. Macchiarola, and Assemblyman Jerrold L. Nadler, all participated in the Program, and thus had to abide by the contribution limits of \$3,000 per election and spending plus fund-raising limits of \$2.1 million per election. Holtzman outspent the other candidates, raising and spending approximately \$1.3 million for the primary. (See Table 5.7.) She received \$179,371 in public matching funds. Holtzman won the Democratic nomination, beating her closest rivals by a two-to-one margin. Hevesi was second, and Macchiarola ran third. Nadler withdrew from the race a week before the primary and endorsed Hevesi.

In the general election, Holtzman, with 74 percent of the vote, defeated Republican opponent Albert Lemishow, who received 19 percent of the vote, and five other candidates, none of whom was a participant in the Program.

### **City Council President Race**

Incumbent City Council President Andrew J. Stein faced nominal opposition from Rafael Mendez in the Democratic primary. Stein raised \$1,611,590 and spent \$1,563,304 for the 1989 elections, while Mendez reported \$3,951 in contributions and \$3,459 in expenditures. Andrew Stein won the Democratic primary by a three-to-one margin. Stein's general election opponents had minimal or no spending. He beat one Conservative, one Right-to-Life, and three minor party candidates in the general election, winning 91 percent of the vote. Although Stein originally expressed support for funding the Campaign Finance Program, he later declined to participate and then publicly opposed the Program.<sup>7</sup> Neither Mendez nor any of the other candidates for City Council President participated in the Program. For this reason, although the Program covers the office of Council President, the office is not shown on many of the tables and graphs contained in this Report.

### **Borough President Races**

All the victorious borough president candidates participated in the Campaign Finance Program—Howard Golden of Brooklyn, Fernando Ferrer of the Bronx, Ruth Messinger of



## Candidate Participation in the Program and Profiles of Races

**Table 5.7**

### COMPTROLLER DEMOCRATIC PRIMARY

<u>Candidate</u>	<u>Contributions for Primary</u>	<u>Expenditures for Primary (Including Exempt)</u>	<u>Public Funds Earned</u>	<u>Percent of Total Votes</u>
Hevesi*	\$ 756,881	\$ 831,635	\$ 49,573	24 %
Holtzman*	1,223,329	1,277,402	179,371	47
Macchiarola*	715,740	846,109	121,150	21
Nadler*	289,511	467,868	0**	4
Rose	3,951	3,459	NA	3

\* Program participant

\*\* Nadler did not reach the threshold.

Source: Campaign Finance Board and City Board of Elections Data

Manhattan, Claire Shulman of Queens, and Guy Molinari of Staten Island. The only closely contested race for borough president took place in Staten Island, where Republican Congressman Guy Molinari successfully challenged incumbent Democrat Ralph Lamberti, who also participated in the Program. The other Democratic borough president candidates faced only minimal opposition, from nine candidates, none of whom were Program participants. Participating candidates were subject to contribution limits of \$2,500 per election and spending plus fund-raising limits of \$750,000 per election in the primary and general elections. Only Ruth Messinger came close to spending the limit.

In Brooklyn, incumbent Borough President Howard Golden was opposed by former Assemblyman Joseph Ferris on the Liberal line, Republican Joseph M. Parrota, and Conservative John H. Fox. Golden won easily with 76 percent of the vote. A Program participant, he raised \$535,910 and spent \$140,724 for the 1989 primary and general elections, but chose not to receive any public funds.

Incumbent Bronx Borough President Fernando Ferrer was opposed on the general election ballot by Republican Luis Ortiz, Conservative John McCarthy, and Right-to-Life candidate Martin J. O'Grady, none of whom offered significant opposition. Ferrer won with 84 percent of the vote. A Program participant, he raised \$399,953 and spent \$290,379 for the 1989 elections, and did not meet the threshold for public funds.

Former Council member Ruth Messinger easily won the Manhattan borough president's race. She bested Barbara Taylor, a school principal, in the Democratic primary, and Republican Earl Andrews, Jr., an investment banker, and Taylor running on the New

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Alliance line in the general election, by five-to-one margins. Assemblyman Herman D. Farrell, who initially entered the borough president race, withdrew in May. Messinger spent \$794,841 for the primary and \$676,719 for the general election. Andrews spent \$43,203 for the general election, and Taylor spent \$3,459.

Before deciding to run for Manhattan borough president, Messinger considered running for mayor, comptroller, and City Council president. She started fund raising early, holding over 350 "house parties" in supporters' living rooms since July 1987. Messinger collected \$975,132 in primarily small contributions from more than 10,000 contributors for the 1989 primary and general elections. By collecting small and medium-sized contributions, Messinger maximized her receipt of public matching funds. She received \$312,500 in public funds for the primary and \$288,214 for the general election.

Claire Shulman, the Democratic incumbent borough president of Queens, easily beat Conservative Party candidate John D. Murnane in the general election with 84 percent of the vote. Shulman participated in the Program but did not meet the threshold for public funds. She raised \$182,886 and spent \$86,115 for the general election.

In Staten Island, incumbent Democrat Ralph Lamberti and Republican Congressman Guy Molinari waged a vigorous contest for the office of borough president. Molinari led slightly in contributions raised and spending for the general election. (See Table 5.8.) Both candidates participated in the Program and received substantial public funds. Molinari was elected with 57 percent of the vote.

**Table 5.8**

**STATEN ISLAND BOROUGH PRESIDENT  
GENERAL ELECTION**

<u>Candidate</u>	<u>Contributions for General</u>	<u>Expenditures for General (Including Exempt)</u>	<u>Public Funds Earned</u>	<u>Percent of Total Votes</u>
Lamberti*	\$ 296,000	\$ 338,042	\$ 75,637**	43 %
Molinari*	353,837	392,553	115,366	57

\*Program participant

\*\*Lamberti returned \$5,648 from campaign surplus to the Fund.

Source: Campaign Finance Board Data

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## Candidate Participation in the Program and Profiles of Races

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### City Council Races

**Primary Races.** Thirty-four of the thirty-five Council members ran for re-election in 1989, but only eleven faced primary challenges on September 12th. There were twelve primary races for the Council, eleven Democratic (including one race to fill a vacancy), and one Liberal. In each of the 12 primary races, one or more of the candidates were Program participants.

Council member Carol Greitzer faced a serious primary challenge in Manhattan's 3rd District, which includes Greenwich Village, Chelsea, Gramercy Park, and Murray Hill. Greitzer has represented the 3rd District since 1969 when she replaced then Council member Edward Koch. Her opponent was Thomas K. Duane, a stockbroker and Chelsea district leader. Greitzer participated in the Campaign Finance Program, but Duane did not participate because he thought the Program's spending limits were too low to permit a challenger to run a successful race against an incumbent in Manhattan's 3rd District. According to Board of Elections reports, Duane appears to have had a broad base of contributor support. Duane raised a total of about \$150,000, of which some \$37,000 were unitemized contributions (under \$100), with 522 itemized contributions accounting for the rest. Greitzer raised \$75,805 from 490 contributors, and spent \$79,453 in the primary, but was outspent by Duane, who spent \$163,000. The \$60,000 expenditure limit was lifted for Greitzer, and she received \$30,000 in two-for-one matching funds. Greitzer defeated Duane in the primary, winning 55 percent of the vote to his 45 percent.

The only incumbent not seeking re-election to the Council was Ruth Messinger, who vacated her Upper West Side seat to run for Manhattan borough president. Eight candidates jumped into the race in the 4th District, resulting in the most competitive and expensive of the Council races. The eight candidates were Raymond Cline, Ronnie Eldridge, Lancelot Fletcher, Jerry Goldfeder, Ethel Sheffer, Janice Weinman Shorenstein, Scott Stringer, and David Taylor. All but one of these candidates, Fletcher, participated in the Program. Commenting on the large number of candidates in the race, Eldridge observed that "the campaign finance law enabled some people to run and the fact that there was an open seat. . ." encouraged others.<sup>8</sup>

The seven participating candidates received contributions from more than 4,000 contributors. The top three vote-getters raised the largest amounts of funds of all Program candidates in the District, suggesting that successful fund raising in small amounts as contemplated by the Program can also be an indication of vote-getting ability. Eldridge raised \$155,674, Stringer raised \$96,946, Shorenstein raised \$142,093, and Taylor raised \$61,036 for the primary. Total primary expenditures in the 4th District were unusually high for a Council election. According to Board of Elections reports, Fletcher, the non-participating candidate, ultimately spent approximately \$184,000, more than any of his Program competitors. By July of 1989, Fletcher had spent about \$120,000, or twice the \$60,000 expenditure cap for Council Program participants. Accordingly, the Board lifted the \$60,000 expenditure ceiling, as provided by the Act, and notified the participants that they were entitled to receive two-for-one public matching funds up to a maximum of \$30,000.

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In Board of Elections filings, Fletcher reported that about 83 percent of his total of \$193,000 campaign income was from loans from himself and his wife. By contrast, Program participants in the 4th District relied on loans only to a very limited extent. Eldridge, Sheffer, and Stringer reported no loans; Shorenstein reported the largest loan total of all Council candidates in the Program, \$27,254, or 16 percent of her campaign income, all of which was repaid.

Fletcher also reported raising about \$32,000 through campaign contributions in the form of 134 donations. The other seven candidates each raised between 143 and 1,164 contributions. Six out of seven participating candidates in the 4th District received the maximum of \$30,000 in public matching funds. The breakdown of primary votes was roughly proportional to candidate expenditures, except for Fletcher, who received disproportionately few votes in relation to his expenditures. Ronnie Eldridge won the Democratic nomination, bringing in twice as many votes as her nearest competitor.

The \$210,385 in public matching funds distributed to participating candidates in the 4th District for the primary and general elections represents 42 percent of all public funds distributed to participating Council candidates. Program candidates in the 4th District also accounted for 26 percent of the contributions raised and 36 percent of the expenditures made by all participating Council candidates for the primary and general elections. While the 4th District may be more politically active than most other Council Districts, the 1989 election experience there suggests that there will be a number of expensive and hard-fought campaigns in the 1991 elections, when at least 16 of the 51 new Council seats will not have standing incumbents.

The only Council candidate to unseat an incumbent was C. Virginia Fields, who beat Council member Hilton Clark and challenger William Kirby in Manhattan's 5th District, which encompasses much of Harlem and part of Morningside Heights. With total primary contributions of \$63,225 and expenditures of \$75,772, Fields raised about twice as much and spent about six times as much as Clark, her principal opponent. Like most Council non-incumbents, Fields raised about half of all her contributions in total contributor amounts of \$50 or less. Fields participated in the Campaign Finance Program and received \$22,658 in public funds for the primary, which made up 30 percent of her primary expenditures. Discussing the large amounts of money spent on campaigns, Fields said, "[t]his law [limiting spending] forced us to focus our work on the voters, campaigning one-on-one instead of paying for expensive mailings."<sup>9</sup> Fields won 63 percent of the vote and Clark received 34 percent.

In Manhattan's 6th Council District in Washington Heights, Stanley Michels, who has served on the Council for 12 years, defeated primary challenger Adriano Espaillat, a community board member. Both Michels and Espaillat were Program participants. Michels spent \$45,788 in the primary against Espaillat's \$8,769. Michels received a total of \$18,508 in public funds for the primary but returned \$7,423 of surplus campaign funds after the elections were over. Espaillat did not reach the threshold for receiving public funds. Voters re-elected Michels to a fourth term with 73 percent of the vote.

In Council District 8, incumbent Council member Carolyn Maloney faced two strong opponents, Adam Clayton Powell IV, a former Bronx assistant district attorney, and William

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## Candidate Participation in the Program and Profiles of Races

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Perkins, deputy chief clerk of the City Board of Elections. The 8th District includes East Harlem and parts of Yorkville, the Upper East Side, and the South Bronx. Maloney and Perkins both participated in the Campaign Finance Program; Powell did not. Maloney spent \$107,566 for the primary, five times the amount spent by Perkins and Powell, who spent \$22,653 and \$17,142, respectively. Maloney received the \$30,000 maximum amount of public funds, and Perkins received \$6,105 in public funds. Maloney was re-elected with 56 percent of the vote. Powell received 23 percent, and Perkins received 20 percent.

The only primary in Queens' nine Council Districts took place in District 19, covering Corona, Flushing, and Bayside, where Council member Julia Harrison faced opponent Frank Steele, a schoolteacher. Harrison raised a total of \$28,024 in contributions for the primary and spent \$14,319, and Steele spent less than \$1,000, as reported to the City Board of Elections. Harrison, a Program participant, received \$3,990 in public matching funds for the primary, but returned all the money after the elections. Harrison won easily, receiving three times as many votes as Steele.

In Brooklyn's 26th District covering the western part of Brownsville and the eastern part of Bedford-Stuyvesant and Crown Heights, 12-year Council member Enoch Williams was opposed by Christopher Owens, a corporate legal assistant, and James P. Sullivan, counsel to a cable company. Owens had the largest primary expenditures, with \$31,538, followed by Williams with approximately \$26,136 and Sullivan with approximately \$9,255. Sullivan, who tried to join the Program but missed the deadline, took out approximately \$9,529 in loans, compared with \$1,200 for Owens and none for Williams. Owens, a Program participant, did not meet the threshold amount of \$7,500 in contributions under \$500 until late in the campaign and received only \$4,088 in public funds. Williams won the primary, receiving 43 percent of the vote. Owens received 35 percent and Sullivan received 22 percent.

Incumbent Council member Victor Robles, a Program participant, won a Liberal party primary in Brooklyn's 27th District, defeating opponent Carlos Sanchez. Robles spent \$26,147 for the primary and received \$4,346 in public funds.

In the 29th District in Brooklyn, incumbent Council member Abraham Gerges defeated a well-financed opponent, James Ryan, a stockbroker. Gerges participated in the Program, but Ryan did not. The District includes Park Slope, Boerum Hill, Brooklyn Heights, Fort Greene, Williamsburg, and Greenpoint. Ryan raised \$107,640 and spent \$108,698 on his primary campaign, which triggered two-for-one matching and lifted the expenditure limits for participating candidate Gerges. Gerges raised \$106,070 in contributions and received \$30,000 in two-for-one matching funds for the primary. He spent \$124,370 for the primary. Gerges beat Ryan, winning 64 percent of the vote.

In Brooklyn's 32nd District, which covers parts of Borough Park, Midwood, and Bensonhurst, Council member Noach Dear was challenged by David Eichenthal, a lawyer, and Robert Evans, an administrative law judge. Only Eichenthal was a Program participant. Dear spent \$72,641 on the primary, followed by his principal opponent Eichenthal, who

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spent \$55,133. Eichenthal received \$25,502 in two-for-one matching funds for his primary campaign. Dear won with 54 percent of the vote to Eichenthal's 36 percent, and Evans' 9 percent.

Samuel Horwitz, who has represented the 33rd District for 16 years, was challenged by lawyer Adele Cohen. The District covers Coney Island, Brighton Beach, Manhattan Beach, and Sheepshead Bay. Horwitz outspent Cohen by \$77,993 to \$34,714 in the primary and won with 62 percent of the vote to her 38 percent. Both Horwitz and Cohen participated in the Program. At the Public Hearings, Cohen attributed part of her campaign's strength to the Campaign Finance Program, stating, "I received 10,590 votes, and I couldn't have done it without you." The Board distributed \$10,198 in public funds to Cohen for the primary, and \$2,856 to Horwitz, who returned the money to the Board.

**General Election Races.** In the general election, 33 Council members were re-elected, and two new members, Ronnie Eldridge and C. Virginia Fields, were elected. Democrats retained their 34-to-1 majority in the Council, with Susan Molinari of Staten Island as the sole Republican.<sup>10</sup> Council members elected in 1989 will serve two-year terms rather than the regular four-year terms, because the new City Charter mandates elections in 1991 to increase the Council's size to 51 members.

Twenty-two Council candidates on the general election ballot participated in the Campaign Finance Program, of whom 17 were incumbents. All but 3 of the 22 participating candidates who ran in the general election won.

In the 1st district in Staten Island, Republican Council member Susan Molinari defeated her principal opponent Dennis Paperman by a three-to-one margin. Molinari and Paperman both participated in the Program and received \$15,852, and \$3,035, respectively, in public funds for the general election.

In Manhattan, primary winners Eldridge, Fields, Greitzer, Maloney, and Michels won the general election by a wide margin. These candidates, all Program participants, each received additional public funds in the general election, although Michels returned his after the election. Two Manhattan incumbents who participated in the Program, Miriam Friedlander and Robert Dryfoos, were also re-elected, with 76 and 70 percent of the vote, respectively. Dryfoos, who has represented the 7th District for 10 years, faced a well-financed challenge from Republican Yvette Adam, who did not participate. Dryfoos received \$30,000, the maximum in public funds for the general election. Friedlander, who has represented Manhattan's 2nd District for 16 years, defeated non-participant Sharon Daniel who was running on the Republican and Liberal lines, and received \$19,936 in matching funds.

In the 10th and 14th Districts in the Bronx, incumbents Eisland and Crispino, both Program participants, were re-elected with 81 and 84 percent of the vote, respectively. Neither candidate faced strong opposition. Crispino received \$19,422 in matching funds from the Board, all of which he returned after the election, and Eisland did not claim any contributions for matching purposes.

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## Candidate Participation in the Program and Profiles of Races

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Speaker of the Council Peter Vallone, who has represented the 20th District in Queens since 1974, won the general election with 94 percent of the vote, easily defeating Right-to-Life opponent Vincent Conroy. Vallone, who participated in the Campaign Finance Program, raised \$223,639 in contributions for the general election, but did not claim any contributions for matching purposes and therefore received no public funds. He spent \$42,345. Primary winner Julia Harrison of Queens' 19th District faced no opposition on the general election ballot.

In Brooklyn, primary winners Dear, Gerges, Horwitz, Robles, and Williams, all won the general election by wide margins. Incumbent Council members Alter, Berman, and DiBrienza, who had no primary opposition, also defeated their general election opponents easily. These three candidates participated in the Campaign Finance Program. Because their races were not highly contested, however, they did not raise substantial contributions and thus did not reach the threshold for receiving public funds.

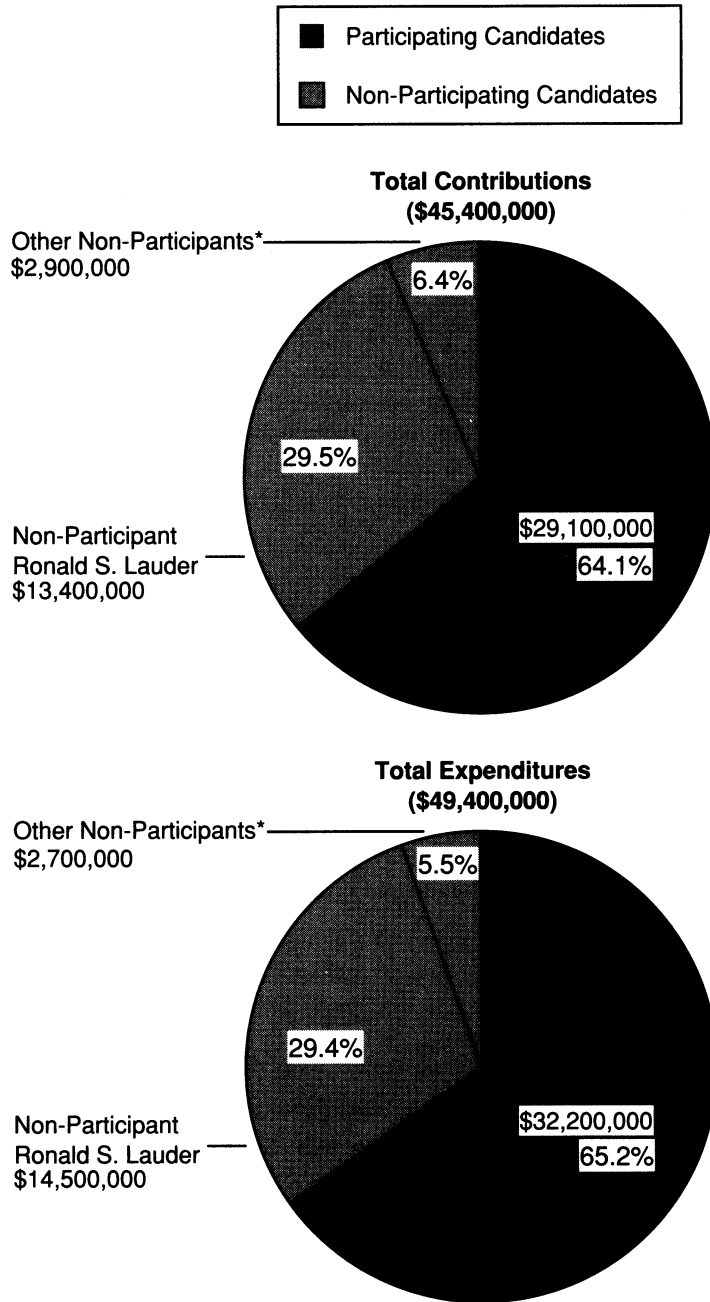
In Brooklyn's 31st District, which includes Bay Ridge and parts of Bensonhurst and Sunset Park, incumbent Democrat Sal Albanese defeated Republican challenger Stephen Maresca by 63 percent of the vote to Maresca's 37 percent. Albanese won the Democratic nomination as a write-in candidate after Maresca successfully challenged Albanese's petitions, so that his name was removed from the primary ballot. Among Council candidates, Albanese was second only to Eldridge in number of campaign contributors. More than 1,300 contributors gave money to his campaign. Albanese outspent Maresca in the general election by \$69,928 to \$16,996. Both candidates were Program participants. Maresca, however, did not meet the threshold for receipt of public funds, and Albanese refunded the \$6,558 in public funds he received for the general election to the Board after the elections were over.

In the 35th District in Brooklyn and Staten Island, Jerome X. O'Donovan won a third term with 66 percent of the vote. O'Donovan, not a Program participant, beat Republican Theodore Perednia, a Program participant, and Right-to-Life, Liberal, and Secession Party candidates, none of whom were participants.<sup>11</sup>

\* \* \*

In the 1989 elections, all candidates, participants and non-participants, received a total of roughly \$45.4 million in contributions, including Ronald Lauder's contributions of approximately \$13.4 million. All municipal candidates spent a total of roughly \$49.4 million, including Lauder's expenditures of approximately \$14.5 million. Candidates participating in the Campaign Finance Program accounted for approximately 64.1 percent of total contributions and 65.2 percent of total expenditures, as Figure 5.1 shows. The campaign finances of participants, including their contributions, loans, expenditures, and public funds, are described in the next four chapters. (Throughout this Report, unless otherwise stated, the figures and totals discussed refer to candidates participating in the Campaign Finance Program only.)

**Figure 5.1**  
**CONTRIBUTIONS AND EXPENDITURES OF ALL CANDIDATES**  
**FOR THE 1989 MUNICIPAL ELECTIONS**



\*These figures are approximations based on aggregation of the total contributions and expenditures reported by non-participants to the City Board of Elections, as made available to the Campaign Finance Board

Sources: Campaign Finance Board Data (for participants) and City Board of Elections Data (for non-participants)



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## Candidate Participation in the Program and Profiles of Races

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### NOTES

<sup>1</sup> Nine individuals' campaign finance disclosure report obligations were suspended when they terminated their candidacies. These include potential mayoral candidates Shirley Chisholm, Herbert London, Grady O'Cummings, Donald Harrington, and David Ulin; for comptroller, Mark Siegal; for borough president, Herman D. Farrell; for City Council, Michael Marinaccio; and Mark Green, who did not designate an office. Data for candidates who terminated their candidacies do not appear in the Report.

<sup>2</sup> Sam Roberts, "Campaign Matters: An Equation to Get on Ballot is Under Fire," *The New York Times*, April 17, 1989.

<sup>3</sup> Donatella Lorch, "Six Candidates Seek Ears, Not Votes," *The New York Times*, October 29, 1989.

<sup>4</sup> Throughout this Report, in the text and tables, participating candidates' contributions or expenditures "for the primary" and "for the general" election are the amounts candidates reported to the Board on their disclosure reports under the "primary" and "general" election codes. In a few cases, candidates may have reported their contributions or expenditures incorrectly under these codes. Participating candidates' total expenditures (including exempt expenditures) are given in this chapter so that participants' spending can be accurately compared to non-participating candidates' expenditures. In addition, participants' expenditure totals in this chapter do not include expenditures reported as made prior to 1989.

<sup>5</sup> All non-participating candidates' data referred to in this Report was obtained from City Board of Elections disclosure reports filed by the candidates. Unless otherwise noted, the contribution and expenditure amounts cited for non-participants are based on the summary totals which the candidates reported to the City Board of Elections.

<sup>6</sup> Giuliani was initially faced with two possible primary battles. Ronald Lauder ran against him on the Republican line, and Donald Harrington attempted to run against him on the Liberal Party line. Harrington ultimately did not obtain enough petition signatures to get on the ballot for the Liberal Party primary. Because Harrington was a Program participant (whose reporting obligations were later suspended when he terminated his candidacy), if he had obtained a place on the ballot to run against Giuliani on the Liberal line, Giuliani's expenditure limit would not have been lifted, and he would not have received two-for-one matching funds. Under the Act, a candidate in two primaries, who is opposed solely by Program participants in one primary, must abide by the Act's limits despite the fact that the candidate may face high-spending non-participating opponents in the other primary.

<sup>7</sup> In a statement on July 5, 1988, signed jointly by Mayor Koch, Vice Chairman Vallone, Comptroller Goldin, and Council President Stein, Stein pledged that full funding would be made available for the Campaign Finance Board's Public Fund.

<sup>8</sup> Jessie Mangaliman, "Most Council Incumbents Win," *New York Newsday*, September 13, 1989, 35.

<sup>9</sup> Jessie Mangaliman, "11 Council Primaries Being Fought," *New York Newsday*, August 29, 1989

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## Chapter 5

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<sup>10</sup> Molinari was elected to fill her father's seat in Congress in March, and Republican Alfred Cerullo 3d was elected to represent the First Council District in a special election held on May 15, 1990. Two candidates, Ralph Molinari and Annmarie Joseph, out of the seven running in the special election, participated in the Program.

<sup>11</sup> Although Perednia joined the Program, the Board did not receive any of his corrected campaign finance reports until July 16, 1990, so campaign finance data for Perednia could not be included in this Report.

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## Chapter 6:

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# Contributions

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he contribution limits of the Campaign Finance Act, in place for the first time in the 1989 elections, resulted in a substantial increase in the number of contributors to candidates for office and effectively reduced participating candidates' reliance on a relatively small number of very large contributions. In previous elections, candidates for citywide office—mayor, comptroller, and City Council president—could accept contributions of up to \$50,000 for the primary and another \$50,000 for the general election under state law. In contrast, participating citywide candidates could only accept contributions of up to \$3,000 per election in 1989. The immediate impact of the Act was thus a marked reduction in the size of contributions that participating citywide candidates could accept.

The Act's contribution limits also encouraged candidates to broaden their bases of support, by making it necessary to seek greater numbers of smaller contributions rather than a handful of large ones. Former Mayor Koch's media strategist David Garth stated, "What bothers me [about the Act] is the amount of time and effort you have to spend on raising money. If you could meet with 10 people who'd give you \$10,000 each before, you now have to meet with 33 people to raise the same amount."<sup>1</sup> In the 1989 election cycle, a total of more than 108,800 separate contributions were given to participating candidates by some 81,000 different individuals and organizations. Mayoral candidates alone received more than 55,000 contributions from some 44,000 individual or organizational contributors. By contrast, the three mayoral candidates in 1985 reported about 20,600 separate contributions, almost all of which were raised by a single candidate, Edward I. Koch.

This chapter presents an overview of all contributions to participating candidates in the 1989 elections, examines the effect of the Act on candidates' fund raising, and sets forth proposals for contribution limits for each office in future elections. The degree of candidates' support from corporations, unions, and other organizations is examined, as well as their support from contributors outside New York City. To shed light on candidates' fundraising styles and abilities, the chapter analyzes to what extent candidates collected funds through intermediaries and which candidates raised funds in non-election years.

The chapter also examines the issues of surplus campaign funds; transition and inaugural expenses; "segregated contributions" which could not be used in the 1989 elections; contributions collected for the primary but "carried over" for use in the general election; and contributions that were received before the Act became effective ("pre-effective contributions").

### **Overview of Contributions to Participating Candidates**

The Board's database for the 1989 election cycle contains some 108,800 itemized contribution transactions for 48 Program participants competing for all offices.<sup>2</sup> The total dollar amount of these contributions, provided by an estimated 81,000 different individuals and organizations, is \$27.3 million for all offices. In studying contributor behavior, it is helpful to examine two important aspects of the distribution of contributions reported to the Board. The "frequency distribution" of contributions is a summary of how many contributions there were in any given dollar size interval. The "dollar distribution" of contributions indicates how much of the candidates' total contribution dollars were in each of the dollar size intervals.

Approximately 16,000 individuals or organizations made more than one contribution to the same candidate. The Board developed computer programs to aggregate multiple contributions from the same individual or organization that were reported as separate transactions ("contribution transactions"), and to obtain the total aggregate contributions made by that individual or organization (total contribution amounts, or "contributor amounts"). For example, if an individual gave \$50, \$50, and \$100 to a mayoral candidate on three separate occasions, the total "contributor amount" would be \$200. Unless otherwise stated, the contribution data presented in this chapter refer to total contributor amounts. In addition, to get the most accurate picture of all contributions given to participants, contributions reported for all elections, contributions received before the effective date of the Act, and segregated contributions which participants could not use in the 1989 elections are included in the analyses. Accordingly, in these analyses some total contributor amounts will exceed the 1989 primary and general election limits, but do not reflect contributions in violation of those limits.<sup>3</sup>

Figure 6.1 shows the frequency distribution of all gross itemized contributions to participating candidates in the 1989 election cycle, classified by total contributor amounts.<sup>4</sup> The figure indicates an extremely large number of relatively small contributions, at or below \$50; a smaller peak at the \$500 threshold and matchable limit; peaks at multiples of the office contribution limits, representing total contributions for one or more elections or candidates (e.g., \$3,000, \$5,000, and \$6,000); and a few very large total contributor amounts which included donations by one contributor to numerous candidates and segregated funds that could not be used in 1989. Half of all the contributions given to participants were less than or equal to \$50.

Figure 6.2 shows the total dollar amount in each contributor class, indicating the relative influence of small, medium, and large contributors. Comparing the number of contributors at each dollar interval (Figure 6.1) with the total dollar amount represented by contributions at each interval (Figure 6.2) shows that although the number of contributors giving small amounts was extremely high, larger contributions accounted for a higher percentage of the total dollar amount given to participants.

Thus, while over 50 percent of all contributor amounts did not exceed \$50, these small contributions only accounted for somewhat more than 4 percent of the total dollar amount of contributions reported for the 1989 election cycle. Similarly, contributor amounts of \$500 or less accounted for over 88 percent of all reported contributor amounts, but made up only somewhat

more than 26 percent of all contribution dollars. This suggests the importance of keeping the Act's contribution limits within a reasonable range, and of increasing the amount of public funds candidates receive.

**Mayor.** In the mayoral race, the five participating candidates reported a total of \$18.7 million from approximately 44,000 different contributors. The total dollar amount of contributions raised by mayoral candidates was more than five times the amount raised by candidates for any other office, as Figure 6.3 illustrates.

For the 1989 elections, Dinkins received the largest number of small contributions of any candidate. Half of Dinkins' 20,000 contributions were \$60 or less; just under one-third of the contributor amounts he received were \$25 or less. Koch and Ravitch reported half of their contributions consisting of total contributor amounts of \$50 or less. The median contributions to Giuliani and Goldin were \$95 and \$250, respectively. On the top end of the contributor spectrum, Koch, Goldin, and Ravitch received 5 percent of their contributions in total amounts of over \$3,000. For Dinkins and Giuliani, the upper 5 percent of their contributions were reported in total amounts of over \$2,000. All mayoral candidates received significant support from both ends of the contributor spectrum. Dinkins and Giuliani each received larger numbers of maximum contributions in the general election than in the primary.

**Comptroller.** In the comptroller race, four participating candidates reported collecting a total of \$3.5 million from more than 14,000 different contributors. Although like the mayoral race, this was a highly contested citywide race, there were 68 percent fewer contributors to comptroller candidates than to participating mayoral candidates. The total dollar amount raised for the office was only 19 percent of that raised by mayoral candidates in the Program.

Half of all contributions to the four participating comptroller candidates were donated in total amounts of \$50 or less. For Holtzman, the median contribution was \$25; the others each had median contribution amounts of \$100. Overall, the most frequent contribution was a ten dollar donation, the smallest modal contribution for any office, including that of City Council.

Overall, Holtzman, who won the primary and general elections, was more successful than the other candidates in getting support from both the low and high ends of the contributor spectrum. After winning the primary, Holtzman's top dollar support increased in the general election.

**Borough President.** Six candidates for the five borough president offices participated in the Campaign Finance Program in 1989. The six reported a total of \$2.9 million in gross contributions from some 15,000 different contributors. About 70 percent of the contributions were raised by Manhattan candidate Ruth Messinger. Messinger's contributor base was broader than any other borough president candidate's, with half of her 10,600 contributions in total amounts of \$35 or less, and only 5 percent in total contributor amounts of \$330 or

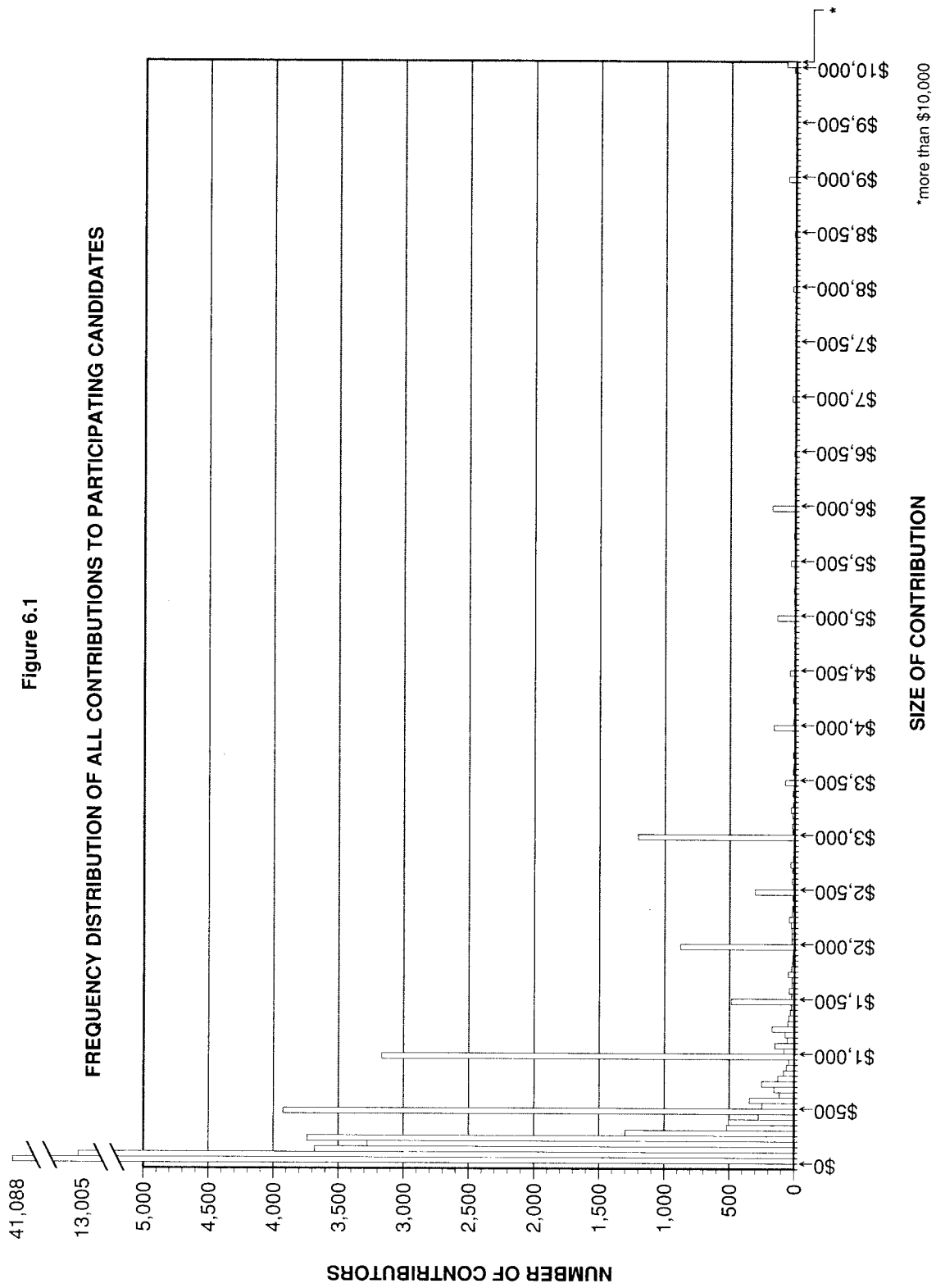
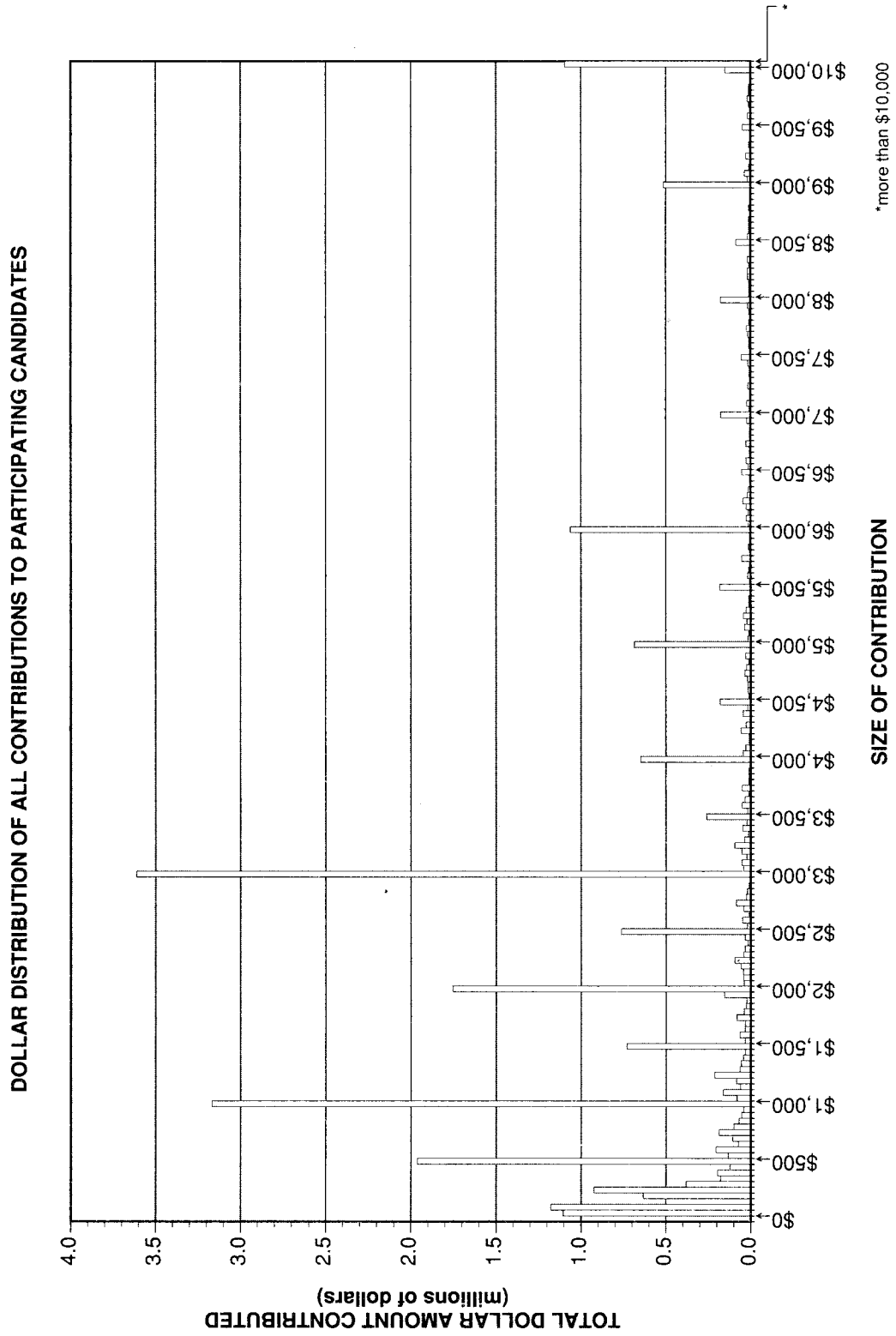


Figure 6.1

Source: Campaign Finance Board Data (all contributions received on or after 11/6/85)

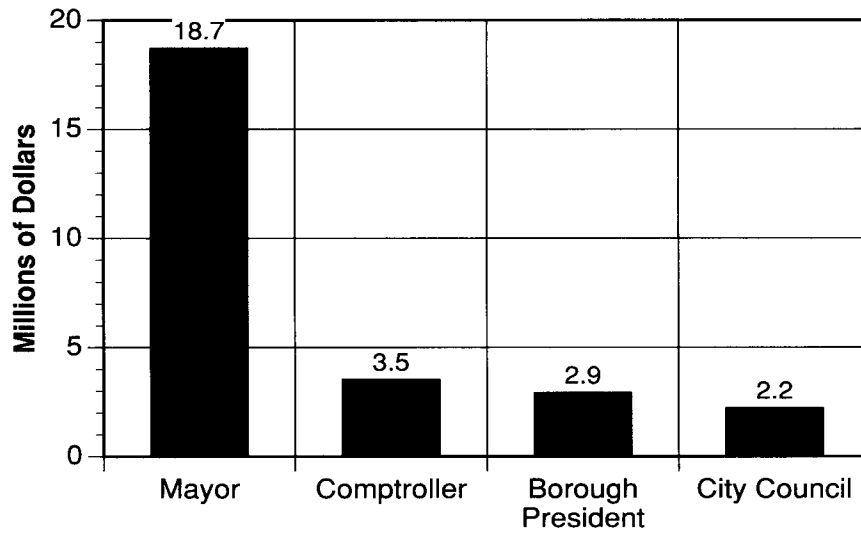
Figure 6.2



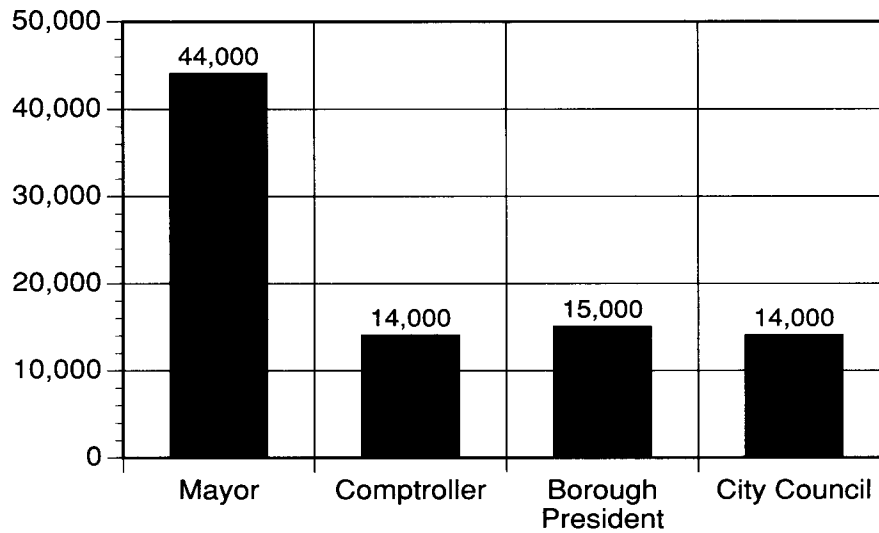
Source: Campaign Finance Board Data (all contributions received on or after 11/6/85)

Figure 6.3

**TOTAL DOLLAR AMOUNT OF CONTRIBUTIONS  
TO PARTICIPATING CANDIDATES**



**TOTAL NUMBER OF CONTRIBUTORS  
TO PARTICIPATING CANDIDATES**



Source: Campaign Finance Board Data  
(all contributions received on or after 11/6/85)



more. For candidates Ralph Lamberti, Guy Molinari, and Claire Shulman, 5 percent of their contributor amounts exceeded \$1,000, and for Howard Golden and Fernando Ferrer, the upper 5 percent of their contributions exceeded \$2,500 and \$2,000, respectively.

**City Council.** Participating City Council candidates raised a total of \$2.2 million from some 14,000 different contributors. The median contributor amount for Council candidates was \$75, while the most common contribution was \$100. In comparison with other offices, the relatively high \$75 median contributor amount for Council participants may reflect a smaller, but more stable, contributor base for the Council, where many members are long-term incumbents.

### **Effect of the Act**

With the advent of the Campaign Finance Act, candidates who decided to join the Program for the 1989 elections were no longer able to accept most of the very large contributions they were previously permitted to receive. The resulting changes in fund raising would naturally be expected to have the greatest impact on mayoral and other citywide office seekers. Mayoral Program participants in 1989 attempted to compensate for a substantial loss in top-dollar support by raising a larger portion of their funds in the form of smaller contributions. Changes in fund-raising patterns before and after the Act can be illustrated by examining contributions received by two 1989 mayoral candidates, Edward Koch and Harrison Goldin, both of whom raised substantial contributions in the 1985 election cycle.

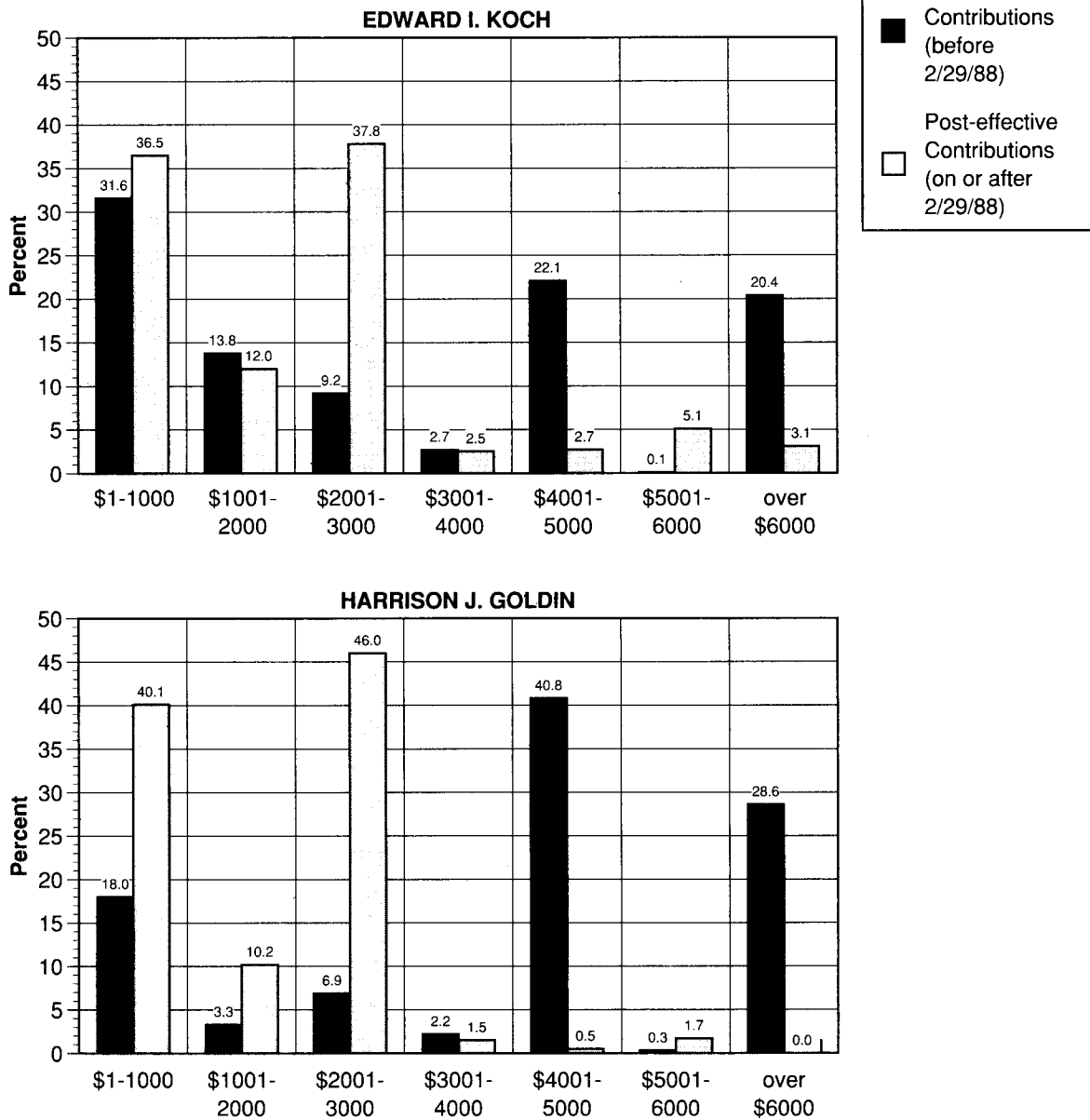
Figure 6.4 shows the change in the percentage breakdown of contribution dollars received by the two candidates before February 29, 1988, when the law took effect, and on or after that date. During the period from July 12, 1983 to February 28, 1988, 20.4 percent of Koch's monetary contributions were in amounts of over \$6,000.<sup>5</sup> For the same period, 28.6 percent of Goldin's monetary contributions exceeded \$6,000. Figure 6.4 indicates that most of the big contributors had to scale down their total contributions to comply with the \$6,000 per campaign contribution limit that came into effect with the new law. Koch's contributions in the \$3,000-and-under range increased from 55 percent in the pre-effective period to 86 percent in the post-effective period. For Goldin, the corresponding change was from 28 percent to 96 percent. Both candidates also increased the percentage of their total monetary support in the \$1,000-and-under range. (Because of data limitations, the reduction of large contributions to Koch and Goldin is likely to be even greater than is suggested by these figures.)<sup>6</sup>

Before the Campaign Finance Act took effect, the Koch campaign had reported 115 contributions in excess of \$6,000 for the period July 12, 1983 to February 28, 1988. These 115 contributions make up 20.4 percent of all his contribution dollars for the period. After the Act, the Koch campaign received aggregate contributions in excess of \$6,000 for the primary, general, and possible runoff elections in 1989 from 12 contributors. In the post-effective period, contributions of more than \$6,000 accounted for only two-tenths of one percent of his total contribution dollars. A similar comparison for the period July 12, 1983, to February 28, 1988 shows that Goldin received 28.6 percent of his total monetary contribu-

Figure 6.4

**COMPARISON OF REPORTED CAMPAIGN CONTRIBUTIONS BEFORE AND AFTER THE CAMPAIGN FINANCE ACT BECAME EFFECTIVE**

Percent of Total Dollar Amount of Contributions\*



\*Koch's contributions totaled \$7,752,737 in the pre-effective period and \$3,260,015 in the post-effective period. Goldin's contributions totaled \$1,995,221 in the pre-effective period and \$1,006,173 in the post-effective period.

Sources: Campaign Finance Board Data and New York State Commission on Government Integrity Data

tions from 40 donors who gave contributions of more than \$6,000. After the law was in effect, the Goldin campaign reported no contributions over \$6,000.

A comparison of Koch contributors who gave relatively large contributions both before and after the new law went into effect shows that 80 contributors made relatively large donations in both periods. Before the law was in effect, these 80 contributors gave a total of \$1,150,221, or 15.3 percent, of his total pre-effective monetary contributions received between July 12, 1983 and February 28, 1988. After the law, contributions from the same 80 contributors totalled \$338,950, or 4.5 percent, of Koch's total post-effective contribution dollars. The average contribution in the pre-effective period by these 80 contributors was \$14,378; their average post-effective contribution decreased to \$4,237.

A comparison of contributions to all participants reported to the Board before and after the law took effect provides some evidence that the Act encouraged broad-based fund raising. In the pre-effective period, half of all total contribution amounts were less than or equal to \$100. In the post-effective period, half of all contribution amounts were less than or equal to \$50. Before the law took effect, the most common contribution was \$100; after the law, it was \$25. These changes indicate that the percentage of smaller contributors substantially increased after the Act was passed. Some of the broadening of contributor support may reflect increasing public interest in the 1989 campaign in the months leading up to the elections.<sup>7</sup> There is also evidence, however, that the growth of a broad contributor base reflects participating candidates' efforts to shift towards broader-based fund raising as a consequence of the requirements of the Campaign Finance Act. At the top end of the contributor spectrum, a very significant effect of the Act was the disappearance of most of the very large contributions that were reported in the pre-effective period. Cumulative contributions in excess of \$10,000 made up 12.8 percent of all contribution dollars reported in the pre-effective period. In the post-effective period, cumulative contributions over \$10,000 decreased to 3.1 percent of all reported contribution dollars.

### **Contribution Limits**

The contribution limits applicable to each primary, general, or runoff election for participating candidates in 1989 are set forth in Table 6.1. Participating candidates could not accept contributions from any individual or entity which in the aggregate exceeded these limits for any election.<sup>8</sup> Based on the Program's first implementation, two questions about the contribution limits warrant examination. First, does it make sense to set limits on a per election or per campaign basis, and second, are the actual dollar contribution amounts appropriate for each office?

### **Consolidation of Separate Election Limits**

Under the Act as originally passed, there are separate contribution limits for each election—the primary, any runoff, and the general election. Thus a mayoral candidate in 1989 could accept a maximum from one contributor of \$3,000 for the primary election, \$3,000 for a possible runoff, and \$3,000 for the general election. The separate limits for each election were patterned on state election law. The existence of separate limits, however,

**Table 6.1**

**1989 CONTRIBUTION LIMITS**

<u>Office</u>	<u>Limit</u> <u>(per election)</u>
Mayor, Comptroller, and City Council President	\$ 3,000
Borough President	2,500
City Council	2,000

complicates compliance for candidates who must maintain separate bank accounts for each election and file separate schedules to report primary and general election contributions. Candidates who wish to transfer leftover funds from the primary election to the general election must complete a complex “carry over” report, described below. Separate limits for each election also confuse the public. For example, total contributions to a candidate from the same individual appear to be smaller when reported as two separate \$3,000 contributions, one for the primary and one for the general election, rather than a single aggregated contribution of \$6,000.

**Recommendation:** To simplify the Program, the Board recommends that the separate contribution limits for the primary and general elections for each office be combined into a single “per campaign” limit. This change would allow candidates maximum flexibility in planning the timing of their fund raising and expenditures within the context of overall campaign strategy, without undermining the purposes of the Act. A consolidated contribution limit would reduce candidates’ reporting burdens, eliminate their need to keep separate primary and general election bank accounts, and eliminate the complicated accounting procedures for carrying over excess funds from the primary to the general election. Consolidation of the primary and general election limits would not increase the total amount a contributor can give to a candidate, nor in any way increase the potential influence a contributor could exercise over a candidate. A consolidated limit would put the amount of money received by candidates from each contributor out into the open, and thereby make candidates’ disclosure reports easier for the public to understand.

#### **Contribution Limits for Each Office**

In addition to consolidation of limits, the Board evaluated the level of the contribution limit for each office based on participating candidates’ disclosures for the 1989 elections. The frequency distribution of contributions was examined in order to estimate the breadth of

each office's contributor base in the 1989 elections. The dollar distribution of contributions was examined in order to estimate the extent to which candidates for each office relied on large contributions. The numerical levels of the contribution limits that were in place in 1989 were evaluated in terms of these two distributions. For each office the Board attempted to balance the candidates' need for contributions at or near the contribution limits against the potential for inappropriately increasing the dollar influence of the largest contributors.<sup>9</sup>

**Mayor.** The 1989 data show that participating mayoral candidates received substantial support in the form of donations that were at or near the maximum applicable contribution limits in both the primary and general elections. As Figure 6.5 shows, 27.7 percent of the total dollar amount of all contributions received by mayoral candidates for the 1989 elections were in the \$2,001 - 3,000 range, which includes contributions at the \$3,000 per election limit. About 19.8 percent of the dollar support for all mayoral candidates was provided by total contributor amounts in excess of \$3,000. The dollar distributions of all contributions received by each participating candidate are presented in Appendix F.

At the Public Hearings, Mayor Koch advocated raising the mayoral contribution limit to \$5,000 per election. Herbert London, a mayoral candidate, and Seth Dubin, the treasurer for Richard Ravitch's mayoral campaign, supported an increase as well. Rudolph Giuliani, Common Cause, and NYPIRG thought the 1989 levels should be maintained.

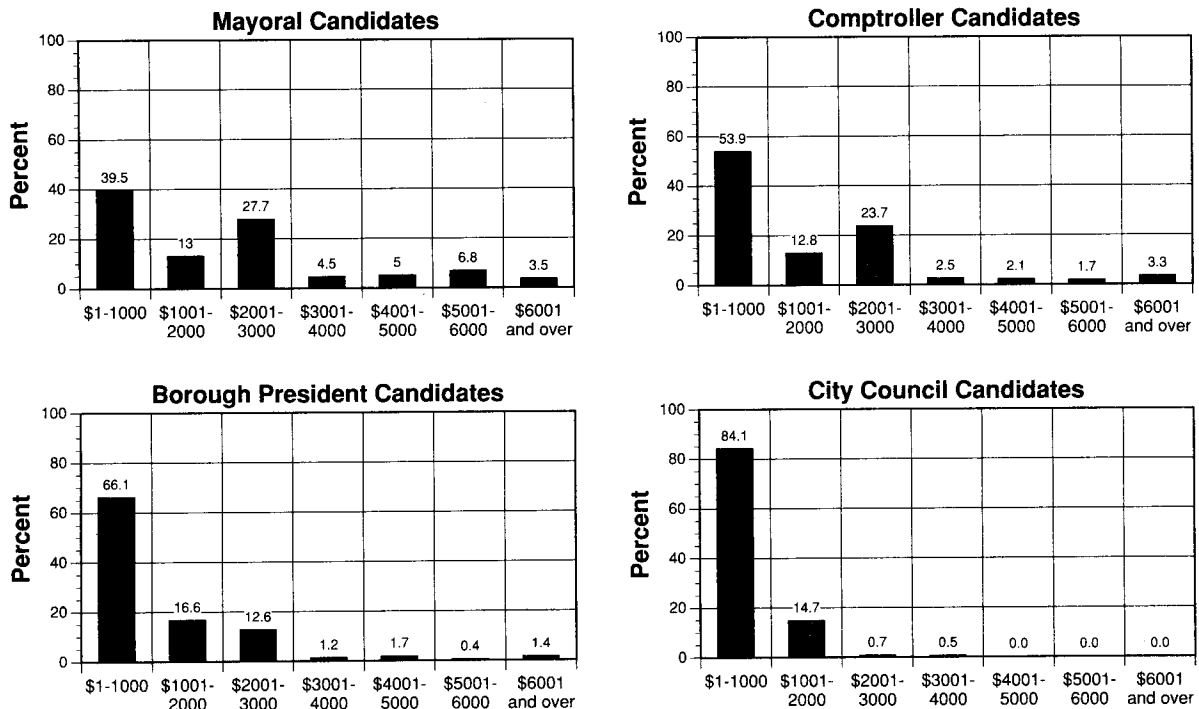
**Recommendation:** The Board analyzed, among others, a new "per campaign" limit for mayoral candidates of \$6,500. This limit approximates addition of the 1989 primary and general election limits together, plus an adjustment for inflation. To get an idea of the impact of the proposed limit, a computer search was run which identified contributors who gave amounts over the \$6,000 maximum contribution permitted for the 1989 primary and general elections, representing contributions made for a possible runoff election or excess contributions that were segregated. Seventy-nine contributors were identified who gave total contributions of more than \$6,000 to a single mayoral candidate in the 1989 elections, for a total of \$657,843. In all, these cumulative contributions of over \$6,000 represent 3.5 percent of the total dollar amount of contributions raised by mayoral candidates, indicating that the total dollar impact of the very largest contributors was relatively small. The 79 top contributors, however, represent less than two-tenths of one percent of the total number of all mayoral contributors for the 1989 elections, suggesting that a substantial increase in the contribution limit would inappropriately increase the influence of a few top contributors. It is likely that these contributors would give the maximum if the limit were raised. Based on the 1989 experience, the Board considers \$6,500 to be an appropriate limit.

**Comptroller.** While candidates for comptroller enjoyed a broad base of contributor support, all the candidates also received important support at or near the \$3,000 contribution limit. As Figure 6.5 shows, 23.7 percent of all contributions were reported in total contributor amounts in the \$2001 - 3,000 range, which includes contributions at the \$3,000 per

election limit. Participating comptroller candidates relied slightly less than mayoral candidates on contributions at or near the \$3,000 limit. Comptroller candidates' reliance on contributor amounts in excess of \$3,000 was only 9.6 percent of the total dollar amount of all contributions, about half that of the mayoral candidates. This finding, as well as the fact that contributors to the office of mayor should arguably have higher limits than those for other citywide offices, suggests that a reduction in the per campaign limit for comptroller would be appropriate.

**Figure 6.5**  
**CONTRIBUTIONS RECEIVED BY PARTICIPATING**  
**CANDIDATES IN THE 1989 ELECTION CYCLE**

Percent of Total Dollar Amount of Contributions



Source: Campaign Finance Board Data (all contributions received on or after 11/6/85)

**Recommendation:** The Board examined the possible effects of different campaign limits, including a \$5,000 per campaign limit. In 1989, 23 out of 14,367 contributors to participating comptroller candidates, representing less than two-tenths of one percent of all contributors, were identified whose cumulative contributions for the 1989 elections were over \$5,000. These contributors gave a total of \$175,560, or 5 percent of the total dollar amount of all contributions, to participating comptroller candidates. If a per campaign limit of \$5,000 had existed during the 1989 election, only \$60,560 of the total contributions in excess of \$5,000 would not have been permitted. Less than two-tenths of one percent of all

contributors would have been affected by the \$5,000 per campaign limit. The total dollar value of contributions thus disallowed would have been only 1.7 percent of all reported contributions to the office.

In view of comptroller candidates' relatively small reliance on contributor amounts in excess of \$5,000 in 1989, the Board recommends that the contribution limit for comptroller be set at \$5,000 per campaign.

**City Council President.** Because no candidate for the office of City Council president joined the Campaign Finance Program in 1989, the Board does not have any participant data with which to assess whether the 1989 contribution limit for this office was appropriate. Non-participant Andrew Stein raised a total of \$1,611,590 for the 1989 elections. Approximately 94 percent of the total dollar amount of his contributions were \$1,000 or above, and 61 percent were \$3,000 or above. Stein stated that he voluntarily imposed a ceiling of \$3,000 per contributor in his 1989 campaign to keep in line with the limits of the Act.<sup>10</sup> As a non-participant, however, Stein did not submit disclosure forms to the Campaign Finance Board that would permit verification of this.

**Recommendation:** The 1989 race for City Council president involved only minimal opposition. It seems unlikely, however, that a competitive contest for that office would have generated a contributor base with more top dollar support than the comptroller's race in 1989. Accordingly, the Board recommends that the per campaign limit for City Council president also be set at \$5,000.

**Borough President.** In general, as Figure 6.5 illustrates, borough president candidates received substantially less support at or near the top end of their office contribution limits than did mayoral or comptroller candidates. Only 12.6 percent of the total dollar amount of all contributions received by borough president candidates for the 1989 elections were in the \$2,001 - 3,000 range, which includes the \$2,500 per election limit. Only 6.4 percent of the office's support came from total contributor amounts in excess of \$2,500. Maximum contributions of \$5,000 and above made up only 1.8 percent of the total dollar amount of borough president candidates' total contributions. This is not surprising, because the office of borough president is not a citywide office, and only the Staten Island race was significantly contested.

**Recommendation:** The Board examined, among others, a \$3,500 per campaign limit for borough president candidates. In the 1989 election cycle, only 21 contributors were identified who made aggregate contributions of more than \$3,500 to participating borough president candidates. The 21 contributors represent less than two-tenths of a percent of all contributors to borough president candidates. Their contributions, totalling \$116,449, represent 4.1 percent of the total dollar amount of all contributions received by participating borough president candidates. If a single per campaign limit of \$3,500 had existed during the 1989 elections, only \$42,949 of the total contributions in excess of \$3,500 would have been disallowed. The total dollar value of contributions thus disallowed would have been only 1.5 percent of all reported contributions to the office.

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## Chapter 6

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In the 1989 elections, therefore, borough president candidates did not rely on contributions at or near the legal limit to any significant extent. Under the new Charter, the Board of Estimate's powers over land-use and budget are largely transferred to the City Council and the mayor, although borough presidents do retain authority over a portion of the City's budget. Based on the 1989 data, the Board recommends that the borough president contribution limit be set at \$3,500 per campaign.

**City Council.** As Figure 6.5 shows, most Council candidates had very little reliance on the top end of the contributor spectrum. Only 4 percent of the number of contributions reported exceeded \$500. Moreover, only 0.9 percent of the contributions were over \$1,500.

In the 1989 election cycle, only 197 contributors, representing 1.4 percent of all contributors, gave cumulative contributions in excess of \$1,000, totaling \$345,136. Only nine contributors gave aggregate amounts in excess of \$2,000 for the elections, for a total of \$25,485. Only three contributors gave aggregate amounts of more than \$3,000 for the elections, totaling \$11,160. Thus, if a single campaign limit of \$3,000 had existed during the 1989 elections, permitting \$9,000 of that \$11,160 to be contributed, only \$2,160 of the total contributions would not have been allowed, representing less than one-tenth of one percent of the total dollar amount of all contributions made to participating Council candidates for all races in 1989.

**Recommendation:** To make recommendations in time to restructure the Program for the Council elections to be held in 1991, the Board evaluated the Council contribution limits and presented a package of recommended legislative changes in March of 1990. The Board proposed a single \$3,000 per campaign limit to replace the original \$2,000 limit for each election. The Board recommends this moderate reduction in the City Council contribution limit because districts for the new 51-seat Council will be about one-third smaller than their current size. In addition, an analysis of contributions to participating Council candidates indicates that there would be no significant impact on fund raising under a \$3,000 per campaign limit.

**State Law Conflict.** The reduction in Council district size caused by redistricting to add 16 new seats called for by the Charter will result in a reduction in state law contribution limits. Participating candidates must abide by the contribution limits set forth in the Act, or the state law contribution limits, whichever are lower. Under state law, the contribution limits applicable to Council candidates are based upon the number of registered voters in the district for the general election, and on the number of enrolled voters in each party for the primary. (In no event is the limit lower than \$1,000.) This formula results in different contribution limits for each district in the general election, and, in the primaries, different contribution limits for every party in each district. Because the size of the new Council districts will be reduced by roughly one-third in the 1991 elections, state law primary election contribution limits in many districts may be lower than the proposed \$3,000 per campaign limit of the Campaign Finance Act.

**Recommendation:** The fact that the state law contribution limits may be lower than the Program's limits in many districts will create technical difficulties for candidates and the Board, because the City Board of Elections does not publish a list of the contribution limits



applicable to each district. In 1991, following redistricting, it may be especially difficult to obtain information about the number of registered voters in each district needed to calculate the state limits. The Board urges the New York City Board of Elections to prepare a list of the state law contribution limits applicable to each Council district, and to publish the list well in advance of the primary and general elections.

Assuming a list of state law limits is prepared, the task of informing Council candidates and the public about the different limits applicable to each district will still be difficult. Because of the confusion and enforcement difficulties caused by multiple limits, the Board recommends that the State Legislature establish mandatory contribution limits for New York City offices at the amounts set by the Campaign Finance Act.

### **Individual and Organizational Contributors**

Although individuals surpassed organizations in terms of both the total number and total dollar amount of contributions given to participating candidates, as shown in Figure 6.6, a smaller number of organizational contributors was responsible for a proportionally larger dollar amount of contributions. Organizations include corporations, unions, political committees, partnerships, and other entities. In general, organizations gave larger contributions than individuals. The median contribution given by an organization, \$250, was five times the size of the \$50 median contribution given by an individual.

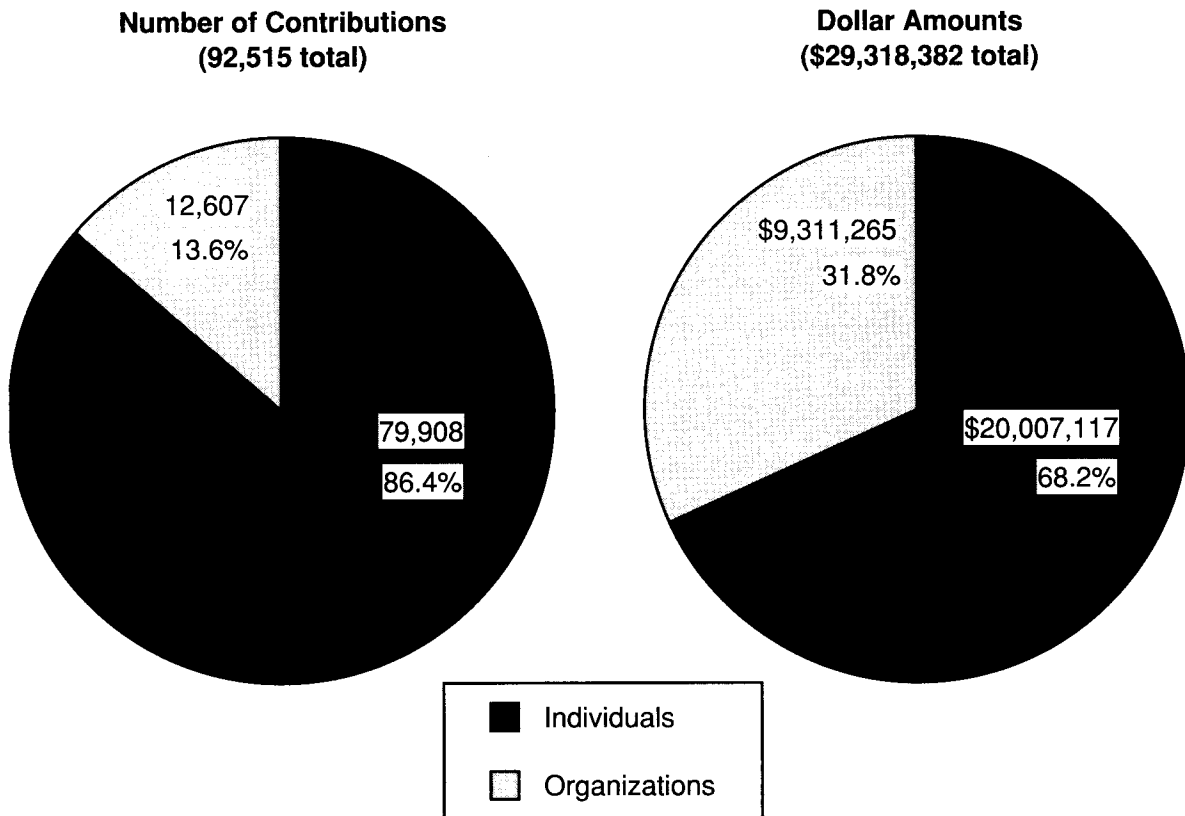
Corporations led the list of organizational donors to participating candidates, followed by political committees, partnerships, unions, and other organizations, as Figure 6.7 shows. Table 6.2 indicates that the percentages of contributions from various types of organizations were roughly comparable across offices.

Under the Act, contributions from organizations are ineligible for matching, but are subject to the same contribution limit as that for individuals. The Board's rules provide that contributions received from a corporation, from its parent, subsidiary, or affiliated corporations, and from the persons who control them, are to be totaled and treated as a contribution from a single source. The sum of contributions from a single source may not exceed the applicable contribution limit. For example, a mayoral candidate may not accept a \$3,000 contribution from an individual in the general election and also accept \$9,000 from three separate corporations which the individual controls. Contributions received from affiliated committees and the persons who, or entities which, establish, maintain, or control those affiliated committees are also deemed to be made by a single source for purposes of the contribution limits. As stated above, the Program's affiliated contributor rules constitute a major reform over state law, which does not restrict contributions from affiliates.

Participating mayoral candidates received about 69 percent of the total dollar amounts of their contributions from individuals and 31 percent from organizations. Ravitch, however, relied almost exclusively on individual support, receiving approximately 94 percent of his contributions from individuals and 6 percent from organizations. The total individual and organizational support for each participating candidate is set forth in Appendix E. Participating comptroller

Figure 6.6

**CONTRIBUTIONS TO PARTICIPATING CANDIDATES  
FROM INDIVIDUALS AND ORGANIZATIONS**



Source: Campaign Finance Board Data

candidates received almost three-fourths of the total dollar amount of their contributions from individuals and one-fourth from organizations.

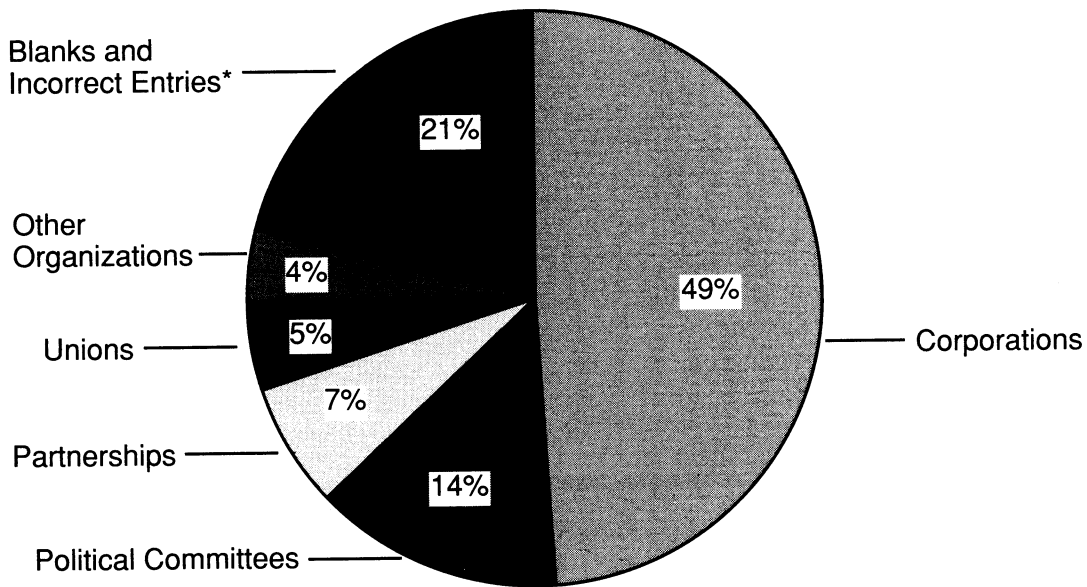
Among participating borough president candidates, Ruth Messinger and Guy Molinari relied most heavily on individual support; Lamberti relied equally on organizations and individuals; and Ferrer, Shulman, and Golden relied most heavily on organizational support.

For all participating Council candidates, individual support made up 61 percent of the total dollar amount of contributions, and organizational support made up 39 percent. Individual candidates varied significantly from this overall average, however. Participating incumbent Council candidates on the whole received a markedly higher degree of organizational support than challengers. Council incumbents received 51 percent of the total dollar amount of

Figure 6.7

**TYPES OF ORGANIZATIONAL CONTRIBUTORS  
TO PARTICIPATING CANDIDATES**

**Percent of Total Dollar Amount of  
Contributions from Organizations**



Source: Campaign Finance Board Data

\*Data reported to the Campaign Finance Board on state forms account for a large portion of the blanks, because state forms do not permit disclosure of the type of organizational contributor.

their support from organizations and 49 percent from individuals, whereas non-incumbents received only 14 percent from organizations and 86 percent from individuals.

An opinion poll of 800 New York State registered voters conducted in June, 1988 for the Feerick Commission found that 58 percent believe corporations contribute because they want to influence (40 percent) or control (18 percent) a candidate.<sup>11</sup> Of those polled, 61 percent believe labor unions contribute because they want to influence (35 percent) or control (26 percent) a candidate. Sixty-one percent of the voters polled felt that corporations exert too much control over state government decisions, and 45 percent felt labor unions have too much influence.

Table 6.2

**TYPES OF ORGANIZATIONAL CONTRIBUTORS  
(Percent of total dollar amount of contributions)**

<u>Office</u>	<u>Corporation</u>	<u>Political Committee</u>	<u>Partnership</u>	<u>Union</u>	<u>Other Organizations</u>	<u>Blanks or Incorrect Entries</u>
All offices combined	49 %	14 %	7 %	5 %	4 %	21 %
Mayor	50	12	6	4	3	24
Comptroller	44	24	13	4	2	13
Borough President	55	16	10	8	7	4
City Council	36	13	5	10	3	32

Source: Campaign Finance Board Data

**Recommendation:** The Board would support an amendment to state law prohibiting corporations, unions, trade associations, and other organizations from making direct contributions to candidates. Federal election law has attempted to reduce the influence of unions and corporations on politics by banning direct contributions and requiring that they set up political action committees to engage in political activities. The parent organization cannot transfer its assets to its PAC. The PACs' political funds must come from voluntary donations from employees or members, specifically intended for political purposes. The Board urges the State Legislature to consider adopting similar restrictions on corporate and union contributions.

**Top Contributors**

**Top Contributors to Mayoral Candidates.** Two hundred and fifty-two individuals and organizations gave \$6,000 or more to mayoral candidates Dinkins, Giuliani, Koch, Goldin, and Ravitch for the 1989 election cycle. Nearly all of these contributors were identified on the basis of occupation or employer disclosure provided by the contributors or informally from supplemental information. Of 100 "top contributors" who gave a total of \$707,700 in donations of \$6,000 or more to Dinkins, 93 were identified. Labor unions and their political action committees gave \$190,200, making up 27 percent of Dinkins' total top contributions. Real estate firms, PACs, and developers gave \$71,600 (10 percent), lawyers and law firms gave \$72,000 (10 percent), and banks, investment bankers, and financiers gave

\$48,000 (7 percent). Individuals in other businesses, including communications, advertising, leasing, and insurance, gave \$147,950 (21 percent).

Eighty-two contributors gave a total of \$503,646 in donations of \$6,000 or more to Giuliani's campaign, 78 of whom were identified. Banks, investment bankers, and financiers gave \$108,000 (21 percent of the top contributions), individuals working in real estate gave \$60,000 (12 percent), and lawyers and law firms gave \$54,000 (11 percent). Individuals representing other business interests gave \$113,500 (23 percent of his top contributions). Koch received 59 contributions totalling \$406,500 in amounts of \$6,000 or above in the 1989 election cycle. Fifty-eight of the contributors were identified. Real estate developers gave \$111,000 (27 percent of his total top contributions), banks, investment bankers, and financial interests gave \$91,000 (22 percent), individuals representing other business interests gave \$139,500 (34 percent), and labor unions gave \$21,000 (5 percent). Goldin and Ravitch together had only nine contributions of \$6,000 or more in the 1989 elections.

**Top Contributors to Participating Candidates.** Although the Program limits the amount of money each candidate can accept from a single contributor, it does not place any aggregate limits on the amounts contributors can give to all candidates in the election. Numerous individuals and organizations gave large aggregate contributions to several participating candidates in the 1989 election cycle, as Tables 6.3 and 6.4 show. More than three-fifths of the total dollar amount of the contributions from individuals identified in Table 6.3 went to mayoral candidates, as did more than one-half the contributions from organizations identified in Table 6.4. Many of the individuals and organizations listed in the tables gave to two or more mayoral or comptroller candidates who were competing against each other in 1989.

Under federal election law, individuals have an annual limit of \$25,000 on total contributions to federal candidates and federal political committees. Because New York City's Campaign Finance Act is a voluntary program which regulates candidates, not contributors directly, it cannot be amended to impose limits that prevent large aggregate contributions by contributors to several candidates. It is interesting to note that some large contributors have commented informally that they welcome New York City's contribution limits because the limits reduce pressure on potential donors to give large amounts.

### **Contributions from Within and Outside New York City**

Because the Campaign Finance Program is designed to encourage local participation in politics, only contributions from individuals residing in New York City are eligible for matching. Participating candidates raised the majority of their funds, or 67 percent, from New York City residents. Contributors listing an address outside the City accounted for 23 percent of participating candidates' total contributions, while incomplete addresses were given for the remaining 10 percent.

As might be expected, mayoral and comptroller candidates raised a higher percentage of funds from contributors outside the City than did borough president and City Council candidates,

Table 6.3

**INDIVIDUALS WHOSE CONTRIBUTIONS TO TWO OR MORE PARTICIPATING CANDIDATES TOTALED \$15,000 OR MORE**

<u>Contributor</u>	<u>Number of Candidates to Whom Contributor Gave</u>	<u>Amount</u>
Litwin, Leonard	13	\$ 38,490
Petrie, Milton	5	34,000
Trump, Donald J.	17	32,440
Allen, Herbert	3	29,025
Rubenstein, Howard J.	15	27,390
Raynes, Martin J.	9	26,900
Filner, Joseph H.	3	25,725
Fisher, Richard L.	5	24,000
Mendik, Bernard H.	6	22,250
Rubin, Robert E.	5	22,000
Rudin, Lewis	13	20,950
Leroy, Warner	7	20,850
Grace, Richard A.	9	20,700
Rockefeller, David	6	20,500
Resnick, Burton P.	6	20,179
Horowitz, Gedale Bob	8	19,999
Fisher, Zachary	6	18,000
Rosenwald, E. John	3	18,000
Fisher, Larry	8	17,840
Raynes, Patricia Ann	5	17,500
Greenberg, Steven A.	2	16,000
Litwin, Ruth	4	16,000
Mattone, Joseph M.	7	15,575
Ortenzio, James A.	6	15,500
Kalikow, Peter	4	15,499
Rose, Marshall	6	15,450
Ratner, Bruce C.	4	15,250
Downey, Nancy A.	4	15,000
Downey, Robert N.	4	15,000
Fisher, Arnold	4	15,000
Mertz, Lu Esther T.	2	15,000
Milstein, Philip L.	3	15,000
Rubin, Judith O.	3	15,000

Source: Campaign Finance Board Data  
(All contributions received on or after 11/6/85)

Table 6.4

**ORGANIZATIONS WHOSE CONTRIBUTIONS TO  
PARTICIPATING CANDIDATES TOTALED \$10,000 OR MORE**

<u>Organization</u>	<u>Number of Candidates to Whom Contributor Gave</u>	<u>Amount</u>
United Federation of Teachers and PAC	20	\$ 43,839
Neighborhood Preservation PAC	11	32,400
Brown and Wood	9	29,645
Shea and Gould	14	23,220
Real Estate Board PAC	12	21,300
Local 1549, AFSCME	8	19,563
District Council 37, AFSCME	12	19,252
Shearson Lehman Hutton	5	17,500
Rogers and Wells	7	16,775
Morgan Stanley Better Government	3	16,999
Structure Tone	5	15,500
Glick Development Affiliates	10	14,750
Uniformed Firefighters Association	13	14,420
Transport Workers Union and PAC	11	14,290
Dillon Read PAC	4	14,250
Davidoff and Malito	11	14,115
Met PAC	13	14,100
Committee to Celebrate the Bronx	1	14,000

(cont'd)

**Table 6.4 (cont'd)**

<u>Organization</u>	<u>Number of Candidates to Whom Contributor Gave</u>	<u>Amount</u>
New York UAW Region 9A PAC Council	2	\$ 13,750
Paine Webber Fund for Better Government	3	13,427
Tishman Speyer Associates	5	12,750
Goldman Sachs PAC	3	12,500
Sterling Equities	6	12,500
International Union of Operating Engineers	8	12,450
Bronx Renaissance Committee	1	11,900
Seavey and Seavey	9	11,885
Graubard, Mollen, Dannett and Horowitz	4	11,375
Touche Ross and Company	2	11,000
The Morgan Companies New York PAC	2	11,000
HTC Cope	4	10,950
Fener Realty Company	2	10,500
General Contractors Association of New York	9	10,200
Drive Political Fund	2	10,000
New York City District Council of Carpenters and PAC	4	10,000
Plaza Cleaning Service Company	2	10,000

Source: Campaign Finance Board Data  
(All contributions received on or after 11/6/85)

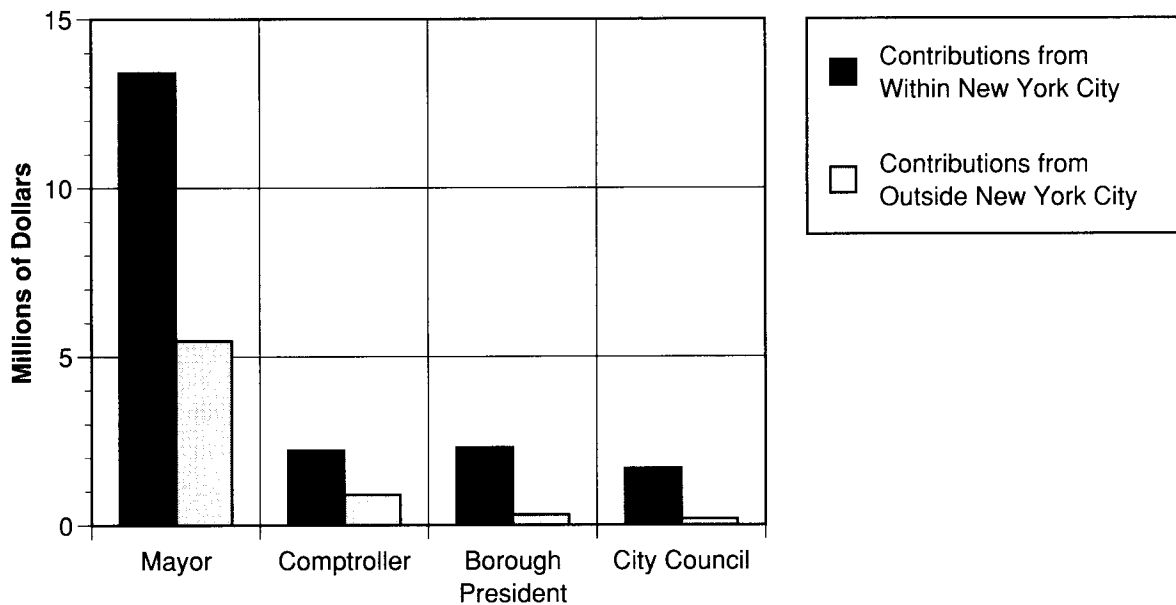


as Figure 6.8 shows. Nine participating candidates received one-fifth or more of their contribution dollars from donors outside New York City: mayoral candidates Dinkins, Giuliani, Goldin, Koch, and Ravitch, comptroller candidates Holtzman and Macchiarola, and Council candidates Alter and Shorestein.

Within New York City, participating candidates received the largest amount of funds from donors in Manhattan. Contributors residing in Manhattan gave 48,686 contributions, totalling \$15 million to all participating candidates, while contributors from the Bronx, Brooklyn, Queens, and Staten Island together gave 38,740 contributions, totalling \$4.6 million.

**Figure 6.8**

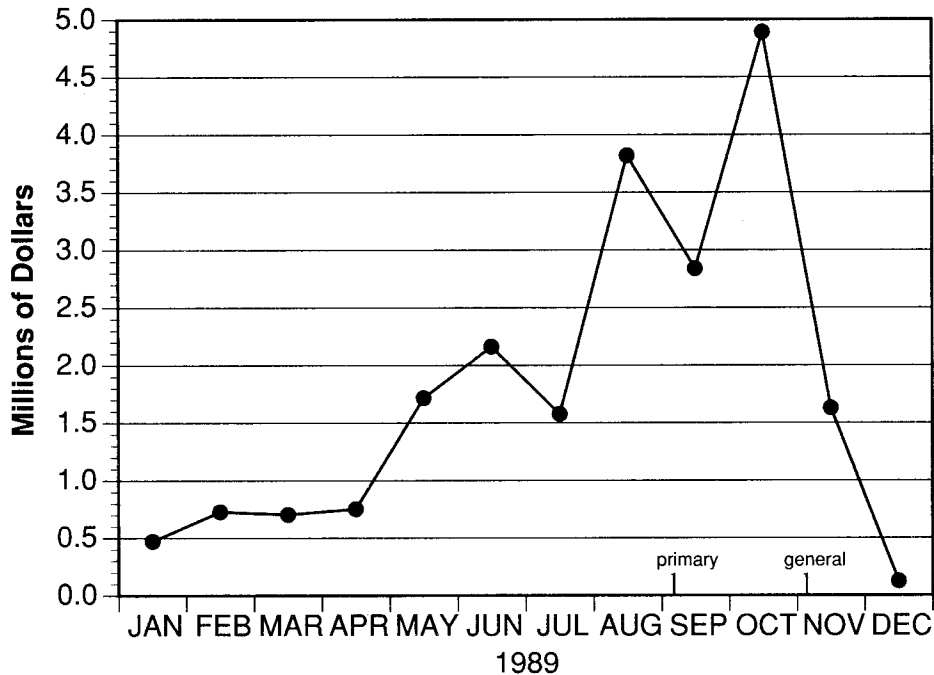
**CONTRIBUTIONS TO PARTICIPATING CANDIDATES  
FROM WITHIN AND OUTSIDE NEW YORK CITY**



Source: Campaign Finance Board Data

**Timing of Contributions**

Participating candidates raised 73 percent of the total dollar amount of their reported contributions within the 1989 election year. Contributions received in 1988 accounted for 11 percent of all funds raised by all participating candidates for the 1989 elections, and contributions from the preceding two years, 1986 and 1987, accounted for 8 percent. Within the election year itself, participating candidates' receipt of contribution dollars peaked in October and was naturally heaviest in the months surrounding the election, in August, September, and October, as Figure 6.9 illustrates.

**Figure 6.9****TIMING OF CONTRIBUTION DOLLARS RECEIVED BY ALL PARTICIPATING CANDIDATES**

Source: Campaign Finance Board Data

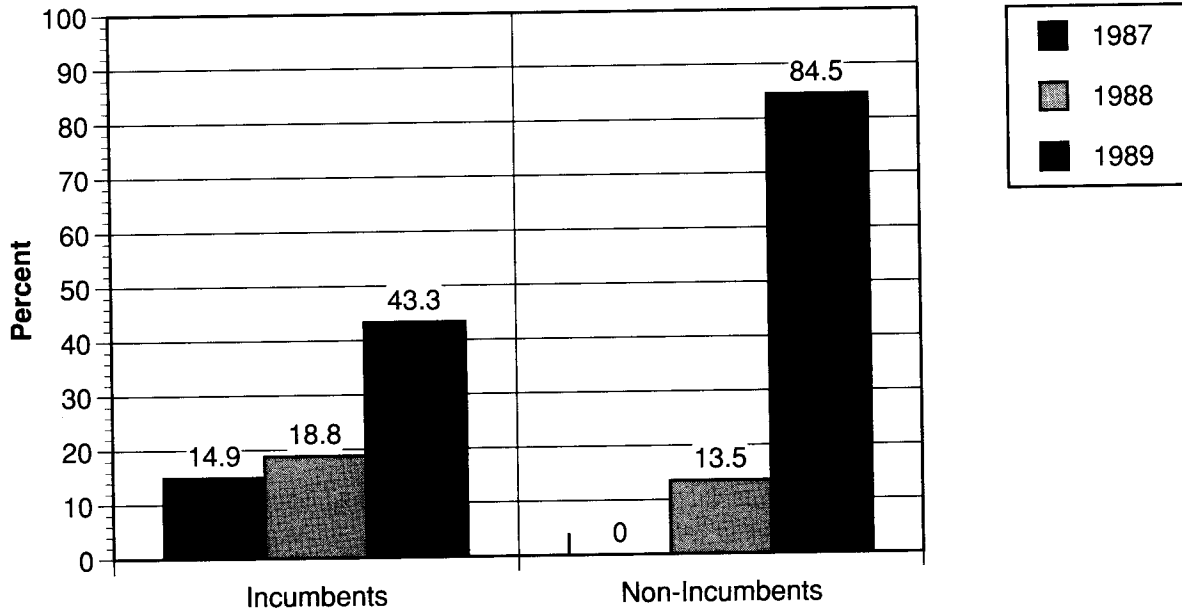
The 1989 data indicate that Council non-incumbents predominantly raise funds within the election year, while incumbent officeholders have a greater ability or inclination to raise campaign contributions during off years.<sup>12</sup> (See Figure 6.10.) Within the election year itself, the pattern of early fund raising by Council incumbents persisted, although there was more individual variation among candidates.

Campaign Finance Board data appear to confirm that there may be positive relationships between mayoral candidates' standing in the polls, as reported in the press, and the level of campaign contributions the candidates received in the weeks following the poll reports.<sup>13</sup> In the Democratic primary, during the week starting June 16, 1989, two high profile polls<sup>14</sup> showed Dinkins with a substantial 14 percent lead over Koch. These polls established Dinkins as the frontrunner in the primary, and his campaign contributions for the following weeks went up substantially. A poll during the week of August 4th reported Koch and Dinkins each with 36 percent of the vote.<sup>15</sup> During the weeks that followed, Koch's

Figure 6.10

**FUNDRAISING BY COUNCIL INCUMBENTS AND NON-INCUMBENTS FOR THE 1989 ELECTIONS**

Contribution Dollars Raised in Each Year as Percent of Total Gross Contributions



Source: Campaign Finance Board Data

contributions surged upward. Ravitch and Goldin, who never showed any significant movement in the polls, also received a relatively low level of contributor support.

In the general election, publicized polls may have spurred increased donations to both candidates. The polls helped establish Giuliani as a viable candidate and, as the election was viewed as a closer race, contributions went up for both candidates. Poll data reported for the week of October 20th showed Dinkins with 45 percent of the vote and Giuliani with 41 percent. Both candidates showed they had a chance to win the mayoralty, and contributions went up accordingly. While not unexpected, these findings illustrate the kinds of detailed analyses that can be performed using CFIS data.

**Contributions Through Intermediaries**

Candidates rely on their supporters to solicit and collect contributions on their behalf. This common and effective fund-raising practice is known as “bundling,” or fund raising through intermediaries. Fund raising through intermediaries occurs when an individual or organization solicits or collects contributions from a number of contributors and delivers them to the candidate. Despite suggestions that this practice violates the spirit of campaign

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finance reform, fund raising through intermediaries can be a legitimate practice that is protected by the First Amendment guarantees of freedom of speech and association.

In many cases, fund raising through intermediaries raises little cause for concern. For example, a private individual may host a house party for a candidate, gather contributions made by those attending, and deliver the contributions to the candidate. In some cases, however, the public has an interest in knowing about individuals or interest groups who may wield influence over a candidate because they are able to deliver large numbers of contributions, which, when aggregated, far exceed the amount the person or interest group could give directly. For example, a corporate executive or union leader could call ten friends or associates, solicit a \$2,000 contribution from each, and deliver \$20,000 in aggregate contributions to a candidate. While this is far different from allowing individual contributions of \$20,000, there may be a perception that individuals or groups who deliver bundled contributions to a candidate will in fact have special access to the candidate, and the public has a legitimate interest in knowing about these kinds of contributions.

For this reason, the Act requires intermediaries who collect contributions on behalf of participating candidates to be disclosed.<sup>16</sup> Indeed, the press had great interest in, and often reported the details of, these disclosures. The Act does not, however, and, because of constitutional constraints, cannot, restrict actual fund raising through intermediaries.

Approximately 16 percent of the total dollar amount of all contributions to participating candidates were reported to have been made through intermediaries. This percentage varied greatly, however, from candidate to candidate. The large variation between candidates' reported reliance on intermediaries, shown in Table 6.5, may well reflect significant underreporting by some candidates as well as candidates' different interpretations of the definition of "intermediaries" and different fund-raising strategies. In general, candidates who reported the highest number of intermediaries may have been the most diligent in following the spirit of the Act's disclosure requirements. For example, Giuliani, who reported the highest number of intermediaries, was also the mayoral candidate with the lowest rate of contributions questioned by the Board in the course of determining the validity of matchable contributions.

Citywide candidates reported more contributions through intermediaries than borough president or City Council candidates. The dollar amount of all contributions reported as made through intermediaries was approximately 19 percent, or \$3,913,058, for mayoral candidates, and 19 percent, or \$670,174, for comptroller candidates. In contrast, reported contributions through intermediaries made up only 0.6 percent, or \$15,980, of borough president candidates' funds and 1.8 percent, or \$44,252, of City Council candidates' funds.

The average size of individual contributions collected by intermediaries, \$518, is higher than the average amount of all contributions, \$260. The average amount of aggregated contributions delivered by intermediaries was \$10,008 for mayoral candidates, \$4,137 for comptroller candidates, \$1,598 for borough president candidates, and \$903 for City Council candidates.

Table 6.5

**CONTRIBUTIONS TO PARTICIPATING CANDIDATES  
THROUGH INTERMEDIARIES**

	<u>Number of Intermediaries Reported</u>	<u>Amount of Contributions Through Intermediaries</u>	<u>Percent of Total Amount of Contributions</u>
<u>Mayor</u>			
Dinkins	37	\$ 728,052	10 %
Giuliani	252	2,212,010	45
Goldin	9	30,065	1
Koch	55	777,119	19
Ravitch	38	165,812	10
<u>Comptroller</u>			
Hevesi	37	57,835	7
Holtzman	57	391,653	22
Macchiarola	57	216,824	30
Nadler	11	3,862	1
<u>Borough President</u>			
Ferrer	2	4,200	*
Messinger	4	4,100	*
Shulman	4	7,680	4
<u>City Council</u>			
Dryfoos	18	7,000	6
Gerges	12	20,006	17
Greitzer	3	4,048	5
Horwitz	5	9,300	10
Michels	4	1,200	1
Owens	1	223	*
Sheffer	4	2,300	5
Taylor	<u>2</u>	<u>175</u>	*
	612	4,643,464	

\*Contributions through intermediaries constituted less than 1 percent.

Source: Campaign Finance Board Data

**Recommendation:** The Campaign Finance Act defines an intermediary as anyone who “delivers” a contribution from another person or entity to a candidate or a campaign committee.<sup>17</sup> The Board recommends that the definition of intermediary be clarified to require that candidates report as intermediaries all persons and entities they know to have successfully solicited contributions for them, but not professional fund-raisers or hosts of small house parties with expenses of \$500 or less.

### **Surplus Contributions**

Surplus campaign funds are funds leftover from a previous election. The Act currently allows candidates to claim surplus funds from a previous election as threshold or matchable contributions. Fourteen incumbents who participated in the Campaign Finance Program for the 1989 elections had surplus funds ranging from between \$10,000 to more than \$1 million from previous campaigns.<sup>18</sup>

Surplus funds pose numerous problems in the context of the Campaign Finance Act. First, these war chests are overwhelmingly maintained by incumbents, and thus do not contribute to the Act’s goals of encouraging competition on a “level playing field.” Second, candidates’ use of surplus funds from a previous election in a current election for which they are participating in the Program requires complicated accounting rules to attribute the surplus funds to particular past contributors.

**Recommendation:** To address the problems of surplus funds, the Board recommends amending the Act so that surplus contributions are not eligible for threshold or matching. Further, the Board recommends that an overall cap of 5 percent of the applicable expenditure limit be placed on the amount of surplus funds from prior elections that could be used in future covered elections. Allowing candidates to use an aggregate amount of surplus funds from prior elections is the simplest approach, eliminating the need for complex accounting and attribution of surplus to specific contributors. The recommendations regarding surplus funds should be implemented only prospectively, for the first time in the 1993 election for Council candidates and for the first time in the 1997 election for the other covered offices, so as not to undermine candidate expectations and disrupt activities already undertaken in the current election cycle.

### **Fund Raising for Transition and Inaugural Expenses**

Participating candidates who received public funds are required to repay the Fund if they have surplus campaign funds remaining after the election. Winning mayoral candidate David Dinkins’ campaign requested an advisory opinion on whether surplus 1989 campaign funds could be used to cover transition and inaugural expenses before repaying the public Fund. The Board ruled that because a winning candidate’s transition and inaugural expenses are not campaign expenditures, surplus campaign funds cannot be used for these purposes until the Fund is repaid.<sup>19</sup> Surplus campaign funds remaining after repayment of the Fund, however, could be used for transition and inaugural purposes or any other purposes within state law guidelines. The Board subsequently ruled that donations received by

a new political committee, authorized solely for transition and inaugural purposes, are outside the scope of the Act and thus would not be subject to the Act's contribution limits or the Fund repayment requirement.<sup>20</sup>

The Dinkins campaign committee made repayments of \$100,000 to the Fund from surplus 1989 campaign funds, and collected new funds for transition and inaugural activities. The new political committee set up for transition and inaugural fund raising imposed limits on donations of \$10,000 per individual and corporation, and \$25,000 per partnership, and filed reports with the City Board of Elections in order to disclose its finances.<sup>21</sup> The transition and inaugural committee raised \$303,482, as reported to the City Board of Elections as of July 11, 1990.

**Recommendation:** Winning candidates should not have to rely on private fund raising for transition and inaugural expenses, because of the risk that large contributions will buy undue influence after a candidate is elected. The Board, however, recommends against amending the Act to allow participants to use surplus campaign funds for post-election transition and inaugural expenses prior to repaying the public Fund. If public funds are to be used for these purposes, the City budget should include an appropriation for them so that the cost to the public is determined by the regular budgeting process and not by the happenstance of what surplus funds remain for a winning candidate.

### **Segregated Contributions**

The Campaign Finance Program covers New York City municipal elections, but does not extend to state or federal elections. Candidates who are participating in the Campaign Finance Program for a municipal election may therefore accept contributions and make expenditures for other elections that are not subject to the contribution and expenditure limits of the Act. These "non-covered elections" include elections held before the Program was in existence; elections for state, federal, or party office; municipal elections not covered by the Act, such as for district attorney and judgeships; and future municipal elections in which a candidate does not participate in the Program.

Board rules require that contributions and expenditures for non-covered elections be disclosed to ensure that those funds have not been raised and spent in a municipal election campaign in which the candidate is participating in the Program. These rules help provide full public disclosure of all campaign finance activity undertaken on behalf of a participating candidate. Contributions for non-covered elections must be deposited in a separate bank account and may not be commingled with funds raised for a covered election.

In the 1989 election cycle, candidates appear to have had three types of "segregated" contributions. Some candidates had surplus funds from previous elections that could not be used in the 1989 elections because these funds represented contributions that exceeded the Act's contribution limits. Other segregated funds consisted of contributions accepted by candidates during the 1989 elections in an amount exceeding the applicable

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contribution limit. Finally, some candidates deposited contributions in segregated accounts because they were not needed for the 1989 elections. Of the 48 participating candidates who were on the primary or general election ballots, 13 reported segregated contributions.<sup>22</sup>

Segregated contributions pose numerous problems. Because candidates who are participating in the Program for a municipal election may accept contributions for elections not covered by the Program in excess of the Act's contribution limits, the risk that undue influence will be exerted by large contributors remains. Permitting contributions to be deposited in segregated accounts could facilitate evasion of the contribution limits, because candidates can keep excess contributions rather than return them to contributors and may undermine the public fund repayment requirement. The existence of segregated accounts also creates misleading public disclosure, because it gives the impression that candidates received less from contributors than may in fact be the case.

**Recommendation:** To keep funds for elections covered by the Program and non-covered elections separate and reduce the potential for abusing segregated account rules, the Board recommends that only the candidate's principal committee (designated as such by the candidate upon joining the Program), and no other authorized political committees of the candidate, be permitted to accept and spend funds for the covered municipal election. Additionally, the Board proposes that the candidate's principal committee be prohibited from accepting and spending funds for non-covered elections from the time the candidate designates a principal committee until the covered election is closed out.

### **Carry Over of Election Contributions**

The Campaign Finance Act currently imposes separate contribution limits for candidates for the primary and general elections. Under the Act, a candidate who has leftover primary contributions or public funds is permitted to use them in the general election, subject to certain requirements. The unrestricted use of primary contributions in the general election would unduly favor candidates with minimal primary opposition and expenditures. The "carry over" rule is designed to allow candidates to use leftover primary contributions, but subjects them to the general election contribution limit. Similarly, Board rules provide that candidates can "carry over" leftover public funds from the primary to the general election, but the amount of funds carried over reduces the maximum amount of public funds available to the candidate in the general election. To transfer unspent primary contributions and public funds for use in the general election, a candidate must attribute the unspent funds to particular contributors through sometimes complex accounting methods.

In the 1989 elections, seven candidates reported carrying over unspent primary funds to the general election. Carry over procedures proved to be an accounting and administrative burden both for candidates and the Board. The adoption of a single campaign contribution limit eliminates the need for special reporting and accounting rules for using leftover primary funds in the general election.



### **Pre-effective Date Contributions**

The Campaign Finance Act was signed into law on February 29, 1988, and the law became effective immediately. Thus, it was necessary that "pre-effective" date contributions made to candidates before February 29, 1988, be treated specially. Under the Act, participating candidates who had received "pre-effective" contributions were permitted to use those contributions in the 1989 elections, but only to the extent that the contributions did not exceed the Act's limits. For example, a participating mayoral candidate who received and had not spent a contribution of \$8,000 from an individual in 1987 could spend \$3,000 of that contribution in the primary and \$3,000 in the general election, but could not spend the remaining \$2,000 on the 1989 elections. Candidates could keep the excess money, but had to retain it in a separate account which could not be used for the 1989 elections. In addition, candidates could not accept additional donations from contributors who had given amounts up to the Act's maximum contribution limits before February 29, 1988. Candidates could claim pre-effective date contributions as threshold or matchable contributions, if full contributor information was provided.

Candidates were required to file a report regarding their pre-effective date contributions by May 1, 1989, or submit a statement saying that they had not received any. Almost all candidates who were incumbent officeholders filed pre-effective date reports with the Board. Of these, mayoral candidate Goldin had the largest amount of pre-effective date contributions. All candidates with pre-effective date contributions had difficulty completing the required report.

**Recommendation:** The Board recommends deleting the pre-effective date contribution limit from the Act as largely obsolete. The Board repealed its own accounting rules governing pre-effective date contributions as of February 18, 1990, because they were needed only for the first elections in which the Program was implemented.

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### **NOTES**

<sup>1</sup> Charles V. Bagli, "Down the Stretch, Rivals for Mayor Dig for Dollars," *New York Observer* (August 8, 1989), 1.

<sup>2</sup> As of August 1, 1990, the entire CFIS database contained 112,918 itemized contribution transactions. Seven percent of these reported contribution dollars represent funds that were collected prior to or on November 5, 1985, the date of the 1985 general election. A substantial portion of these early contributions were reported on state forms, rendering comparison with contributions reported on Campaign Finance Board forms extremely difficult. In order to separate data relevant to the 1985 election cycle from that relevant to the 1989 election cycle, only contributions reported as received after November 6, 1985, were used in discussions of contributions for the 1989 election cycle or in analyzing contribution limits for the covered offices.

<sup>3</sup> Candidates were required to report to the Board contributions received prior to the passage of the Act and to indicate whether these contributions were placed in segregated accounts or otherwise not used for the 1989 election. The contribution limit does not apply to contributions which were spent before the effective

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## Chapter 6

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date of the Act. Thus, pre-effective date contributions reported in excess of the Act's limits do not necessarily indicate violations of the law. Candidates had the option of providing pre-effective contribution information on Campaign Finance Board forms or through the use of legible and annotated State Board of Elections forms. (It should be noted that these data are limited by inconsistencies in reports of pre-effective date contributions and the increased likelihood of errors resulting from use of and reliance on state forms.)

<sup>4</sup> In Figures 6.1 and 6.2, the total contributions made by each individual or organization to one or more participating candidates is aggregated.

<sup>5</sup> Koch's pre-effective disclosures to the Board indicate that his campaign did not receive aggregate contributions above \$6,000 during the period from November 6, 1985 to February 28, 1988.

<sup>6</sup> Most of the data available for the pre-effective contributions were derived from the Feerick Commission's database, which does not provide sufficient information to determine precisely how many of the contributions were made by the same individuals or organizations. The pre-effective contribution data discussed in the text therefore refer to reported transactions, rather than total contributions from single donors. The Board's computer system, on the other hand, makes it possible to identify total donations from a single contributor. Accordingly, the post-effective contribution data refer to total contributor amounts. The extent to which Koch and Goldin reduced their reliance on large contributions is therefore very likely to be understated by the comparisons in Figure 6.4.

<sup>7</sup> Over \$24.3 million of the total \$29.3 million in all contributions reported to the Board were received in the post-effective period.

<sup>8</sup> The Act requires that the contribution limits be recalculated to keep pace with inflation every four years, based on the Consumer Price Index. The following adjusted limits were published by the Board on February 27, 1990: for mayor, comptroller, and City Council president \$3,300, for borough president \$2,500, and for City Council \$2,200.

<sup>9</sup> A disproportionate increase in top dollar influence will always occur whenever additional large contributions are made at or near the maximum contribution limit. This effect is a consequence of permitting contributors to make donations over a wide dollar range.

<sup>10</sup> Frank Lynn, "Dinkins Lists Surplus of \$810,000 and Hopes to use it on Transition," *The New York Times*, December 5, 1989.

<sup>11</sup> New York State Commission on Government Integrity, *Campaign Finance Reform: The Public Perspective* (July 1988), 30-34.

<sup>12</sup> Some of the funds raised by incumbents in years preceding the election are in reality leftover funds from earlier elections, such as the 1985 municipal elections or 1988 State Legislature elections, or, in certain cases, interim elections held to fill vacancies in 1986 and 1987.

<sup>13</sup> This analysis is based on contribution data reported by candidates to the Campaign Finance Board and poll information reported in New York City's four major newspapers: *The New York Times*, *New York Newsday*, *New York Daily News*, and the *New York Post*.

<sup>14</sup> Josh Barbanel, "New Yorkers are Pessimistic on Outlook for City Problems," *The New York Times*, June 22, 1989, Sec. A, p. 1; and Eric Fettmann, "Dave, Rudy Zap Koch," *New York Post*, June 18, 1989, p.1.

<sup>15</sup> Frank Lombardi, "Koch Pulls Even in Polls," *New York Daily News*, August 9, 1989; and Pamela Newkirk, "Mayor Pulls Even with Dinkins," *New York Post*, August 9, 1989, p. 4.

<sup>16</sup> Participating candidates are required to disclose the name, residential address, occupation, employer, and business address of each intermediary who collects contributions, as well as the total amount of contributions delivered. Candidates must also disclose underlying information about each contributor who gave through an intermediary.

<sup>17</sup> Intermediaries do not include delivery or messenger services or the immediate family of a contributor.

<sup>18</sup> The Act's pre-effective date contribution limit reduced somewhat the amount of surplus funds from a previous election that participants could use.

<sup>19</sup> Campaign Finance Board Advisory Opinion No. 1989-55 (December 5, 1989).

<sup>20</sup> Campaign Finance Board Advisory Opinion No. 1989-57 (December 19, 1989).

<sup>21</sup> Editorial, "Dinkins's Celebration, for Sale," *The New York Times*, December 7, 1989.

<sup>22</sup> The candidates with the largest amounts of segregated contributions were Goldin, Dinkins, and Messinger. Goldin had approximately \$1,006,000 in segregated funds, representing 58 percent of the total dollar amount of all his campaign contributions. Much of these segregated funds consisted of surplus funds from prior comptroller races, which could not be used in the 1989 elections because they would have violated the Act's contribution limits. Dinkins reported to the Board \$419,882 in segregated contributions, mostly resulting from post-election contributions and contributions collected for a possible runoff election which did not occur. Messinger had approximately \$129,500 in contributions which were placed in a segregated account, presumably because they were not needed for the 1989 elections.

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## Chapter 7:

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# Loans

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andidates use loans as seed money to start up their campaigns and to provide liquidity during campaigns. Borrowing money allows candidates to continue campaigning through a temporary lull in fund raising or a decline in the polls, providing candidates with flexibility and control over the strategy of their campaigns and the timing of their expenditures.

Like large contributions, however, large loans provided to candidates by wealthy individuals or special interest groups can suggest improper influence. When the size of contributions is regulated by limits, such as those imposed by the Campaign Finance Act, the role played by loans in providing short-term cash can assume greater importance. If unrestricted, the use of loans could potentially open a loophole in the Act's contribution limits, especially when the candidate provides no collateral and the lender charges no interest for the loan.

For this reason, the Act has special provisions applicable to loans. There is no ceiling on the amount participating candidates may borrow, but the amount of each loan must be repaid by election day. If a candidate fails to pay back a loan by the date of the election, the outstanding balance is treated as a contribution by the lender (or by the obligor in the case of a bank loan). If the unpaid balance, which is considered to be a contribution to the candidate, exceeds the applicable contribution limit, the candidate is presumed to have committed a knowing violation of the law, which is punishable as a Class A misdemeanor.<sup>1</sup>

If a third party repays a loan to a candidate, the repayment is considered to be a contribution by the person who makes the repayment. The amount of any loan forgiven by a creditor is an in-kind contribution to the candidate. Candidates must disclose information about all loans received, including the date and amount and other details of each loan, and the full name, address, and employer address of the lender or obligor.<sup>2</sup> To enable the Board to monitor the status of loans, candidates must also report the date and amount of each loan repayment, the amount of any loans forgiven, and the outstanding balance of each loan at the end of each reporting period.

In the 1989 elections, 19 of the participating candidates received a total of 85 loans. These candidates relied predominantly on loans from individuals and political committees. None of these candidates received any loans from banks. Of the 85 loans received, 39 were from unrelated individuals, 17 were from the candidates themselves, 14 were from relatives, 11 were from political committees, 3 were from partnerships, and 1 was from a corporation.

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The timing of loans was spread throughout the election year, peaking, like contributions, in September and October. Participating candidates received 9 loans in the year preceding the elections, 24 loans early in 1989 (from January to May), and 45 loans nearer to the elections (from June to November of 1989).<sup>3</sup> The fact that candidates obtained loans early in the election year as well as close to the elections suggests that candidates used loans both for start-up money and for last-minute campaign expenditures. For example, the \$60,000 that Ravitch lent himself in December 1988 was undoubtedly used to start up his campaign, while the \$200,000 in loans taken out by Koch in July 1989 was used to keep his television commercials on the air.

At the mayoral level, both incumbents and non-incumbents received substantial loans. Among participating City Council candidates, non-incumbents received significantly more and larger loans than did incumbents. The total amount of loans received by each participant is set forth in Table 7.1.

Candidates paid off most of their loans before the relevant election date. Of the 19 candidates who received loans, four candidates had loans outstanding as of the July 15, 1990 report.<sup>4</sup> The Board is investigating the status of all loans in the course of the audits of candidates' campaigns.

Several non-participating candidates had substantial loans in the 1989 elections. Mayoral candidate Lauder loaned himself a total of \$1,255,000, of which \$1,130,000 was forgiven and the rest was outstanding as of January 16, 1990. Non-participating Council candidate Fletcher also received substantial loans, totalling \$167,713. According to State Board of Elections reports available as of June 1990, these loans had not been repaid.

Candidates whose campaigns are in debt after the elections often have both unpaid bills for goods and services and outstanding loans. While winning candidates can usually raise additional contributions to pay off campaign debt with relative ease, losing candidates faced with unpaid debt after the election often have difficulty raising funds. At the Public Hearings, several candidates suggested that the Act be modified to help losing candidates pay off campaign debt. One suggestion was to raise or remove the limits on post-election contributions received by losing candidates to enable them to pay off debt. Another was to permit candidates to borrow from contributors who had already given the maximum allowed by the contribution limits in order to pay off debt. Clearly the threat of a *quid pro quo* or the appearance of improper influence is much less of a concern when a candidate has lost the election. But allowing candidates to pay off campaign debts or loans with large post-election contributions might encourage them to incur excessive debt during the election, supposing that if they win they can easily pay off the debt, and if they lose, different rules will apply. This result would seriously undermine the contribution limits.

Others, including the Feerick Commission, Citizens Union, and NYPIRG, advocate tighter restrictions on loans. The Feerick Commission takes the position that loans should be treated as merely another form of contributions, and recommends that loans in excess of the contribution limits be prohibited entirely.<sup>5</sup> This position overlooks the practical needs some candidates, including challengers, have in starting and maintaining a competitive campaign.

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**Table 7.1**

**TOTAL NUMBER AND AMOUNT OF LOANS  
RECEIVED BY PARTICIPATING CANDIDATES**

	<u>Number of Loans</u>	<u>Total Amount</u>
<u>Mayor</u>		
Dinkins	3	\$ 200,000
Koch	5	200,000
Giuliani	11	510,000
Ravitch	2	60,000
<u>Comptroller</u>		
Holtzman	6	158,500
Macchiarola	1	60,000
Nadler	23	91,500
<u>City Council</u>		
Cline	1	5,128
Cohen	3	3,032
Dryfoos	3	734
Eichenthal	2	274
Fields	6	8,478
Friedlander	1	3,000
Goldfeder	1	3,000
Horwitz	7	12,300
Maresca	2	1,840
Owens	3	1,200
Shorenstein	4	27,254
Taylor	1	500

Source: Campaign Finance Board Data

The results of the 1989 elections do not show a substantial level of abuse in participating candidates' use of loans that would warrant further restrictions at this time. The current loan rule allows candidates to borrow any amount as long as it is repaid by election day. Based on the 1989 experience, this treatment of loans appears to strike an appropriate balance between the aims of providing flexibility and liquidity to candidates, and maintaining the integrity of the Act's contribution limits. If widespread abuse of the loan rule were to occur in future elections, the current rule would have to be reconsidered.

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Contributions, loans, and public funds (discussed in Chapter 9) make up most of participants' campaign receipts. How participants spent these funds in the 1989 elections is described in the next chapter.

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### NOTES

<sup>1</sup> Because some public fund payments to candidates may occur after an election, the Board has ruled that a candidate may take out a loan in anticipation of the receipt of public funds if the candidate is already eligible for these funds and simply has not yet received them. In these circumstances, the candidates pay the loan back after the date of the election, once the public funds already due are actually received. The proceeds of these loans must be used for qualified campaign expenditures, such as advertising or communication with voters. Campaign Finance Board Advisory Opinion No. 1989-42 (September 5, 1989).

<sup>2</sup> For each loan, candidates must indicate if the lender is a relative or business associate of the candidate, the type of loan (bank loan or loan from an individual or other business entity), and the type of security provided for the loan, if any. Candidates are required to attach loan documentation to their disclosure reports.

<sup>3</sup> No dates were reported for six loans received by candidates, and one loan was dated December 23, 1989.

<sup>4</sup> The four participating candidates who appear to have loans outstanding are as follows:

Goldfeder	\$ 1,000
Maresca	1,825
Nadler	44,250
Taylor	500

<sup>5</sup> New York State Commission on Government Integrity, *Unfinished Business: Campaign Finance Reform in New York City* (September 28, 1988), 17-18.