

Responses to Performance Oversight Pre-Hearing Questions: Office of Campaign Finance
February 9, 2014

1 Please provide a complete, up-to-date **organizational chart** for each division within the agency, including, either attached or separately, an explanation of the roles and responsibilities for each division and subdivision.

- Please include a list of the employees (name and title) for each subdivision and the number of vacant positions.
- Please provide a narrative explanation of any organizational changes made during the previous year.

RESPONSE:

The Office of Campaign Finance (OCF) is organized into three major divisions which operate under the direction of the Office of the Director: the Public Information and Records Management Division (PIRM); the Reports Analysis and Audit Division (RAAD); and the Office of the General Counsel (OGC).

The current Organizational Structure and Staffing Chart (February 2015) (**Attachment A**), and Organizational Charts for each OCF Division (February 2015) (**Attachment B**) are attached. The Office of Campaign Finance Functional Organization Chart (February 2015) is attached, and provides a breakdown of the responsibilities of each OCF Division. **See Attachment C**. The list of the employees (name and title) for each OCF Division is attached, with vacant positions noted. **See Attachment D**.

The Office of the Director is responsible for planning, directing and coordinating the administrative operations of the Board of Elections pertaining to the Campaign Finance Act of 2011, as amended. The Director establishes policy and institutes clear directives to ensure the reasonable enforcement and administration of the Act.

The Director issues interpretative opinions; initiates investigations and informal hearings on violations of the Campaign Finance Act, and issues final decisions and imposes fines, where appropriate; and plans, directs, and coordinates the overall programs, as well as the administrative and legal functions of the Agency, and the educational outreach services. The administrative function of the Office of the Director includes budgeting, procurement, personnel, and overseeing the administration of the OCF Web Site, the Electronic Filing and Reporting System, and the cross index system for thousands of pages of documents filed within the OCF. All non-personal service funds are allocated to the Office of the Director for each program area.

The Office of the General Counsel (OGC) is responsible for enforcement through directing investigations, conducting hearings, and rendering recommendations for decisions on charges of violations of the Campaign Finance Act. The Office of the General Counsel prepares draft regulations, recommends legislative changes, conducts educational seminars, reviews OCF forms for changes, administers the Freedom of Information Act (FOIA), and interprets the Campaign Finance Act for appropriate application. This Office is also responsible for promoting through educational outreach (training seminars and entrance conferences) voluntary compliance for all filings, registrations, and activity requirements mandated by the Act.

The Reports Analysis and Audit Division (RAAD) is responsible for performing the audit analysis and review of all financial reports and other documents received in the Office. The Division conducts field audits and investigations based upon deficiencies and conditions noted during the Desk Audit reviews. The Division conducts periodic field audits, and compiles statistical reports and summaries for all reports of receipts and expenditures submitted by candidates, committees, and Constituent Service and Statehood Fund Programs. This program area is the primary generator of compliance actions through audits and the monitoring of the financial disclosure of the financial operations of Constituent Service and Statehood Fund Programs, candidates, principal campaign committees, political committees, political action committees, independent expenditure committees, and all others required to file with the Agency.

The Public Information and Records Management Division (PIRM) is responsible for providing public information online at the OCF Website and onsite in the OCF Offices; administering the records management and retention programs; compiling information for listings and reports published in the Biennial Report; managing the electronic filing, data entry and imaging of thousands of document pages for the public record; and making all reports and statements available for public inspection within forty-eight hours of receipt as statutorily mandated. The Division conducts the Filer Pre-Notification and Failure to File Programs.

During FY 2014, the Agency revised and finalized its Standard Operating Procedures in January 2014, consistent with the realignment in FY 2013 of the Office of the General Counsel and the Reports Analysis and Audit Division to create units within both Divisions based on the increase of the OCF staffing levels from fifteen (15) to thirty-one (31) positions. The realignment addressed the immediate personnel needs and long term goals of these OCF Divisions through the creation of units. The units are charged with specific areas of responsibility, and enable the OCF to more effectively execute its responsibilities.

The Reports Analysis and Audit Division increased from four positions to thirteen (13) full time positions in FY 2013. It should be noted that one (1) position was reclassified as a Training Officer, DS-12, to coordinate the Educational Program of the Agency. The three units established within the Audit Division are charged with the following audit functions: the Reports Analysis Unit conducts the Desk Reviews at the close of each filing deadline of all financial reports filed with the Agency; the Research Unit conducts complex research and data collection relative to reported contribution and expenditure information; and the Audit Unit conducts periodic and full field audits of the financial reports and statements of reporting entities.

The Office of the General Counsel increased from three (3) positions to eight (8) full time positions in FY 2013. The two units established within the Division are the Compliance Unit, which initiates the Informal Hearing Process to address violations of the reporting requirements; and the Investigations Unit, which investigates complaints received from the public, internally generated, or initiated at the direction of the Board.

2. Please provide a complete, up-to-date position listing for your agency, which includes the following information:

- **Title of position**
- **Name of employee or statement that the position is vacant, unfunded, or proposed**
- **Date employee began in position**

- **Salary and fringe benefits, including the specific grade, series, and step of position**
- **Job status (continuing/term/temporary/contract)**

Please list this information by program and activity.

RESPONSE:

The complete and current position listing for the Office of Campaign Finance is attached, with the position title; the name of the employee occupying the position; the date the employee began in the position; the salary and fringe, including the specific grade, series, and step of position; and job status. **See Attachment E.** The information is provided by OCF Division. The vacant positions in the Office of Campaign Finance are also identified

- 3. Does the agency conduct annual performance evaluations of all its employees? Who conducts such evaluations? What steps are taken to ensure that all agency employees are meeting individual job requirements?**

RESPONSE:

The Office of Campaign Finance conducts annual performance evaluations of all employees in accordance with the District of Columbia Personnel Manual. The evaluation of the performance of line employees is conducted by the Division Managers for the employees who are assigned to their respective Divisions. The Director evaluates the performance of the OCF Managers, namely, the General Counsel, the Audit Manager, the Public Affairs Manager, the Training Officer, and the Administrative Officer. The OCF Managers, as well as Supervisors serving within a Division, are responsible for the evaluation of the employees who serve under their direct supervision. All employees are evaluated following the close of the performance plan period, which begins on October 1st and ends on September 30th of each year. A Performance Plan is developed for each employee to state goals which are directly related to the job duties and responsibilities of the position held by the individual, and support the mission of the Agency. The work of each employee is monitored and reviewed throughout the performance period to ensure the completion of projects and the accuracy of tasks assigned. Moreover, because a significant number of the outputs of the Office of Campaign Finance are time sensitive, this affords another marker by which to measure performance. Where the performance of employees requires improvement, the OCF Manager is required to plan divisional training, and to meet quarterly with the affected employees to reassess performance and provide feedback to ensure progressive career growth.

The OCF Training Officer works with the OCF Managers to identify areas where training may improve or enhance the job performance of employees, on an individual basis, and to plan and locate educational opportunities for the employees at large on an annual basis through the DCHR Workforce Development Administration and with the D.C. Bar. During FY 2014, the Training Officer planned and scheduled Professional Development Courses for employees through the Workforce Development Administration; specialized training for the Audit Branch; and coordinated specialized training for the Office of the General Counsel through the D.C. Bar. **See Attachment F.**

4. Please list all employees detailed to or from your agency, if any. Please provide the reason for the detail, the detailed employee's date of detail, and the detailed employee's projected date of return.

RESPONSE:

During FY 14, and as of this date in FY 15, the Office of Campaign Finance did not detail any employees from the Agency, nor did it have employees detailed to the Agency.

5. Please provide the Committee with:

- A list of all employees who receive cell phones, personal digital assistants, or similar communications devices at agency expense

RESPONSE:

The employees of the Office of Campaign Finance do not have cell phones, personal digital assistants, or similar communications devices at agency expense. All cell phones were disconnected on July 25, 2009, as a cost savings measure.

- A list of all vehicles owned, leased, or otherwise used by the agency and to whom the vehicle is assigned

RESPONSE:

The Agency has one (1) Vehicle, a 2001 Ford Taurus. The Vehicle is assigned to Nadine Journette, the Administrative Officer, April Williams, the Administrative Assistant, and Payam Zerrat, the Investigator. The Vehicle is used exclusively for government business.

- A list of employee bonuses or special award pay granted in FY14 and FY15, to date

RESPONSE:

There were no bonuses granted by the Office of Campaign Finance in FY14 and in FY15, to date.

- A list of travel expenses, arranged by employee

RESPONSE:

There were no travel expenses incurred by the Office of Campaign Finance in FY 14 and in FY 15, to date.

- A list of the total overtime and workman's compensation payments paid in FY 14 and FY15, to date.

RESPONSE:

The Office of Campaign Finance did not pay overtime and workmen's compensation in FY14, and as of this date, in FY15.

- 6. Please provide a chart showing your agency's approved budget and actual spending, by program, for FY14 and FY15, to date. In addition, please describe any variance between fiscal year appropriations and actual expenditures.**

RESPONSE:

The Chart showing the Agency's approved budget and actual spending, by program, is attached for FY14 and for FY15, to date. **See Attachment G.** In FY14, the total revised Budget approved for the Office of Campaign Finance was \$2,703,619.71. The actual expenditures were 2,592,852.47, with a variance of \$110,767.24 in Local Funds. As of this date, there have been no variances projected for FY15.

- 7. Please list any reprogrammings, in or out, which occurred in FY14 or FY15, to date. For each reprogramming, please list the total amount of the reprogramming, the original purposes for which the funds were dedicated, and the reprogrammed use of funds.**

RESPONSE:

There were two (2) reprogrammings, in or out, of local funds in FY14, and none in FY 2015, to date. On February 19, 2014 (approved March 5, 2014), the first Request for the Reprogramming of \$235,000.00 of Local Funds from Personal Services to Non-Personal Services was made to cover the cost of the redesign and reconstruction of the OCF Website and the E-Filing applications available at www.ocf.dc.gov. On June 24, 2014 (approved July 8, 2014), the second Request for the Reprogramming of \$45,000.00 of Local Funds from Personal Services to Non-Personal Services was submitted to cover the cost of the upgrade of the electronic filing applications to meet the requirements of D.C. Law 20-79, the "Campaign Finance Reform and Transparency Amendment Act of 2013", effective February 22, 2014, and applicable January 31, 2015. **See Attachments H and I**, the Requests for FY14 Reprogrammings and the Chart of OCF FY 2014 Reprogramming.

- 8. Please provide a complete accounting for all intra-District transfers received by or transferred from the agency during FY14 or FY15, to date.**

RESPONSE:

The intra-District transfers received by or transferred from the Agency during FY14 or FY15, to date, are reported in the attached Chart of Intra-District Transfers, **Attachment J**.

- 9. Please identify any special purpose revenue accounts maintained by, used by, or available for use by your agency during FY14 or FY15, to date. For each account, please list the following:**
 - **The revenue source name and code**
 - **The source of funding**
 - **A description of the program that generates the funds**

- **The amount of funds generated by each source or program in FY14 and FY15, to date**
- **Expenditures of funds, including the purpose of each expenditure, for FY14 and FY15, to date**

RESPONSE:

The Office of Campaign Finance did not maintain, use, or have available for use, any special purpose revenue accounts during FY14, and in FY15, to date. **See Attachment K.**

10. Please provide a list of all projects for which your agency currently has capital funds available.

Please include the following:

- **A description of each project**
- **The amount of capital funds available for each project**
- **A status report on each project, including a timeframe for completion**
- **Planned remaining spending on the project**

RESPONSE:

The Office of Campaign Finance does not have any projects for which capital funds are available to the Agency. **See Attachment L.**

11. Please provide a complete accounting of all federal grants received for FY14 and FY15, to date.

RESPONSE:

The Office of Campaign Finance did not receive federal grants in FY14, and has not received federal grants in FY15, to date. **See Attachment M.**

12. What steps were taken during FY14 to reduce agency energy use?

RESPONSE

During FY14, the Office of Campaign Finance continued to require approximately fourteen (14) employees to share three printers purchased in FY13. The shared printers reduce agency energy use, and is a cost savings measure which avoids the procurement of individual printers for these employees. The Agency primarily uses the e-mail as the mode of communication for official correspondence, and requests the email addresses of registrants on the Statement of Candidacy Form (OCF Form 15) and the Statement of Organization Form (OCF Form 15). The OCF E-Mail Subscription Service has also reduced the number of mail and in office requests for copies of the final decisions issued in investigative cases, audit reports, and interpretative opinions. As of September 30, 2014, 220 (883 total subscribers) members of the public elected to use the service in FY14. The Office of the General Counsel maintains the Email address at www.ogc.ocf.gov which continues to reduce the number of mail, phone, and in office requests concerning the status of enforcement matters. Overall, E-mail communication between the Agency and the

public (filers, media, and the general public) has reduced the use and cost of envelopes, postage, and paper for printing letters and copies of documents.

To further conserve energy, the OCF employees are instructed to turn off office lights, and to shut down their personal computers, and the office copiers, at the close of each business day.

The Agency continues to promote the use of the Electronic Filing System. All OCF Forms are available for download at the OCF Web Site, www.ocf.dc.gov, and all financial report may be electronically filed. The steady increase of the use of the Electronic Filing System each Fiscal Year has eliminated the need to reproduce hard copies of financial reports for public review due to the real time online disclosure of the information. Moreover, use of the Electronic Filing System has reduced significantly the amount of data entry required by staff. As of January 31, 2015, all reporting entities will be required to electronically file their reports, pursuant to the provisions of D.C. Law 20-79, the “Campaign Finance Reform and Transparency Amendment Act of 2013”, effective February 22, 2014, and applicable on January 31, 2015.

On February 2, 2015, the 2015 Biennial Report of Contribution and Expenditure Information was made available to the Mayor and the Council in an electronic format and for public review in an electronic format and print form (one copy) at the Martin Luther King, Jr. Memorial Library in the Washingtoniana Division. The Biennial Report is also published at the OCF Web Site. The Report which consists of more than 8,000 pages was formerly made available solely in a print format.

The Agency continues to use in-house recyclable bins to dispose of bottles, plastics, cans, and office/news paper.

13. Please identify any legislative requirements that the agency lacks sufficient resources to properly implement.

RESPONSE:

The FY13 Approved Budget for the Office of Campaign Finance of \$2,601,045.00 addressed sufficiently the personnel needs of the Agency which were realized per the enactment of D.C. Law 19-0124, the “Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011” (the “Ethics Act”), effective April 27, 2012. The new “Campaign Finance Act of 2011”, found in Title III of the Ethics Act, established the new Inaugural, Transition, and Legal Defense Committees, which must register and file financial reports with the Office of Campaign Finance. In addition, the Act states new reporting requirements and contribution and expenditure aggregate limitations for the Constituent Service Programs. The FY13 Budget allocated funds which covered the increased audit and enforcement responsibilities of the Agency created under the Act. The OCF staffing level increased from 16 FTEs in the FY12 OCF Budget to 31 FTEs in the FY13 Budget. Sufficient funding was also provided to procure the upgrades to the OCF Electronic Filing and Disclosure System, critical to the performance of our responsibilities under the new campaign finance laws. The FY14 Approved Budget for the Agency continued to fund the 31 OCF Continuing FTEs.

During FY14, D.C. Law 20-79, the “Campaign Finance Reform and Transparency Amendment Act of 2013”, was enacted, effective February 22, 2014, and its provisions were to become

applicable January 31, 2015. To prepare for the full implementation of this Legislation, the Office of Campaign Finance through the approval on July 8, 2014 of the Reprogramming Request for \$45,000 of FY14 Local Funds budget authority within the Agency, requisitioned services in July 2014 for the upgrade of the OCF E-Filing System to meet the technical requirements of the Act including the availability of the Database via bulk download from the portal web site; the upgrade of the biennial report module to report the contribution and expenditure information of candidates for the Office of Attorney General, political action and independent expenditure committees, and political committees, to include the inaugural, transition, exploratory, legal defense, and ballot measure committees; the registration and e-filing of political action committees, and independent expenditure committees, with additional disclosures in the statement of organization for political committees; the increased disclosure on Schedule A of the Report of Receipts and Expenditures (R & E Report) of information pertaining to the affiliated entities of business contributors; increased disclosures on Schedule B of the R & E Report for expenditures made by each political action committee and by each independent expenditure committee; the modification of the oaths or affirmations of the R & E Reports by committees to include new certifications; the development of a new schedule on the R & E Report to report bundled contributions in excess of \$10,000; and the development of an e-filing application to report independent expenditures exceeding \$50 made to other than a committee or candidate by any person (other than a committee).

The FY14 and FY15 Budgets for the Agency provided ample funding for the audit and enforcement responsibilities required by D.C. Law 20-79 through the continued funding of the increased staffing levels in both the Legal and Audit Divisions.

14. Please list all regulations for which the agency is responsible for oversight or implementation. Please list by chapter and subject heading, including the date of the most recent revision for each chapter.

RESPONSE:

The Office of Campaign Finance is responsible for the oversight and administration of the following enumerated Chapters of Title 3, "Elections and Ethics", of the District of Columbia Municipal Regulations (DCMR) (June 2007, as amended). Following the effective date of the "Campaign Finance Reform and Transparency Amendment Act of 2013, the Office of Campaign Finance engaged in a comprehensive review and overhaul of existing Chapters 30 through 41 of Title 3 to conform the regulations governing the operations of the Agency to the requirements of the Reform Act. The OCF drafted regulations which were adopted as proposed and on an emergency basis on January 7, 2015 by the Board of Elections to fully implement the provisions of the Act which became applicable January 31, 2015, including the new mandatory training and electronic filing requirements, the new disclosure requirements for business contributors and bundled contributions, and the increased certifications required by the political committees, the political action committees, and the independent expenditure committees. See the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on January 7, 2015, at its regularly scheduled Board meeting, and published in the D.C. Register on January 16, 2015 (Volume 62, No. 3). The emergency amendments to the rules will expire on May 7, 2015. The Board also gave notice of its intent to adopt the amendments in not less than thirty (30) days from the date of the publication of the Notice in the D.C. Register. The period for public comment expires on February 14, 2015.

The Regulations by Chapter are as follows:

- (1) Chapter 30, “Campaign Finance Operations: Committees, Candidates, Constituent Service Programs, Statehood Funds”. The most recent revision of this Chapter was the Notice of Emergency and Proposed Rulemaking, published in the D.C. Register on January 16, 2015 (Volume 62, No. 3). The emergency amendments to the rules will expire on May 7, 2015; one hundred twenty (120) days after the emergency rulemaking took effect. The period for public comment on the proposed rules expires on February 14, 2015.
- (2) Chapter 31, “Lobbying”. The most recent revision of this Chapter was the Notice of Proposed Rulemaking, published in the D.C. Register on June 14, 2013 (Volume 60, No. 26). The Notice of Final Rulemaking was published on August 16, 2013 (Volume 60, No 35). The Chapter was repealed in its entirety.
- (3) Chapter 32, “Financial Disclosure”. The most recent revision of this Chapter was the Notice of Proposed Rulemaking, published in the D.C. Register on June 14, 2013 (Volume 60, No. 26). The Notice of Final Rulemaking was published on August 16, 2013 (Volume 60, No 35). The Chapter was repealed in its entirety.
- (4) Chapter 33, “Conflict of Interest and Use of Government Resources for Campaign Related Purposes”. The most recent revision of this Chapter was the Notice of Proposed Rulemaking, published in the D.C. Register on June 14, 2013 (Volume 60, No. 26). The Notice of Final Rulemaking was published on August 16, 2013 (Volume 60, No 35). The provisions of the Chapter pertaining to “Conflict of Interest” were repealed.
- (5) Chapter 34, “Campaign Finance Recordkeeping and Audits”. The most recent revision of this Chapter was the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on January 7, 2015, at its regularly scheduled Board meeting, and published in the D.C. Register on January 16, 2015 (Volume 62, No. 3). The emergency amendments to the rules will expire on May 7, 2015; one hundred twenty (120) days after the emergency rulemaking took effect. The period for public comment on the proposed rules expires on February 14, 2015.
- (6) Chapter 35, “Minor Party Exemption”. The most recent revision of this Chapter was the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on October 12, 2012, at its regularly scheduled Board meeting, and published in the D.C. Register on October 12, 2012 (Volume 59, No. 41). The Notice of Final Rulemaking was published on February 8, 2013 (Volume 60, No. 6).
- (7) Chapter 36, “District of Columbia Senator and Representative”. The most recent revision of this Chapter was the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on January 7, 2015, at its regularly scheduled Board meeting, and published in the D.C. Register on January 16, 2015 (Volume 62, No. 3). The emergency amendments to the rules will expire on May 7, 2015; one hundred twenty (120) days after the emergency rulemaking took effect. The period for public comment on the proposed rules expires on February 14, 2015.

- (8) Chapter 37, “Investigations and Hearings”. The most recent revision of this Chapter was the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on January 7, 2015, at its regularly scheduled Board meeting, and published in the D.C. Register on January 16, 2015 (Volume 62, No. 3). The emergency amendments to the rules will expire on May 7, 2015; one hundred twenty (120) days after the emergency rulemaking took effect. The period for public comment on the proposed rules expires on February 14, 2015.
- (9) Chapter 38, “Legal Defense Committees”. The most recent revision of this Chapter was the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on January 7, 2015, at its regularly scheduled Board meeting, and published in the D.C. Register on January 16, 2015 (Volume 62, No. 3). The emergency amendments to the rules will expire on May 7, 2015; one hundred twenty (120) days after the emergency rulemaking took effect. The period for public comment on the proposed rules expires on February 14, 2015.
- (10) Chapter 39, “Campaign Finance Operations: Inaugural Committees”. The most recent revision of this Chapter was the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on January 7, 2015, at its regularly scheduled Board meeting, and published in the D.C. Register on January 16, 2015 (Volume 62, No. 3). The emergency amendments to the rules will expire on May 7, 2015; one hundred twenty (120) days after the emergency rulemaking took effect. The period for public comment on the proposed rules expires on February 14, 2015.
- (11) Chapter 40, “Campaign Finance Operations: Transition Committees”. The most recent revision of this Chapter was the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on January 7, 2015, at its regularly scheduled Board meeting, and published in the D.C. Register on January 16, 2015 (Volume 62, No. 3). The emergency amendments to the rules will expire on May 7, 2015; one hundred twenty (120) days after the emergency rulemaking took effect. The period for public comment on the proposed rules expires on February 14, 2015.
- (12) Chapter 41, “Campaign Finance Operations: Exploratory Committees”. The most recent revision of this Chapter was the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on January 7, 2015, at its regularly scheduled Board meeting, and published in the D.C. Register on January 16, 2015 (Volume 62, No. 3). The emergency amendments to the rules will expire on May 7, 2015; one hundred twenty (120) days after the emergency rulemaking took effect. The period for public comment on the proposed rules expires on February 14, 2015.

15. Please list each new program implemented by the agency during FY 14 and FY 15, to date. For each initiative please provide:

- **A description of the initiative**
- **The funding required to implement the initiative**
- **Any documented results of the initiative**

RESPONSE:

I. FY14 Programs

First the Office of Campaign Finance's Employee Training Program kicked off its Professional Development Initiative during the Spring of 2014. The Initiative's goal is to increase the personal and professional growth of OCF employees through seminars, course/trainings and organizational memberships and involvement. During FY 2014 OCF employees successfully completed agency specific on-site course/trainings. The training was provided through a partnership established by OCF with the District of Columbia's Department of Human Resources Learning and Development Center. The four (4) courses/trainings were provided at no cost on April 22, 2014: fifteen (15) participants; May 16, 2014: nineteen (19) participants; June 17, 2014: nine (9) participants; and September 4, 2014: eleven (11) participants. The OCF employees successfully completed two (2) courses/trainings provided by outside vendors made available through DCHR during FY 2014 on September 29, 2014: nine (9) participants; and on September 30, 2014: nine (9) participants. The cost paid by OCF for the two (2) courses provided by the outside vendors was \$7,000.00. During January of 2015, fifteen (15) OCF employees successfully completed an on-site course/training provided by the DCHR Learning and Development Center.

Staff members of the Office of the General Counsel successfully completed five (5) courses provided by the D.C. Bar of the District of Columbia. The OCF paid the D.C. Bar \$2,196.00 for the courses completed. Eighteen (18) members of the Reports Analysis and Audit Division and other OCF Divisions successfully completed a 2-day Auditing Essentials training/seminar conducted by an outside Washington, D.C. vendor on September 23, and 24, 2014. The cost paid the vendor by OCF was \$3,000.00.

The OCF Professional Development Program Initiative encourages employees to register as members of organizations in their respective areas of expertise. Under this component of the Employee Training Initiative, three (3) OCF employees became members of the International Association of Administrative Professionals and one OCF employee renewed his membership. The mission of IAAP is to enhance the success of career-minded administrative professionals by providing learning opportunities and certification in the field of Administration. The OCF IAAP members are pursuing the course of study required to enroll in the computer based Certified Administrative Professional (CAP) Examination. The four membership fees totaled \$652.00.

See Attachment F.

Second, as you know, funds provided in the FY 2013 Budget for the Agency supported the increase of the OCF FTEs, from 16 to 31 Full Time Equivalents (FTEs). The fifteen (15) new continuing full time positions (5 Legal and 10 Audit positions) were allocated to the Audit and Legal Divisions. Formerly, the Audit Division was assigned four Continuing FTEs, and the Legal Division was assigned three Continuing FTEs. As of this date, there are three vacant positions in the Office of Campaign Finance, one (1) Legal Position (the Paralegal Specialist, DS-9), and two (2) Audit positions (the Auditor, DS-11 and DS-12). Without question, the increased staffing levels have enabled the Office of Campaign Finance to keep pace with a growing workload generated by the dramatic increase in the number of election complaints received by the Office, the complexity of the funding mechanisms used to support campaigns,

and the increase in candidates and committees participating in the election process, and in reported receipts and expenditures.

During FY 2014, the increased staffing levels supported the expansion of the Audit Program to incorporate the random audit of active principal campaign committees during the election cycle, and the full field audit of the principal campaign committee of newly elected public officials. For the first time, the OCF initiated eleven (11) periodic random audits of principal campaign committees active during the 2014 election cycle, and two (2) full field audits of the principal campaign committees of newly elected candidates to public office. The Audit Division initiated two (2) periodic random audits of active principal campaign committees following each filing deadline. During FY15, the number of periodic audits conducted of active principal campaign committees will increase from two (2) to four (4), for every other filing deadline, commencing with the March 10th, 2015 Deadline for the filing of the Reports of Receipts and Expenditures from the candidates and political committees participating in the 2015 Election Cycle.

The field audit of the principal campaign committees during the election cycle permits the Agency to timely track and verify reported campaign activity; to identify apparent violations or question transactions; and to require the committee to respond to audit findings and correct the public record. The public interest is better served by ensuring that the financial report represents an accurate and complete portrayal of campaign operations upon which it can rely to make educated, informed decisions in the election process.

Third, the Office of Campaign Finance continued to place a strong organizational focus on achieving voluntary compliance through educational outreach. In October 2013, the Agency commenced the scheduling of Entrance Conferences for newly registered candidates and political committees. The Entrance Conference is designed to assist participants in complying with the provisions of the Campaign Finance Act of 2011, as amended. The conferences are coordinated by the Office of the General Counsel, and supported by staff members from the Report Analysis and Audit Division and the Public Information and Records Management Division. The conferences provide the earliest opportunity for the OCF to be proactive in its outreach to the public to inform our customers of the reporting requirements and the contribution limitations under the Campaign Finance Laws; to provide recordkeeping tips; and to train on the use of the electronic filing system. The first Entrance Conference was held on October 17, 2013, and there were 11 participants. The names of the participants were posted on the OCF Web Site. **See Attachment N.** Subsequent Entrance Conferences were held on November 14, 2013 (8 participants); January 23, 2014 (13 participants); April 24, 2014 (8 participants); and on June 11, 2014 (12 participants). The names of the participants were included in the monthly statistics for the Office of Campaign Finance, and posted on the Web Site. **See Attachment O.** An individualized Training Program by appointment only was implemented for individuals and groups who are unable to attend the regularly scheduled training seminars.

The FY14 Budget provided ample funding for the audit and enforcement responsibilities required by these programs through the increased staffing levels in both the Legal and Audit Divisions.

II. FY15 Programs

During February 2015, first, the Office of Campaign Finance will introduce the Mandatory Training Program, pursuant to the provisions of the “Campaign Finance Reform and Transparency Amendment Act of 2013”, D.C. Law 20-79 (February 22, 2014), which became applicable January 31, 2015. Each candidate for public office (with the exception of ANC candidates) and the treasurer of each political committee, political action committee, or independent expenditure committee will be scheduled for a training session within fifteen (15) calendar days of filing the Statement of Candidacy form or the Acceptance of Treasurer form. See Section 3001, Chapter 30, “Campaign Finance Operations: Committees, Candidates, Constituent Service Programs, Statehood Funds”, published in the Notice of Emergency and Proposed Rulemaking, 62 DCR No.3 (January 16, 2015). The Training will focus on the obligations and responsibilities of the new registrants under the Campaign Finance Act of 2011, as amended, and how best to achieve compliance with the Act. The Training Sessions will be scheduled at the next training seminar conducted by the Agency occurring immediately after the date the candidate files the registration form, or the treasurer files the acceptance form. The Training Program will be coordinated by the Office of the General Counsel, and supported by staff from the Public Information and Records Management Division and the Audit Division. Attendance will be recorded by the Training Officer who will present a Certification of Attendance Form to each participant for execution, with the oath or affirmation that the candidate or treasurer will follow and abide by all applicable requirements of the Campaign Finance Act of 2011, as amended. The names of all participants who complete the mandatory training will be published at the OCF Web Site. The name of each candidate or treasurer who fails to appear will be referred to the Office of the General Counsel for initiation of the enforcement process. **See Attachment P.**

Second, the Office of Campaign Finance will fully implement the Mandatory Online Filing Program for all financial reports filed by candidates and committees registered with the Agency. D.C. Law 20-79, the “Campaign Finance Reform and Transparency Amendment Act of 2013”, effective February 22, 2014, and applicable January 31, 2015, requires the online submission of all financial reports filed under the Campaign Finance Act of 2011, as amended, unless actual hardship is demonstrated in complying with this requirement. The OCF drafted regulations which were adopted on January 7, 2015 as proposed and on an emergency basis by the Board of Elections to fully implement the provisions of the Act which become applicable January 31, 2015, including the new mandatory training and electronic filing requirements. See the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on January 7, 2015, at its regularly scheduled Board meeting, and published in the D.C. Register on January 16, 2015. The emergency amendments to the rules will expire on May 7, 2015. The Board also gave notice of its intent to adopt the amendments in not less than thirty (30) days from the date of the publication of the Notice in the D.C. Register. The period for public comment expires on February 14, 2015.

Section 3006 of Chapter 30, “Campaign Operations: Committees, Candidates, Constituent Service Programs, Statehood Funds”, of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR), prescribes the procedures which will govern the mandatory electronic filing of financial reports, including the steps and timeframes that must be followed to request an exception to the electronic filing requirement; and clearly states that the paper filing of the Report of Receipts and Expenditures will be considered a failure to file. To

notify the public of the mandatory online filing requirement, the Office of Campaign Finance published on November 17, 2014 at the OCF Website and Facebook Page, the “Notice of Significant Amendments to the Campaign Finance Act of 2011, pursuant to the “Campaign Finance Reform and Transparency Amendment Act of 2013”; commenced onsite training sessions on December 4, 2014 solely dedicated to the requirements of the new law, and will continue to focus on the new reporting requirements during the Training Seminars scheduled throughout the 2015 Calendar Year (2015 Schedule of Training Seminars published at Website on January 29, 2015); advised the newly registered candidates and committees participating in the entrance conferences scheduled in December 2014 and in January 2015 of the changes in the law; notified registrants in January 2015 through the mailing of reminder letters on January 13, 2015 in the OCF Filer Pre-Notification Program; and published on February 3, 2015 at the OCF Website, a Notice of the “Mandatory Requirements” for training and online filing. The Office of Campaign Finance has also revised consistent with the changes mandated by the “Campaign Finance Reform and Transparency Amendments Act of 2013”, and republished on January 31, 2015 at the OCF Website, the Educational Brochures in all OCF Programs, the Campaign Finance Guide, and other content at certain links. The first statutory filing of the Reports of Receipts and Expenditures affected by the mandatory online submission requirement will be the March 10th, 2015 due date for the submission of the Report of Receipts and Expenditures by candidates and committees active in the 2015 Election Cycle. **See Attachments Q, R, S and T.**

16. Please provide a list of all studies, research papers, and analyses (“studies”) the agency requested, prepared, or contracted for, during FY13, to date. Please state the status and purpose of each study.

RESPONSE:

During FY14, first, the Office of Campaign Finance conducted a review of the online training programs of at least sixteen (16) State Campaign Finance and Disclosure Web Sites to determine the best format in which to present training online at the OCF Web Site. The Agency currently employs Online Training Modules for the Report of Receipts and Expenditures filed in each OCF Program to allow users to preview the Online Filing System in order to complete a successful online submission. The online modules do not exceed seven (7) minutes in duration and are presented in a PowerPoint format. The Review found that the Interactive Campaign Training Seminar presented at the New Jersey Campaign Finance and Lobbying Disclosure Election Law Enforcement Commission, Trenton, New Jersey, Website, www.elec.state.nj.us, contained the format and most user-friendly comprehensive model that may address the new mandatory training requirements of the new law. D.C. Law 20-79 amends Section 304 (D.C. Official Code § 1-1163.04) to provide that the in person training program may be supplemented by “online materials”. The content of the training module is provided in a narrated PowerPoint slide presentation. Users have the ability to review the content as often as needed before proceeding to the next slide. The interactive component of the module offers a Question and Answer Feature with scenarios presented involving campaign finance topics, which afford participants the opportunity to engage in the learning process and test their recall of the slide content captured in the hypothetical scenarios. The Office of Campaign Finance will also further explore the use of online “Skype”, “Webinars”, and other training tools employed by the visited States to expand the onsite Training Programs of the Agency. **See Attachment U, the OCF “Interactive Online Training Review Installment”.**

Second, on February 2, 2015, the Office of Campaign Finance issued and presented in an electronic format the 2015 Biennial Report of Contributions and Expenditures to the Mayor and the Council of the District of Columbia for the period from January 2013 through December 2014. The campaign finance laws require the Director to make a Biennial Report to the Mayor, the Council, and the general public, commencing January 31, 2001, and every two years thereafter, on January 31st. The report describes the receipts and expenditures of candidates for elective office, with the exception of ANC candidates, for the prior two year period, in dollar amount and percentage terms, by donor categories and size of the donation, and expenditure type. Graphs are used to present the percentage terms. The receipts and expenditures of the political committees must also be summarized. The Report was presented in an electronic and print format, and made available for members of the public at the OCF Web Site, the OCF Offices, and in the Washingtoniana Room of the Martin Luther King, Jr. Memorial Library. **See Attachment V**, the correspondence dated January 31, 2015 and addressed to the Honorable Kenyan McDuffie, Member of the Council of the District of Columbia from Ward 5, which forwarded the 2015 Biennial Report.

Third, the Office of Campaign Finance conducted extensive research regarding Bitcoin contributions after learning that a committee supporting a ballot initiative accepted a Bitcoin contribution in December 2013. The purpose of this research was to consider whether there was a framework consistent with DC Campaign Finance rules and regulations permitting a committee's acceptance of Bitcoin contributions. From this research, the OCF concluded that committees are permitted to accept the Bitcoin as in-kind contributions so long as the committee (1) reports the Bitcoin as an in-kind contribution; (2) liquidates the Bitcoin contribution into US dollars within five days of receipt; (3) refunds any excessive contribution after liquidation; (4) obtains the required contributor information; (5) verifies that the Bitcoin contributors are US citizens or legal residents; and (6) verifies that Bitcoin contributors are the lawful owners of the Bitcoin contributed. Additionally, the OCF included regulations for Bitcoin contributions in its January 16, 2015 Notice of Emergency and Proposed rulemaking.

In reaching this decision, the OCF considered and reviewed advisory opinions from the following government agencies:

The Federal Election Commission

- Conservative Action Fund's November 2013 Advisory Opinion Request
 - o The FEC did not reach an agreement; however, it did issue three draft advisory opinions.
 - Draft AO, Agenda Document No. 13-45 (November 7, 2013)
 - Draft AO, Agenda Document No. 13-45-A (November 13, 2013)
 - Draft AO, Agenda Document No. 13-45-B (November 20, 2013)

- Make Your Laws PAC's February 2014 Advisory Opinion Request
 - o The FEC anonymously approved Draft C, Agenda Document No. 14-24-B granting the PAC's request to accept up to \$100.00 worth of Bitcoin contributions (May 8, 2014).
 - o The FEC also issued two separate statements regarding the May 8, 2014 decision.
 - Commissioner Statement – Chairman Lee E. Goodman
 - Commissioners' Statement – Vice Chair Ravel, Commissioners Steven T. Walther and Ellen L. Weintraub
 - o The OCF attended two FEC public hearings regarding the Bitcoin on April 23, 2014 and May 8, 2014.

- o The OCF contacted the FEC in June of 2014 for additional information and was informed that there was no public indication when or if the FEC would adopt new regulations regarding the Bitcoin and agencies should refer to the May 8, 2014 advisory opinion as well as the two Commissioners' Statements.

The Internal Revenue Service

- IRS Notice 2014-21
- o The IRS determined that the Bitcoin should be classified as property and not currency. (March 25, 2014)

The Massachusetts Office of Campaign and Political Finance

- The OCPF issued a 2014 Advisory Opinion permitting Bitcoin contributions.
- o AO-14-01 (January 17, 2014)
- o The OCF contacted OCPF in June 2014 to inquire whether the agency had any problems with the reporting of Bitcoin contributions. The OCPF explained that the agency would have a better indication of compliance after committees submitted their September 2nd Pre-Primary report.
- The OCF contacted OCPF in October 2014 and was informed that one candidate reported a \$25.00 Bitcoin contribution on the committee's September 2nd Pre-Primary report.

In addition, the OCF conducted research and provided analyses regarding the following issues:

1. Prepared brief on the holding in *McCutcheon v. Federal Election Commission*, 572 U.S. (2014). Brief was used to provide guidance on how the Supreme Court's decision in *McCutcheon* affects current D.C. Campaign Finance law, specifically, District of Columbia Official Code Section 1-1163.33(b)(1).
2. A Summary of the Campaign Finance Reform and Transparency Amendment Act of 2013 was prepared for both the public and OCF Staff. The summary was used as an informational guide to highlight the recent amendments to the D.C. Campaign Finance law.
3. Researched "Clean Hands" Legislation in jurisdictions across the country. The research was conducted in an attempt to compare and contrast Bill 20-718, the "Clean Hands Elections Reform Amendment Act of 2014" with other similar legislation throughout the country; and to find whether denial of ballot access based on the failure to pay fines is constitutional.
4. Prepared analysis of research conducted by the Brennan Center for Justice on the impact of the Supreme Court's decision in *Citizens United v. Federal Election Commission*, 558 U.S. (2010), on state and local elections, including distinguishing independent expenditures from coordinated expenditures.
5. Researched the Federal Election Commission's organizational structure. The research was conducted in hopes of learning new organizational structures that may be beneficial to the OCF.

17. Please explain the impact on your agency of any legislation passed at the federal level during FY14 and FY15, to date, that significantly affected agency operations. If regulations were the shared responsibility of multiple agencies, please note.

RESPONSE:

The Office of Campaign Finance is unaware of any legislation passed at the federal level during FY14 and FY15, to date, which would impact upon this Agency. It should be noted, that on December 28, 2012, H.R. 4152 (112th), the “Hatch Act Modernization Act of 2012” became effective. The Act removed District employees from the coverage of the Hatch Act provisions applicable to federal employees. D.C. Law 18-0335, the “Prohibition on Government Employee Engagement in Political Activity Act of 2010”, effective March 31, 2011, is modeled after the Federal Hatch Act, 5 U.S.C. §§ 7321-7326 (1939). D.C. Law 18-0335 placed the responsibility for the administration and enforcement of its provisions, and the development of procedures to fully implement the legislation on the Board of Elections. The Office of Campaign Finance would have shared this responsibility with the Board. However, the “Prohibition on Government Employee Engagement in Political Activity Emergency Amendment of 2013”, D.C. Act 20-25 (effective March 7, 2013), placed the enforcement of D.C. Law 18-0335, on an emergency basis, with the District of Columbia Board of Ethics and Government Accountability; and the “Prohibition on Government Employee Engagement in Political Activity Amendment Act of 2013”, D.C. Act 20-0250 (December 27, 2013), permanently placed the responsibility with the Ethics Board.

18. Please provide a list of all MOUs in place during FY14 and FY15, to date.

RESPONSE:

The list of all MOUs in place during FY14 and FY15, to date, is attached. **See Attachment J.**

19. Please list each contract, procurement, lease, and grant (“contract”) awarded or entered into, extended and option years exercised, by your agency during FY14 and FY15, to date. For each contract, please provide the following information, where applicable:

- **The name of the contracting party**
- **The nature of the contract, including the end product or service**
- **The dollar amount of the contract, including budgeted amount and amount actually spent**
- **The term of the contract**
- **Whether the contract was competitively bid or not**
- **The name of the agency’s contract monitor and the results of any monitoring activity**
- **Funding source.**

RESPONSE:

The list of each contract, procurement, lease, and grant awarded or entered into, extended and option years exercised, by the Office of Campaign Finance during FY14 and FY15, to date, is attached, with the requested information for each. **See Attachment W.**

20. Please identify all recommendations identified by the Office of the Inspector General, D.C. Auditor, or other federal or local oversight entities during the previous 3 years. Please provide an update on what actions have been taken to address those recommendations.

RESPONSE:

The Office of Campaign Finance is unaware of any recommendations identified by the Office of the Inspector General, the D.C. Auditor, or any other federal or local oversight entities during the previous 3 years.

21. Please identify all electronic databases maintained by your agency, including the following:

- A detailed description of the information tracked within each system;
- The age of the system and any discussion of substantial upgrades that have been made or are planned to the system
- Whether the public can be granted access to all or part of each system

RESPONSE:

The response is attached. See **Attachment X**, the List of Electronic Databases.

22. What has the agency done in the past year to make the activities of the agency more transparent to the public? In addition, please identify ways in which the activities of the agency and information retained by the agency could be made more transparent.

RESPONSE:

During FY14, the Office of Campaign Finance initiated and completed projects which were designed to make both the operations of the Agency and the data it collects more transparent. The Agency continued to place a strong organizational focus on achieving voluntary compliance through educational outreach. In October 2013, the Office of Campaign Finance for the first time held Entrance Conferences for newly registered candidates and political committees. The Entrance Conference is designed to foster compliance with the Campaign Finance laws, and provides the earliest opportunity for OCF to be proactive in its outreach to the public. The conferences were coordinated by the Office of the General Counsel, and supported by staff from the Audit and Public Information Divisions. The Agency uses this vehicle to inform the new registrants of the business practices of the Audit and Legal Programs. The conferences were held on October 17, 2013, November 14, 2013, January 23, 2014, April 24, 2014, and June 11, 2014. The names of the 52 participants were posted at the OCF Web Site and included in the monthly statistics of the Agency presented to the Board.

The automated forms for the registration, online filing and report modules designed and developed in FY 2013 for the Exploratory Committee and the new Transition, Inaugural, and Legal Defense Committees were made available at the OCF Web Site in FY 2014. A total of twelve (12) Exploratory Committees registered with the Office of Campaign Finance, and nine (9) electronically filed their financial reports at the OCF Web Site. The online submission of the financial reports allowed the real time disclosure to the public of the reported financial

transactions of this filer group. To promote the online filing system and voluntary compliance with the reporting requirements, the Agency developed Educational Brochures to provide clear guidance for the Exploratory, Transition, Inaugural, and Legal Defense Committees. The Brochures were published at the OCF Web Site on January 27, 2014 and on September 30, 2014. The agenda for the onsite Training Seminars scheduled on October 9, 2014, November 13, 2014, and December 11, 2014 focused on the public about the reporting requirements for the new committees and the availability of the e-filing system to file their financial reports.

On January 16, 2014, the OCF Face Book Page was established to further extend public outreach and provide transparency of the operations of the Agency. Notice of the Face Book Page was posted at the OCF Website with an icon provided to select and connect with the Page. The Page is used as an educational tool to post brief notices daily of upcoming filing and training dates, the release of orders and audits, recent legislation and rulemaking, and the posting of summary contribution and expenditure reports. The Page also provides a vehicle for immediate responses to relevant inquiries.

On May 21, 2014, a hyperlink was posted at the Face Book Page to the OCF Website Feature, the Geographical Contribution Locator, from which to view the most recent tally of contribution amounts for active candidates by District Zip Code.

On August 27, 2014, the Agency introduced the upgrade and modification of the contribution and expenditure modules of the Electronic Filing System to capture and report summary information at the Web Site from the Reports of Receipts and Expenditures of the Constituent Service (OCF Form 10) and the Statehood Fund Programs (OCF Form 28). The Reports sort the contributions received by the Programs by donor type and donation size, and the expenditures by purpose. Graphs are used to illustrate the percentages of contributions received by contributor type and amount, and expenditures by transaction type.

To further increase the transparency of the information collected by the Agency, the Office of Campaign Finance expanded the Audit Program to incorporate the random audit of active principal campaign committees during the election cycle, and the full field audit of the principal campaign committees of newly elected public officials. For the first time, the OCF initiated eleven (11) periodic random audits of principal campaign committees active during the 2014 election cycle, and two (2) full field audits of the principal campaign committees of newly elected candidates to public office. The field audit of principal campaign committees active during an election cycle permits the Office of Campaign Finance to timely track and verify reported campaign activity; to identify apparent violations or to question transactions; and to require the committee to respond to audit findings and correct the public record. The public interest is better served by ensuring that the financial report represents an accurate and complete portrayal of campaign operations upon which it can rely to make educated, informed decisions in the election process.

During the 2014 Election Cycle, the Office of Campaign Finance organized the conduct of site visits at the Early Voting Centers and Election Precincts operated by the Board of Elections during the April 1, 2014 City-Wide Primary Election and the July 15, 2014 Special Election in Ward 8, and to the campaign offices of candidates. The visits afford the Agency the opportunity to observe the financial operations of registered entities, the activity around the perimeter of the Early Voting Centers and the Election Precincts to ensure compliance with the reporting

requirements; to counsel individuals who may engage in activity which runs afoul of the Campaign Finance Laws; and to initiate enforcement actions where there is noncompliance. More importantly, the OCF staff is accessible to the public, available to respond to questions, and to assist the public in understanding their obligations under the Campaign Finance Act of 2011, as amended, and the role of the Office of Campaign Finance in administering the Act.

The Office of Campaign Finance dispatched staff to visit 76 Election Precincts located throughout the 8 Wards during the April 1, 2014 Primary Election, and to three (3) Early Voting Centers prior to the Primary Election. During the July 15, 2014 Special Election for At Large Member of the State Board of Education, the OCF staff visited the ten (10) Election Precincts located within Ward 8 on Election Day, and visited the two (2) Early Voting Centers in the Ward before the Election. The OCF staff visited during February and March of 2014, the campaign offices of seven (7) candidates for elective office.

The Office of the General Counsel continued to maintain the email address, ocf.gc@dc.gov, established in April 2013 through the Office of the Chief Technology Officer, from which the public may seek information concerning cases pending adjudication before the Agency. The language “Any inquiries regarding this Notice of Hearing should be sent to ocf.gc@dc.gov” is placed in the OGC “Notice of Hearing, Statements of Violations and Order of Appearance” Form issued to notify Respondents of the scheduling of hearings on alleged violations of the Campaign Finance Act. The email address affords the public an additional vehicle through which to communicate with the OCF relative to legal and related matters, including the status of scheduled hearings, Orders of the Director, and Petitions for Enforcement before the Board of Elections; the identity of the hearing officer assigned to a particular matter; information on how to file a Motion for Reconsideration; and the balance due on a fine imposed.

During FY15, to date, the Agency on January 29, 2015 introduced the newly revised Campaign Finance Guide and Brochures at the Web Site, consistent with the changes in the campaign finance laws mandated by the “Campaign Finance Reform and Transparency Amendment Act of 2013”. We also anticipate the launching of the new OCF Website during FY 2015.

Lastly, the Office of Campaign Finance will offer a “dash board” and “registrant disclosure search” options on the OCF Website. The dash board will give the public a quick view of the various statistics maintained by OCF, such as the number of candidate and committee registrations per election cycle, a listing of the latest filings, report counts, and top donation recipients. The registrant disclosure search will provide detailed information on a filer’s registration statement and history in the Agency, including filings, audit reports, and hearing orders.

23. Please identify any statutory or regulatory impediments to your agency’s operations.

RESPONSE

In light of the disclosure required by committees of business contributors and their affiliated entities, pursuant to D.C. Law 20-79, the “Campaign Finance Reform and Transparency Amendment Act of 2013”, effective February 22, 2014, and applicable January 31, 2015, the Office of Campaign Finance will become more effective in its enforcement of the contribution

limits. As you know, the term “person” was previously defined in Section 101 (42) of the Ethics Reform Amendment Act of 2011, and codified in D.C. Official Code Section 1-1161.01 (42), to mean “an individual, partnership, committee, corporation, labor organization, and any other organization”. The Campaign Finance Act of 2011 identified the term “person” in various sections as authorized to make contributions subject to the limitations enumerated therein, where appropriate, to political committees, campaigns to support candidates for office, to exploratory, inaugural, transition, and legal defense committees, and to constituent service and statehood fund programs. The attribution of contributions by partnerships was addressed in Section 334 of the Act (D.C. Official Code Section 1-1163.34), and traditionally, contributions by corporations were treated as separate from those of their individual owners, unless circumstances dictated otherwise. The treatment of a contribution by “any other organization”, which included limited liability companies, was unclear.

Under the former operating procedures of the Agency, it was incumbent upon the Office of Campaign Finance in the first instance to attempt to determine the relationships between business entities. The Audit Division noted during the Desk Review of financial reports, the contributions of any entities which shared the same address or a common name. A Request for Additional Information was then directed to the filer requiring the submission of the contributor checks for examination. Where the checks showed shared bank accounts or the signature of the same individual, further research was required to establish the relationships between the entities to ensure that the contribution limits were not exceeded.

Under D.C. Law 20-79, the foregoing business practice will no longer be required as business contributors must validate their contributions when made. The terms “affiliated entity”, “business contributor”, “control” or “controlling interest”, and “entity”, are clearly defined to clarify that a business entity making a contribution and its affiliated entities as a “business contributor” share contribution limits. Of significance, the “business contributor” must disclose to a committee, the identities of the contributor’s affiliated entities that have also contributed to the committee (amendment to D.C. Official Code Section 1-1163.13, new par. (b)(1)); each committee must disclose on their financial reports the information provided by the business contributors about the identity of its affiliated entities that have also contributed to the committee (amendment to D.C. Official Code, Section 1-1163.09, new par. (2A)); and the business contributor must certify for each contribution made that no affiliated entities have contributed an amount that, when aggregated with the business contributor’s contribution, would exceed the limits (D.C. Official Code Section 1-1163.33 New par. (b)). These amendments as a whole will through disclosure at the time of contribution make the contributions received from business entities and their affiliated relationships transparent on the face of the financial reports, and validate the legality of the contribution.

The disclosure of the business contributor information in the Reports of Receipts and Expenditures will enable the Office of Campaign Finance to cross reference information in the OCF Database, and confirm the reported information. To fully implement the provisions of D.C. Law 20-79, applicable January 31, 2015, the Office of Campaign Finance requisitioned in July 2014, services for the upgrade of the OCF E-Filing System to support the technical requirements of the Act including the increased disclosure on Schedule A of the Report of Receipts and Expenditures (R & E Report) of information pertaining to the affiliated entities of business contributors. In addition, the Agency drafted regulations which were adopted as proposed and on an emergency basis on January 7, 2015 by the Board of Elections to fully implement the

provisions of the Act which became applicable January 31, 2015, including the new disclosure requirements for business contributors. See the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on January 7, 2015, at its regularly scheduled Board meeting, and published in the D.C. Register on January 16, 2015. The emergency amendments to the rules will expire on May 7, 2015. The Board also gave notice of its intent to adopt the amendments in not less than thirty (30) days from the date of the publication of the Notice in the D.C. Register. The period for public comment expires on February 14, 2015.

The Agency also developed the “Affirmation Statement For Business Contributor” Form to provide for more detailed information concerning the contributions and identity of its affiliated entities, and the certification that the contribution limits have not been exceeded by the business contributor for each contribution made to the named committee, when aggregated with contributions made by affiliated entities with whom the limit is shared. **See Attachment Y.**

24. How does the agency solicit feedback from customers? Please describe.
- What has the agency learned from this feedback?
 - How has the agency changed its practices as a result of this feedback?

RESPONSE:

The Office of Campaign Finance employs online surveys at the OCF Website to elicit feedback from the public on the services, features, and information it provides at the OCF Website. For example, as the result of the responses from the 2009 Online Survey, it was recommended that the OCF Website be made compatible for all the industry standard browsers, and that the requirement for the submission of paper reports be eliminated where financial reports were electronically filed. Based on these recommendations, in FY 2011, cross browser compatibility was implemented to ensure the compatibility of the Electronic Filing System Application with all browsers, including IE6.O, and above, Firefox, Safari, and Chrome. Further OCF sought legislative authority for the electronic signature, and the electronic signature functionality was introduced in FY 2010. Respondents of the first OCF Customer Service Survey, disseminated in Calendar Year 2000, strongly encouraged the use of electronic filing. The Council heeded the concerns of the Agency that notwithstanding the upgrade of the computer system at that time, timely disclosure remained hampered by the submission of hard copy documentation. Legislation providing for the electronic filing of finance and disclosure reports was subsequently enacted.

The most recent online Survey of the Website services and features closed on January 15, 2013. A total of seventy (70) visitors participated in the Survey. The Survey Analysis Report found that most users were satisfied with the site information and services, while some users experienced difficulty navigating the site, locating services, and with browser compatibility. Since June 2013, the OCF has worked with the Office of the Chief Technology Officer to redesign the OCF homepage layout and navigation scheme, which will incorporate a smart search function. The redesign will require the migration of the OCF database content and EFs applications to the new DC.Gov Drupal content management system. During FY 2014, the Office of Campaign Finance enlisted the services of a vendor to assist with the redesign, rebuild, and integration of the EFs applications to the new DC.Gov Drupal platform. The EFs applications have been redesigned and are ready for migration. The new website design and navigational scheme is near completion. The expected launch date will occur in FY 2015.

To evaluate the effectiveness of the onsite educational seminars and entrance conferences, the OCF circulates surveys to solicit feedback from participants at the conclusion of each session to determine whether the presentations achieved acceptable satisfaction ratings. Participants are invited to evaluate the thoroughness, timeliness and overall quality of the content of materials used, as well as the proficiency of agency facilitator(s), and the conduciveness to learning of agency facilities; and to suggest other subject areas for seminar coverage, or to make any other suggestion deemed to promote the efficiency or effectiveness of the OCF operations. Each evaluation form is reviewed by the training facilitator to ensure that suggestions requiring agency or programmatic consideration are transmitted for review. Of nine (9) completed user surveys, the seminars were rated overall “Excellent” by seven (7) respondents, and “Good” by two (2) respondents. **See Attachment Z.**

The Agency has learned that citizens/constituents are actively engaged in the affairs of government, and that their knowledge, experiences and input should be considered when adopting practices and policies that affect them. In this regard, the Office of Campaign Finance continuously updates its website and seeks to improve its user-friendliness. The agency systematically reviews regulations to develop proposed regulations to impact the practical administration and enforcement of issues facing candidates and political committees, e.g., recordkeeping requirements of constituent services programs of incumbent officeholders maintaining the same constituency; exclusions from the disclaimer requirements of certain campaign paraphernalia based on size; the reporting of contributions to campaigns via credit cards and PayPal; and the clarification of the filing deadlines for exploratory committees.

25. Please detail the auditing process, including any process upgrades or improvements you have added to ensure efficiency.

RESPONSE:

The Reports Analysis and Audit Division (RAAD) is responsible for performing audit analysis and reviews of all financial reports and other documents received in the Agency. The Division conducts field audits and investigations based upon deficiencies and conditions noted during Desk Audit Reviews. The Division conducts periodic field audits, and compiles statistical reports and summaries on all reports of receipts and expenditures submitted by candidates, committees, and the constituent-service and statehood fund programs. This program area is the primary generator of compliance actions through audits and the monitoring of the financial disclosure of the Constituent Service and Statehood Fund Programs, candidates, political committees, political action committees, and independent expenditure committees, and all others required to file with the Agency. Section 3404, “Desk Reviews and Audits”, Chapter 30 of Title 3, “Elections and Ethics”, of the District of Columbia Municipal Regulations, sets forth in detail the procedures which govern the conduct and timeframes of Desk Reviews, Full Field Audits, and Periodic Random Audits.

More specifically, the Division conducts Desk Reviews of each Report of Receipts and Expenditures filed with the Agency, and employs the Request for Additional Information (RAI) process to achieve voluntary compliance where reporting deficiencies are noted during the desk review of the financial reports. The Audit Branch refers Requests for Additional Information to the Office of the General Counsel for the initiation of the enforcement process where there is noncompliance with the request. The Division conducts periodic random field audits in each

OCF Program, including random audits of the financial reports submitted by candidates, committees, and the Constituent Service and Statehood Fund Programs. The periodic audits require reporting entities to submit all banking records and statements, invoices, and receipts maintained in support of the contributions and expenditures reported in the coverage period of the selected filing. This enables the Audit Division to verify report entries against the supporting documentation.

The Office of Campaign Finance determines the validity and/or absence of information contained in financial reports through the conduct of desk reviews, full field audits, and random periodic audits. The initiation of these processes allows the Audit Division to require the submission of the documentation, including bank account information, statements, cancelled checks, and loan documents, underlying the financial transactions and activity reported on the reports where reported information is incomplete, omitted, or otherwise requires further explanation.

Through the review of the submitted documentation, the Audit Branch is able to research and verify the accuracy of the transaction stated on the financial reports against the records of the reporting entity, and identify transactions which were not reported. For example, the research of bank statements and contributor checks may reveal deposits which were not reported as receipts on Schedule A of the Reports of Receipts and Expenditures. This non-disclosure would require the subsequent amendment of the financial reports to report the receipts and correctly state the cash on hand balances. The research of bank statements and invoices may also substantiate expenditures which were not previously reported, and for which an amended accounting will also be required. The examination of actual invoices allows verification of the purpose for which funds were expended, the exact amount expended, and the appropriateness of the expenditure for the scope of the reporting entity.

During Fiscal Year 2014, the Office of Campaign Finance conducted 1028 (includes Amended Reports) Desk Reviews of all Reports of Receipts and Expenditures filed with the Agency by candidates, political committees, and Constituent Service and Statehood Fund programs. All Desk Reviews were completed before the next reporting period of the respective entity. The Standard Operating Procedures of the Desk Review Process (Request for Additional Information RFAI) were revised to require the submission of source documents where ten (10) or more contributions are received by a candidate/committee during a reporting period from individuals employed by the same organization to determine the circumstances of the fundraising/event; where contributions are received from individuals and/or entities/businesses with the same mailing address, and the total amount received would exceed the contribution limitation; where it appears that contributions and/or clusters of money orders are received on or around the same date (where the signatures on the source document appear similar or the same, refer to the OCF General Counsel); where contributions and/or loans are made to the committee by the candidate; and where the purpose of an expenditure is “consulting”, request copies of invoices and/or contracts. The responses to the RFAIs are scanned (by PIRM) to create stored records. It should be noted that the members of the three Audit Units are cross trained to perform the responsibilities within each unit.

The Desk Reviews ensure that the public record provides a full and accurate portrayal of the financial operations and activities of campaigns, and Constituent Service and Statehood Fund programs. The Desk Reviews resulted in the issuance of 352 Requests for Additional

Information directed to reporting entities to advise of deficiencies, and to extend the opportunity for compliance with the requirements of the Campaign Finance Act. 242 reporting entities complied with the request of the Audit Division, and submitted the necessary information. Forty-eight (48) responses were due in FY 2015, and the information has been received. The Audit Division referred sixty-two (62) cases to the Office of the General Counsel for enforcement where there was a failure to respond to the request for additional information. RAAD assisted in the termination of thirty-nine (39) political committees, following the review and approval of their Final Report of Receipts and Expenditures.

The Audit Branch initiated a total of twenty-six (26) periodic random and full field audits, and recommended the issuance of twenty-three (23) Audit Reports, including seven (7) reports of audits initiated in FY 2013. Ten (10) audits remained open at the close of the Fiscal Year, and seven (7) of these were closed on or before January 23, 2015 upon the issuance of the Audit Report. Specifically, the Office of the Director approved, the issuance of one (1) Investigatory Audit Report concerning the operations of a Constituent Services Program; and two (2) Audit Reports of newly elected officials. The twenty (20) Periodic Audit Reports were issued following the conduct of periodic random audits of the October 1, 2013 (2) and the April 1, 2014 (3) Reports of Receipts and Expenditure filed in the Constituent Service Programs; the filing of the January 31, 2014 (4) and the July 31, 2013 (6) Reports of Receipts and Expenditures by continuing political committees; and the filing of the October 10, 2013 (3), March 10, 2014 (1), and June 10, 2014 (1) Reports of Receipts and Expenditures by the principal campaign committees active in the 2014 Election Cycle.

The selection of a financial report for periodic audit requires the affected reporting entity to submit all banking records and statements, invoices, and receipts maintained in support of the contributions and expenditures reported in the coverage period of the selected filing. This enables the Audit Division to verify report entries against the supporting documentation. The Audit staff must also evaluate all records presented to ensure compliance with the Campaign Finance Laws. The conduct of random periodic audits ensures that reporting entities understand the reporting requirements of the Campaign Finance Act, and promotes future compliance.

The Audit Program was expanded to incorporate the random audit of active principal campaign committees during the election cycle for the public office sought, and the full field audit of the principal campaign committee of newly elected public officials. For the first time, the OCF initiated eleven (11) periodic random audits of principal campaign committees active during the 2014 election cycle, and two (2) full field audits of the principal campaign committees of newly elected candidates to public office. The field audit of principal campaign committees active during an election cycle permits the Office of Campaign Finance to timely track and verify reported campaign activity; to identify apparent violations or question transactions; and to require the committee to respond to audit findings and correct the public record. The public interest is better served by ensuring that the financial report represents an accurate and complete portrayal of campaign operations upon which it can rely to make educated, informed decisions in the election process.

During the 2014 Election Cycle, the Office of Campaign Finance organized the conduct of site visits at the Early Voting Centers and Election Precincts operated by the Board of Elections during the April 1, 2014 City-Wide Primary Election and the July 15, 2014 Special Election in Ward 8, and to the campaign offices of candidates. The visits afford the Agency the opportunity

to observe the financial operations of registered entities, the activity around the perimeter of the Early Voting Centers and the Election Precincts to ensure compliance with the reporting requirements; to counsel individuals who may be engaged in activity which may run afoul of the Campaign Finance Laws; and to initiate enforcement actions where there is noncompliance.

The Office of Campaign Finance dispatched members of both the Audit and Legal Divisions to visit 76 Election Precincts located throughout the 8 Wards during the April 1, 2014 Primary Election, and to three (3) Early Voting Centers prior to the Primary Election. During the July 15, 2014 Special Election for At Large Member of the State Board of Education, the OCF staff visited the ten (10) Election Precincts located within Ward 8 on Election Day, and visited the two (2) Early Voting Centers in the Ward before the Election. The OCF staff visited during February and March of 2014, the campaign offices of seven (7) candidates for elective office. Overall, the OCF found at the Election Precincts that the markers were present for the placement of campaign literature, that the literature contained the appropriate disclaimer language, and that the campaign literature was properly posted outside the marked area. During the campaign office site visits, staff inquired about the mechanics of the campaign operations, and how the campaigns handled contributions and expenditures. The OCF staff was available to answer questions, and cautioned candidates concerning the proper disclaimer language for campaign posters.

Lastly, the Audit Branch participated in the recently initiated OCF Program for the conduct of Entrance Conferences for new candidates and principal campaign committees during which 52 candidates and treasurers participated in four (4) Entrance Conferences scheduled during FY 2014.

During FY 2013, the Reports Analysis and Audit Division increased from four (4) Full Time Continuing (FTEs) Positions to thirteen (13) Continuing FTEs: the Audit Manager (MSS-14); the Supervisory Auditor (MSS- 12); the Senior Auditor (CS-13); Auditor (CS-12) (three positions, one vacancy); Auditor (CS-11) (three positions, one vacancy); and Junior Auditors (CS-9) (four positions).

Clearly, the increased staffing levels in the Reports Analysis and Audit Division have strengthened the quality of the audit work, and have enabled the Division for the first time to become proactive in the performance of its responsibilities through the off site visits to campaign offices and to election precincts; participation in the entrance conferences where the attendance of new candidates and committees has been high; and the increase of the periodic random and full field audits to include the campaign operations of newly elected candidates to public office, and those of candidates and principal campaign committees active during the election cycle.

26. **The agency's focus during recent years has been website improvement. After generating a survey and gathering information, has the agency implemented all of the survey suggestions? If so, what positive feedback have you received? How close is the agency to updating its website?**

RESPONSE:

As previously reported, the Office of Campaign Finance launched in FY 2013, the online Website Survey, which closed on January 15, 2013, to aid in the assessment of the services

and features of the site. A total of seventy (70) visitors participated in the Survey. The Survey Analysis Report found that most users were satisfied with the site information and services, while some users experienced difficulty navigating the site, locating services, and with browser compatibility. Since June 2013, the OCF has worked with the Office of the Chief Technology Officer to redesign the OCF homepage layout and navigation scheme, which will incorporate a smart search function. The redesign requires the migration of the OCF database content and EFs applications to the new DC.Gov Drupal content management system. During FY 2014, the Office of Campaign Finance enlisted the services of a vendor to assist with the redesign, rebuild, and integration of the EFs applications to the new DC.Gov Drupal platform. The EFs applications have been redesigned and are ready for migration. The new website design and navigational scheme is near completion. The expected launch date will occur in FY 2015. When completed, the usability, functionality, and the overall performance of the e-filing system will be enhanced using the latest technology.

27. In early January, the agency offered voluntary training classes. In February, the agency will hold the first mandatory training pursuant to the B20-76, the “Campaign Finance Reform and Transparency Amendment Act of 2013.” Has the agency experienced any issues or does it anticipate any issues executing these training programs?

RESPONSE

A strong Educational Program is a critical component of achieving voluntary compliance with the reporting requirements. During FY 2014, the Office of Campaign Finance continued to place a strong organizational focus on achieving voluntary compliance through educational outreach. In October 2013, the Agency, in addition to the onsite monthly Training Seminars, for the first time held Entrance Conferences for newly registered candidates and political committees. The Entrance Conference is designed to foster compliance with the Campaign Finance laws. The conferences were coordinated by the Office of the General Counsel, and supported by staff from the Audit and Public Information Divisions. The conferences were held on October 17, 2013, November 14, 2013, January 23, 2014, April 24, 2014, and July 11, 2014. The names of the 52 participants were posted at the OCF Web Site and included in the monthly statistics of the Agency presented to the Board. In general, the entrance conferences were scheduled by email following the registration of the new candidate or committee.

During FY 2015, to date, the Office of Campaign Finance has conducted 34 entrance conferences for newly registered candidates and political committees. The OCF has used this vehicle to inform the new registrants of the most recent changes in the campaign finance laws, including the mandatory training and online filing provisions; to address the reporting requirements and the contribution limitations; and to provide tips on recordkeeping and the use of the electronic filing system. The names of the participants have been posted on the OCF Web Site with the Agency statistics.

Based on the this experience, the Office of Campaign Finance is prepared to introduce in February 2015, the Mandatory Training Program, pursuant to the provisions of the “Campaign Finance Reform and Transparency Amendment Act of 2013”, D.C. Law 20-79 (February 22, 2014), which became applicable January 31, 2015. In November 2014, the Agency used its website to inform the public of the significant amendments to the campaign finance laws which

would become applicable on January 31, 2015. The agency bolstered this information by posting selected dates in December 2014 and January 2015 on which training was offered to interested parties to “jumpstart” the “mandatory training” requirement.

Each candidate for public office (with the exception of ANC candidates) and the treasurer of each political committee, political action committee, or independent expenditure committee will be scheduled for a training session within fifteen (15) calendar days of filing the Statement of Candidacy form or the Acceptance of Treasurer form. See Section 3001, Chapter 30, “Campaign Finance Operations: Committees, Candidates, Constituent Service Programs, Statehood Funds”, published in the Notice of Emergency and Proposed Rulemaking, 62 DCR No.3 (January 16, 2015). The Training will focus on the obligations and responsibilities of the new registrants under the Campaign Finance Act of 2011, as amended, and how best to achieve compliance with the Act. The Training Sessions will be scheduled at the next training seminar conducted by the Agency occurring immediately after the date the candidate files the registration form, or the treasurer files the acceptance form. The Training Program will be coordinated by the Office of the General Counsel, and supported by staff from the Public Information and Records Management Division and the Audit Division. Attendance will be recorded by the Training Officer who will present a Certification of Attendance Form to each participant for execution, with the oath or affirmation that the candidate or treasurer will follow and abide by all applicable requirements of the Campaign Finance Act of 2011, as amended. The names of all participants who complete the mandatory training will be published at the OCF Web Site. The name of each candidate or treasurer who fails to appear will be referred to the Office of the General Counsel for initiation of the enforcement process. **See Attachment P.**

At this juncture, the Office of Campaign Finance does not anticipate any issues executing the Mandatory Training Program, in light of the overall positive response to the Entrance Conference, attendance for which is voluntary.

28. All sections of B20-76 will become effective on January 31, 2015. What issues, if any, has the agency experienced when notifying the public of the new rules and requirements on reporting?

- **Please also detail the method of informing all committees participating in the Special Election for Ward 4 and 8 Council seats.**
- **Please briefly explain the electronic reporting process. Has mandating electronic reporting made the reporting and auditing process more efficient?**

RESPONSE:

Since October 1, 2014, the Office of Campaign Finance has conducted Entrance Conferences for one (1) participant representing an Inaugural Committee (November 20, 2014) and for 33 participants, new candidates and representatives of political committees registered to participate in the 2015 Election Cycle (January 14, 2015 and January 16, 2015). The OCF has used this vehicle to inform the new registrants of the most recent changes in the Campaign Finance Laws, including the mandatory training and online filing provisions; to address the reporting requirements and the contribution limitations; and to provide tips on recordkeeping and the use of the electronic filing system. The names of the participants were posted on the OCF Web Site with the Agency statistics. **See Attachment AA.**

To further prepare the public for the changes mandated by the “Campaign Finance Reform and Transparency Amendment Act of 2013”, applicable January 31, 2015, the Agency scheduled informal training seminars on the requirements of the Act on December 4, and 18, 2014, and on January 8, 15, 22, and 29, 2015. On February 12, 2015, the Office will commence once again the conduct of educational seminars for candidates and the treasurers of committees, and the Constituent Services and Statehood Fund Programs. The seminars provide instruction on the reporting requirements, the use of the electronic filing system, and the most recent amendments to the Campaign Finance Act, by D.C. Law 20-79. The seminars are scheduled throughout the remainder of the 2015 Calendar Year. Notice of the training was published at the OCF Web Site on January 29, 2015, and will be enclosed in mailings through the OCF Pre-Notification Program. **See Attachment R.**

Moreover, the OCF published on November 17, 2014 at the OCF Web Site and Face Book Page, and enclosed in reminder letters on January 13, 2015, directed to the treasurers of committees under the Pre-Notification Program of the January 31, 2015 Filing Deadline, a Notice of the Amendments to the Campaign Finance Act of 2011, with the schedule of training dates; emailed on January 28, 2015, and mailed on January 30, 2015, a Notice to all candidates and treasurers of the changes affecting a contribution by a business entity and all of its affiliated entities; published at the OCF Web Site on January 30, 2015, the newly revised Campaign Finance Guide and Brochures, consistent with the provisions of the new law; published at the OCF Web Site on February 3, 2015, a news item concerning the online filing and training “Mandatory Requirements” of D.C. Law 20-79; and engaged in a comprehensive review and overhaul of the regulations which govern the OCF operations, Title 3 DCMR, “Elections and Ethics”, Chapters 30 – 41, to conform with the provisions of the “Campaign Finance Reform and Transparency Act of 2013”, applicable January 31, 2015. The Board adopted the Notice of Emergency and Proposed Rulemaking on January 7, 2015. The Notice was published in the D.C. Register January 16, 2015 (Volume 62, No. 3). The Emergency Amendments will expire on May 7, 2015. The Board also gave notice of its intent to adopt the amendments in not less than thirty (30) days from the date of the publication of the Notice in the D.C. Register. The period for public comment expires on February 14, 2015. **See Attachments Q, S, T, and BB.**

During February 2015, the Office of Campaign Finance will fully implement the Mandatory Online Filing Program for all financial reports filed by candidates and committees registered with the Agency. D.C. Law 20-79, the “Campaign Finance Reform and Transparency Amendment Act of 2013”, effective February 22, 2014, and applicable January 31, 2015, requires the online submission of all financial reports filed with the Office of Campaign Finance under the Campaign Finance Act of 2011, as amended, unless actual hardship is demonstrated in complying with this requirement. The Regulations adopted by the Board on January 7, 2015 as proposed and on an emergency basis, fully implement the provisions of the Act which mandate electronic filing. Section 3006 of Chapter 30, “Campaign Operations: Committees, Candidates, Constituent Service Programs, Statehood Funds”, of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR), prescribes the procedures which will govern the mandatory electronic filing of financial reports, including the steps and timeframes that must be followed to request an exception to the electronic filing requirement; and clearly states that the paper filing of the Report of Receipts and Expenditures will be considered a failure to file. The first statutory filing of the Reports of Receipts and Expenditures affected by the mandatory online submission requirement will be the March 10th, 2015 due date for the submission of the

Report of Receipts and Expenditures by candidates and committees active in the 2015 Election Cycle.

Upon registration with OCF a filer is provided with a specific User ID, password and PIN number so that the committee can electronically file its reports on the OCF website. The user ID and password allow the committee to enter the system and select the report it wants to file. Once the report is selected, the committee will choose the appropriate Schedule to enter the necessary data the committee has collected. *Schedule A* for contributions received by the committee; *Schedule B* for expenditures made by the committee; *Schedule C* for sales and collections; *Schedule D* for debts and obligations owed by the committee; *Schedule E* for loans made to the committee. The information captured in the Schedules include the name and address of the contributor or vendor/individual that the committee has made a payment to; employer information; amount and date of the contribution, expenditure, debt or loan and form in which it was made (i.e., check, credit card, money order, etc.). Once the committee has entered all data it will certify and submit the report by typing in the name of the committee's treasurer and its PIN number. Upon doing so the committee's report is immediately available on the OCF website to be viewed by the public.

Lastly, at this juncture, it is anticipated that mandatory electronic filing will provide greater disclosure of reports in real time at the OCF Web Site for the public and timely access to reports for desk review by the Audit Division.

29. The District of Columbia Municipal Regulations no longer limit aggregate contributions. Please explain why this regulation was removed. Please also specifically reference *McCutcheon, et al. v. FEC* (572 U.S. ___ (2014)) and the agency's analysis of this opinion.

RESPONSE:

By virtue of the Notice of Emergency and Proposed Rulemaking, adopted by the Board of Elections on January 7, 2015, at its regularly scheduled Board meeting, and published in the D.C. Register on January 16, 2015, the Office of Campaign Finance did remove former Section 3011.4 of Chapter 30, of Title 3, "Elections and Ethics" of the District of Columbia Municipal Regulations. The purpose of Section 3011.4 was to fully implement D.C. Official Code Section 1-1163.33 © (1), as amended, and prohibit any person from making aggregate contributions which exceeded the amount of \$8,500 in any one (1) primary or general election per elective office for the Mayor, Chairman of the Council, and each member of the Council, and the State Board of Education. The decision to remove this regulation was based the recent U.S. Supreme Court decision in *McCutcheon v. Federal Election Commission*, 572 U.S. ___ (2014)).

It is the opinion of the Office of Campaign Finance that in light of the recent Supreme Court decision in *McCutcheon*, District of Columbia Official Code Section 1-1163.33(b) (1) does in fact violate the First Amendment of the United States Constitution. Section 1-1163.33(b) (1) reads:

No person shall make any contribution in any one election for Chairman of the Council, each member of the Council, Mayor, Attorney General, and each member of the State Board of Education (including primary and general elections, but excluding special elections), which when combined with all other contributions made by that person in that election to candidates and political committees exceeds \$ 8,500.

Section 1-1163.33(b)(1) places a limit on how much money a donor may contribute in total to all candidates or committees in any one election for office. This restriction is referred to as an aggregate limit which the United States Supreme Court found to be unconstitutional in *McCutcheon v. Federal Election Commission*, 572 U.S. ____ (2014). Hence, the Office of Campaign Finance would not apply this regulation, which on its face did not comport with federal constitutional law standards as enunciated by the U.S. Supreme Court.

The U.S. Supreme Court defines base limits as those limits that restrict how much money a donor may contribute to a particular candidate or committee. Aggregate limits are defined as those limitations that restrict how much money a donor may contribute in total to all candidates or committees. *See McCutcheon v. Federal Election Commission*, 572 U.S. ____, at p. 3 (2014). (Roberts, C.J. for the plurality).

The United States Supreme Court decided the case of *McCutcheon v. Federal Election Commission* on April 2, 2014. The issue presented in the *McCutcheon* case was whether limits on the aggregate amount of contributions that a donor can contribute in total to all candidates or committees violates the donor's First Amendment constitutional right to participate in political speech. In *McCutcheon*, the appellant contributed to 16 different federal candidates and wanted to contribute to an additional 12 candidates but was prevented from doing so by the Federal Election Commission's limits on aggregate contributions. *Id.* at 5. Prior to the Court's decision in *McCutcheon*, the prevailing interpretation of contribution limits arose from the decision in *Buckley v. Valeo*, 424 U.S. 1 (1976).

In *Buckley*, the Court analyzed whether the Federal Election Commission's limits on expenditures and contributions was constitutional. The Court held in *Buckley* that expenditure limits did encroach upon protected First Amendment interest and therefore would receive an "exacting scrutiny" standard of review.¹ However, the Court held that contribution limits impose a lesser restraint on political speech and therefore the Court applied a lesser but still rigorous standard of review.² In *Buckley*, the State argued that base limits on donor contributions were necessary in preventing *quid pro quo* corruption.³ The Court held that the State was successful in demonstrating that base limits on donor contributions served a sufficiently important interest and were closely tailored to not unduly burden political speech.⁴ However, the Court in *Buckley* did

¹ *Buckley v. Valeo*, 424 U.S. 44-45 (1976).

² *Buckley v. Valeo*, 424 U.S. 29 (1976).

³ *Buckley v. Valeo*, 424 U.S. 26-27 (1976).

⁴ *Id.*

not spend a significant amount of time in addressing whether aggregate limits are constitutional. The Court in *Buckley* simply concluded that aggregate limits served to prevent circumvention of base limits and were therefore no more than a corollary of base limits.⁵

The sole issue before the Court in *McCutcheon* was whether aggregate limits are constitutional. The Court in *McCutcheon* wrote that it would not revisit the issue of whether limits on campaign expenditures should be analyzed differently than limits on contributions.⁶

The Court held that aggregate limits could not survive under either the strict scrutiny standard of review or the “closely drawn” standard of review.⁷ The rationale behind the Court’s decision in *McCutcheon* was that aggregate limits do not further the permissible governmental interest in preventing *quid pro quo* corruption or its appearance.⁸ The Court held that “the Government may no more restrict how many candidates or causes a donor may support than it may tell a newspaper how many candidates it may endorse.”⁹ Moreover, the Court held that there are other alternatives available to Congress that would serve the Government’s interest in preventing circumvention (*of base limits*) while avoiding unnecessary abridgement of First Amendment rights.¹⁰

In conclusion, it is the opinion of the Office of Campaign Finance that D.C. Official Code Section 1-1163.33(b) (1) should be revised to comport with federal constitutional standards.

30. Please provide the Committee with the total amount of audits your office has performed over the last year to date? Additionally, please classify and sort these audits by classes such as random, reported, requested, etc.?

RESPONSE:

The Reports Analysis and Audit Division initiated 32 audits in total for calendar year 2014 to date of which thirty (30) were random periodic audits and two (2) were full field audits. The Office of Campaign Finance issued thirty-two Audit Reports, seven (7) of which were for audits initiated in FY13, including one (1) directed through an investigative proceeding. Seven (7) Audits are ongoing.

Random Audits Conducted

Date Audit Issued

Political Action Committees

Ward 3 Democrats	October 2, 2013
Wash DC Association of Realtors	October 9, 2013
Ward 7 Democrats	October 31, 2013
DC Young Democrats	January 31, 2015

⁵ *Buckley v. Valeo*, 424 U.S. 38 (1976).

⁶ *McCutcheon v. Federal Election Commission*, 572 U.S. 10 (2014). (Roberts, C.J. for the plurality).

⁷ *Id.*

⁸ *Id.* at 18-36 (Roberts, C.J. for the plurality).

⁹ *Id.* at 15 (Roberts, C.J. for the plurality).

¹⁰ *Id.* at 33 (Roberts, C.J. for the plurality).

DC for Democracy	March 25, 2014
DC Freedom PAC	May 5, 2014
Caribbean American PAC	May 6, 2014
Baker and Hostetler DC PAC	October 31, 2014
DCSFBPWC PAC	January 23, 2015

Constituent Service Programs

Phil’s Fund for Citizen Service	November 6, 2013
Citizen’s Outreach Fund	November 9, 2013
Muriel Bowser CSF	June 6, 2014
Orange CSF	June 20, 2014
Ward 8 CSF	June 20, 2014
Evans CSF	January 23, 2015
Friends of Jim Graham	January 23, 2015

Continuing Committees

Committee to Elect Perry Redd	December 9, 2013
Elissa 2013	December 20, 2013
Mara 2013	February 21, 2014
Hubbard for Ward 5	December 29, 2014
Biddle 2012	Ongoing/Initiated Oct. 2014

Candidates Registered for 2014 Election

Cheh 2014	March 13, 2014
Brianne for DC	March 31, 2014
Reta Jo Lewis for Mayor	May 5, 2014
Muriel Bowser for Mayor	October 22, 2014
Tommy Wells for Mayor	October 31, 2014
Evans for Mayor	*Ongoing/Initiated April 2014
Orange for Mayor	August 4, 2014
Catania for Mayor	October 2, 2014
Charles Allen for Ward 6	October 23, 2014
Cheeks for Chairman	November 24, 2104
Friends of Courtney Snowden	*Ongoing/Initiated Sept 2014
Ruth 4 Schools	Ongoing/Initiated Jan 2015
Brian Hart for DC	Ongoing/Initiated Jan 2015

Attorney General

Smitty for Attorney General	Ongoing/Initiated Dec 2015
Lori Masters for Attorney General	Ongoing/Initiated Dec 2015

Full Field Audits

Mendelson for Chairman
Bonds for Council

January 3, 2014
March 25, 2014

Investigative Audits

Our Ward 5

October 10, 2013

As reported previously, the Records Analysis and Audit Branch (RAAD) is responsible for performing audit analysis and reviews of all financial reports and documents received in the Agency. The Division conducts full field audits of the entire operations of the principal campaign committees of newly elected public officials from the organization of the committee to its termination. RAAD may also initiate full field audits and investigations based upon deficiencies and conditions noted during Desk Audit Reviews; upon complaints filed by members of the public; and upon order of the Board of Elections or the OCF Director. The Division conducts periodic random field audits in each OCF Program, including random audits of the financial reports submitted by candidates, principal campaign committees, political committees, political action committees, independent expenditure committees, and Constituent Service and Statehood Fund Programs. The periodic audits require reporting entities to submit all banking records and statements, invoices, and receipts maintained in support of the contributions and expenditures reported in the coverage period of the selected filing. This enables the Audit Division to verify report entries against the supporting documentation.

31. Of the completed audits performed during the last fiscal year to date, can the Office of Campaign Finance provide the committee with the total audits that have required an investigation as a result?

RESPONSE:

The Office of Campaign Finance issued one (1) Final Audit Report during Fiscal Year 2014 to date which determined that the Statements and Reports of Receipts and Expenditures filed were not in compliance with the reporting requirements of the Campaign Finance Act of 2011, as amended, and referred the matter to the OCF Office of the General Counsel for the appropriate action. The referred Audit was the Our Ward 5 Constituent Service Fund (October 10, 2013). The Order of the Director issued in this case following the conclusion of the investigative proceeding on January 13, 2014 in In The Matter of Timothy Clark, Former Director “Our Ward 5 CSP”, Docket No. CSP-001. The Audit and Order of the Director are available for public review at the OCF Website, www.ocf.dc.gov. The Respondent in this case is now deceased, and the matter has been administratively closed.

32. What arrangements, if any, has the agency made with the Department of General Services to co-locate with the Board of Elections?

As you know, the Office of Campaign Finance is established within the Board of Elections, and is responsible for the administrative operations of the Board pertaining to the Campaign Finance Act of 2011, as amended. Because of this relationship, the Office of Campaign Finance has been

working with the Board and the Department of General Services in the ongoing effort to locate a space that will accommodate both Agencies, and is centrally located in the District of Columbia.